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ORDINANCE NO 2024-03

THE AMENDMENT TO ORDINANCE SECTION FOUR POINT ONE (4.1) OF THE COLFAX COUNTY PERSONNEL POLICY AND PROCEDURES ORDINANCE 2017-01

NOW, THEREFORE, by virtue of the power vested in us duly elected members of the Board of the Commissioners of Colfax County, New Mexico, under the Laws of the State of New Mexico, we do hereby approve, ratify, adopt, and amend Section 4.1 of Ordinance No. 2017-01, the Colfax County, Personnel Policy, and Procedures as follows:

Section 4.1 Compensation

Elected officials' salary increases shall be governed by N.M.S.A. 1978. Section 4-44-12.3, or as it may be subsequently amended.

The restriction on First Deputy salaries has been removed.

A compensation plan for classified employees shall be adopted or amended as necessary by the Board of County Commissioners. Such a plan shall establish a schedule containing a minimum and maximum pay range for each position in the classified service.

PASSED, ADOPTED AND APPROVED this day of ____, 2024.

BOARD OF COMMISSIONERS OF COLFAX COUNTY, NEW MEXICO

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**COLFAX COUNTY'S
SUPPLEMENT (INTERNAL
CONTROL) TO FINANCIAL
POLICY AND PROCEDURE**

Date: June 13, 2024

CHAPTER ONE: INTERNAL CONTROLS –WHO NEEDS THEM?

A. The Role of the Financial Specialist

The *Financial Specialist*, under the direction of the county manager is generally responsible for bolstering fiscal responsibility through the administration and coordination of internal accounting and other affairs, controls, procedures and services of a fiscal nature of the county government and agencies thereof *See*, NMSA 1978, Sections 6-5-1 *et seq.* and 2.2.2 NMAC Audit Rule and 2.2.3 NMAC Budget Certification Rule. The Colfax County Board of County Commissioners and the County manager empower the *Financial Specialist* to direct and control the accounting for all the fiscal affairs of the local government and agencies thereof and to provide for the maintenance of the accounting records for those fiscal affairs. *The Financial Specialist*, through the use of generally accepted accounting principles, is also responsible for establishing and maintaining systems of accounting and for prescribing the principles, standards and related requirements of those systems.

B. Applicability of *The Internal Control Guidebook*

The Internal Control Guidebook is the first chapter in this Supplement due to the critical nature of the control process. It focuses on management's responsibilities for establishing and maintaining agency internal controls. Essentially, internal control is defined as a coordinated set of policies and procedures used by managers to ensure that their agencies, programs, or functions operate efficiently and effectively in conformance with applicable laws and regulations, and that the related transactions are accurate, properly recorded and executed in accordance with management's directives.

Throughout the year, management is expected to conduct reviews, tests and analyses of internal controls to ensure their proper operation. Agency management is responsible for the extent of the efficiency and effectiveness of internal controls, as well as any deficiencies. When weaknesses are identified, including any internal or external audit findings, a plan and schedule for corrective action should be prepared.

The purpose of this *Guidebook* is to provide a tool that agencies can use in performing internal control evaluations. The *Guidebook* is consistent with the internal control model developed by the *Committee of Sponsoring Organizations of the Treadway Commission* (COSO).

The COSO framework, which is well accepted by accounting authorities and professionals, identifies three categories of internal control objectives:

Efficiency and effectiveness of operations

Financial reporting

Compliance with laws and regulations

Although the County's internal control plan may address objectives in each of these categories, not all of the objectives and related controls are relevant to financial reporting. Generally, the

focus of the *Financial Specialist* is on internal control objectives and activities that pertain to financial reporting. However, since some controls may achieve objectives in more than one category, *all* controls that could materially affect financial reporting shall be considered for purposes of this *Guidebook* as part of *internal control over financial reporting*.

Because agencies in county government vary in size, complexity, and degree of centralization, no single method of internal controls is universally applicable. This *Guidebook* provides a general framework. It is management's responsibility to develop the detailed internal control policies, procedures, and practices that best fit each agency's business needs.

