

Audit Rule 2023

Summary of Proposed Changes

1. **2.2.2.5 NMAC:** Effective Date now March 28, 2023, and throughout Audit Rule as necessary..
2. **2.2.2.7 (A)(4) NMAC:** Added a definition for the acronym ACFR, which is defined as the Annual Comprehensive Financial Report. Renumbered 2.2.2.7 (A)(4) NMAC to (A)(11) to 2.2.2.7(A)(5) to (A)(12) NMAC as a result of this insertion.
3. **All** references in the Audit Rule to the comprehensive annual financial report were replaced with the acronym ACFR.
4. **2.2.2.8 (F) NMAC – this subsection was updated to add the phrase “to determine the level of financial reporting”.**

Suggested Change 2.2.2.8 (F) NMAC - Agencies that may be eligible for the tiered system shall complete the evaluation to determine the level of financial reporting described in Subsection B of 2.2.2.16 NMAC.

5. **2.2.2.8 (F)(7) NMAC – this subsection was updated for clarification.**

Suggestions for Change 2.2.2.8 (F)(7) NMAC - After the agency obtains all the required [~~signature~~] signatures and approvals of the contract, the agency shall [~~submit an electronic portable document format (PDF) copy of the fully executed contract to the OSA~~], within three weeks of OSA’s approval of the contract, submit a copy of the fully executed contract in an electronic portable document format (PDF) by uploading it in OSA-Connect.

6. **2.2.2.8 (F)(8)(d) NMAC** this subsection was updated to require contracts be submitted by May 1, instead of June 1 to allow for contract execution and interim work to begin earlier than 7/1.

Suggestions for Change 2.2.2.8 (F)(8)(d) NMAC councils of governments, district courts, district attorneys, state agencies: [~~June 1~~] May 1 and the state of New Mexico comprehensive annual financial report: July 31

7. **2.2.2.9 (A)(1)(d) and 2.2.2.9 (A)(1)(f) NMAC** These subsections were changed to move the state of New Mexico component appropriation funds (state general fund) from 2.2.2.9 (A)(1)(d) NMAC with a due date of November 15th to 2.2.2.9 (A)(1)(f) NMAC with a due date of December 1st to allow more time as this audit is dependent on the finalization of all state audits.

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Suggestions for Change

2.2.2.9 (A)(1)(d) NMAC school districts, TRD, CYFD, DOH, DOT, HSD, GSD, ECECD, SLO, and NMCD, [~~and the state of New Mexico component appropriation funds (state general fund)~~]: November 15;

2.2.2.9 (A)(1)(f) NMAC counties, incorporated counties (of which Los Alamos is the only one), workforce investment boards, councils of governments, [~~and~~] the New Mexico mortgage finance authority, and the state of New Mexico component appropriation funds (state general fund): December 1;

8. **2.2.2.9 (A)(1)(h) NMAC** – this subsection was updated to move the due date for the ACFR from December 31st, to March 31st.

Suggestions for Change 2.2.2.9 (A)(1)(h) NMAC - the state of New Mexico comprehensive annual financial report: [~~December 31~~] March 31;

9. **2.2.2.9 (B)(1) NMAC** add to suggestions for change – to submit an unlocked draft report.

This currently reads The IPA shall deliver to the state auditor an electronic copy of the audit report for review by 5:00 p.m. on the day the report is due.

Suggested Change 2.2.2.9 (B)(1) NMAC: The IPA shall deliver to the state auditor an editable electronic copy of the audit report for review by 5:00 p.m. on the day the report is due.

10. **2.2.2.10 (A)(1)(c) and 2.2.2.12 (B)(4)(b) NMAC** – This subsection was updated to be in better alignment with 12.6.3 (E) NMSA 1978 or the Audit Act. A housing department of a local government or a regional housing authority will be required to be audited by the same IPA that conducts the local government audit.

Suggestions for change 2.2.2.10 (A)(1)(c) - The state auditor requires component unit(s) to be audited by the same audit firm that audits the primary government (except for public housing authority component units that are statutorily exempt from this requirement, and the statewide comprehensive annual financial report). For clarification, housing departments of a local government or a regional housing authority are not exempt from this requirement. Requests for exemption from this requirement shall be submitted in writing by the primary government to the state auditor. If the request to use a different auditor for the component unit is approved in writing by the state auditor, the following requirements shall be met:

Suggestions for change 2.2.2.12 (B)(4)(b) - At the public housing authority's discretion, the agency may "be audited separately from the audit of its local

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primary government entity, other than a housing department of a local government or a regional housing authority. If a separate audit is made, the public housing authority audit shall be included in the local primary government entity audit and need not be conducted by the same auditor who audits the financial affairs of the local primary government entity” (Subsection E of Section 12-6-3 NMSA 1978). Statute further stipulates in Subsection A of Section 12-6-4 NMSA 1978 that “a public housing authority other than a regional housing authority shall not bear the cost of an audit conducted solely at the request of its local primary government entity.”

11. **2.2.2.10 (A)(2)(e)(iv) NMAC, 2.2.2.10 (T)(4) NMAC, 2.2.2.12 (5)(a) NMAC** - These subsections were amended to remove the phrase financial data schedule, and just leave/include the acronym as this has been defined at 2.2.2.7 (F)(3) NMAC.
 - a. **Suggestions for change 2.2.2.10 (A)(2)(e)(iv) NMAC** - the [~~financial data schedule~~-(FDS)]FDS of housing authorities pursuant to Subsection B of 2.2.2.12 NMAC;
 - b. **Suggestions for change 2.2.2.10 (T)(4) NMAC** - If applicable, the independent auditor’s report shall include the AU-C 725 opinion on SI, the schedule of expenditures of federal awards and the HUD [~~financial data schedule~~]FDS (required by HUD guidelines on reporting and attestation requirements of uniform financial reporting standards).
 - c. **Suggestions for change 2.2.2.12 (B)(5)(a) NMAC** - Housing authority audit contracts include the cost of the audit firm’s AU-C 725 opinion on the [~~financial data schedule~~-(FDS)]FDS.
12. **2.2.2.10(L)(5) NMAC** this subsection was updated to change the reference from Subsection L of 2.2.2.8 NMAC, which refers to independence, to paragraph 2 of Subsection C of 2.2.215 NMAC which refers to contracting for special audits.

Suggestion for change 2.2.2.10 (L)(5) NMAC: If an agency has entered into any professional services contract with an IPA with a scope of work that relates to fraud, waste, or abuse, and the contract was not approved by the state auditor, the IPA shall report a finding of non-compliance with [~~Subsection L of 2.2.2.8 NMAC~~ paragraph (2) of Subsection C of 2.2.215 NMAC].
13. **2.2.2.10 (S) NMAC Consideration of internal control and risk assessment in a financial statement audit:** This subsection was updated to add a requirement for the

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department of information technology to engage in an SOC-2 compliance audit annually starting in 2024. The original paragraph is renumbered to (1), and an additional paragraph has been added at (2) to address this requirement

Suggestions for Change 2.2.2.10 (S)(2) NMAC – the department of information technology to engage in an SOC-2 compliance audit of the SHARE system annually, starting in 2024.

14. **2.2.2.10 (T) NMAC** This subsection was updated to correct the reference to GAGAS 6.37 to GAGAS 6.36.

Suggestion for Change 2.2.2.10 (T) NMAC All independent auditor’s reports shall include a statement that the audit was performed in accordance with auditing standards generally accepted in the United States of America and with applicable government auditing standards per GAGAS [~~6.37~~]6.36.

15. **2.2.2.10 (AB) NMAC** – this subsection was added to provide guidance to the AU-C720 The Auditor’s Responsibilities Relating to Other Information in Annual Reports.

Suggestions for change 2.2.2.10 (AB) NMAC – Annual Reports: are defined as A document, or combination of documents, typically prepared on an annual basis by management or those charged with governance in accordance with law, regulation, or custom, the purpose of which is to provide owners (or similar stakeholders) with information on the entity's operations and the entity's financial results and financial position as set out in the financial statements. An annual report contains, accompanies, or incorporates by reference the financial statements and the auditor's report thereon and usually includes information about the entity's developments, its future outlook and risks and uncertainties, a statement by the entity's governing body, and reports covering governance matters. Annual reports include annual reports of governments and organizations for charitable or philanthropic purposes that are available to the public.

(1) IPA’s are required to review any annual reports in accordance with AU-C 720.

(2) IPA’s are to review the performance measures submitted to the legislative finance committee.

16. **2.2.2.16 (B)(6) NMAC** - This subsection was updated to consistent with 12-6-3 (6) NMSA 1978. The statement “the report shall include at a minimum, a compilation of financial statements and be consistent with the agreed-upon procedures” was added.

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Suggestion for change 2.2.2.16 (B)(6) NMAC: (6) if a local public body's annual revenue is two hundred-fifty thousand dollars (\$250,000) or greater, but less than five hundred thousand dollars (\$500,000), the local public body shall procure services of an IPA for the performance of a tier six AUP engagement in accordance with the audit contract for a tier six AUP engagement, the report shall include at a minimum, a compilation of financial statement and a financial report consistent with the agreed-upon procedures;

17. The following sections/subsections were changed to make the wording gender neutral.

- a. **Suggestions for Change 2.2.2.7(S)(6) NMAC** - "State auditor" may refer to either the elected state auditor of the state of New Mexico, or personnel of the office designated by the state auditor.
- b. **Suggestions for Change 2.2.2.8(D)(1)(j) NMAC**- failure to invite the state auditor or a designee to engagement entrance conferences, progress meetings or exit conferences after receipt of related notification from the OSA;
- c. **Suggestions for Change 2.2.2.8(1)(a) NMAC** - The state auditor or a designee shall cause written notice of the restriction to be sent by email and certified mail, return receipt requested, to the IPA, which shall take effect as of the date of the letter of restriction.
- d. **Suggestions for Change 2.2.2.10 (F)(5) NMAC** - If such notification is received, the IPA and agency shall invite the state auditor or a designee to attend all such conferences no later than 72 hours before the proposed conference or meeting.
- e. **Suggestions for Change 2.2.2.10 (M)(1) NMAC** - If such notification is received, the IPA and agency shall invite the state auditor or a designee to attend all such conferences.
- f. **Suggestions for Change 2.2.2.10 (N)(3) NMAC** In accordance with Section 12-6-6 NMSA 1978, the state auditor, immediately upon discovery of any violation of a criminal statute in connection with financial affairs, shall report the violation to the proper prosecuting officer and furnish the officer with all data and information in their possession relative to the violation.
- g. **Suggestions for Change 2.2.2.12 (B)(3) NMAC** – The OSA has the authority to notify the agency or IPA that the state auditor shall be informed of the date of the

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entrance conference, any progress meetings and the exit conference. If such notification is received, the IPA and agency shall invite the state auditor or designee to attend all such conferences no later than 72 hours before the proposed conference.

- h. **Suggestions for Change 2.2.2.13 (A) NMAC** - Statutory requirement to review audit reports: Subsection B of Section 12-6-14 NMSA 1978 requires the state auditor or personnel of the office designated by the state auditor to examine all reports of audits of agencies made pursuant to contract. All audits performed under contracts approved by the state auditor are subject to review.
- i. **Suggestions for Change 2.2.2.15 (B)(8) NMAC** - If such notification is received, the IPA or other professional and the agency shall invite the state auditor or a designee to attend all such conferences no later than 72 hours before the proposed conference or meeting.
- j. **Suggestions for Change 2.2.2.16 (F)(3) NMAC** - If such notification is received, the IPA and agency shall invite the state auditor or a designee to attend all such conferences no later than 72 hours before the proposed conference or meeting.