C. What is Internal Control over Financial Reporting?

For purposes of this document, internal control over financial reporting is defined as follows:¹

Internal Control over Financial Reporting

Internal control over financial reporting is defined as a process designed by, or under the supervision of the entity's principal executive and principal financial officers, or persons performing similar functions, and effected by the entity's governing board, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles and includes those policies and procedures that:

1. Pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the entity;
2. Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the entity are being made only in accordance with authorizations of management and directors of the entity; and
3. Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the entity's assets that could have a material effect on financial statements.¹

¹ This definition was adapted from the definition of internal control set forth in Public Company Accounting Oversight Board (PCAOB) Auditing Standard No. 5: An Audit of Internal Control over Financial Reporting That is Integrated with an Audit of Financial Statements, June 12, 2007.

The previous definition reflects certain fundamental concepts: Internal control is a process. It is a means to an end, not an end.

- . People are what make internal control work. Internal control is not just the policies and procedures contained in an accounting manual. Personnel play an important role in making internal control happen.

- . No matter how well designed and operated, internal control can provide only reasonable (not absolute) assurance that all agency objectives will be met.

When designing and implementing internal control activities, managers should consider the following four basic principles:

- . Internal control should benefit, rather than hinder, the organization. Internal control policies and procedures are not intended to limit or interfere with the County's duly granted authority related to legislation, rule-making or other discretionary policy-making.

- . Internal control should make sense within the County's unique operating environment.

- . Internal control is not a set of stand-alone practices. Internal control is woven into the day-to-day responsibilities of managers and their staff.

- . Internal control should be cost effective.

Internal control is not a separate, static system. Instead, it should be viewed as a continuous series of actions and activities that are interwoven throughout the County's operations. In a sense, internal control is management control built into the entity as part of its infrastructure to help managers run the entity and achieve their goals on an ongoing basis.

D. Why Do We Need Internal Controls?

Accountability

Agency managers are responsible for managing the resources entrusted to them to carry out government programs. A major factor in fulfilling this responsibility is ensuring that adequate controls exist. Adequate internal controls allow managers to delegate responsibilities to subordinate staff and contractors with reasonable assurance that what they expect will happen, actually does.

The concept of accountability is intrinsic to the governing process. Public officials, legislators, and taxpayers are entitled to know whether government funds are handled properly and in compliance with applicable laws and regulations. They need to know whether government organizations, programs, and services are achieving the objectives for which they were authorized and funded. A key factor in achieving these objectives and minimizing operational problems is the implementation of appropriate internal control.

Encourage Sound Financial Management Practices

Management's role is to provide the leadership that an agency needs to achieve its goals and objectives. Part of that responsibility encompasses establishing internal control policies and procedures designed to safeguard agency assets, check the accuracy and reliability of financial data, promote operational efficiency, and encourage adherence to prescribed managerial policies and compliance with applicable laws and regulations. The exact plan of internal control will depend, in part, on management's estimation and judgment of the benefits and related costs of control procedures, as well as on available resources.²

Effective internal control helps managers cope with shifting environments and evolving demands and priorities. As programs change and as agencies strive to improve operational processes and implement new technologies, management must continually evaluate its internal control to ensure that the control activities being used are effective and updated when necessary.

Facilitate Preparation for Audits

Each agency is periodically subject to audit by the contracted Independent Public Accountant (IPA), federal auditors and; in some cases, by internal auditors. These audits are conducted to ensure the following:

- . Public funds are administered and expended in compliance with applicable laws and regulations;
- . Agency programs are achieving the objectives for which they were authorized and funded;
- . Programs are managed economically and efficiently;
- . Financial statements accurately represent the financial position of Colfax County; and
- . Information system controls exist and provide a reasonable basis for relying on system results.

Only in rare instances, where audit procedures are developed to accomplish very limited objectives, will an audit not include an assessment of the County's system of internal control.

Fraud Prevention

Managers are accountable for the adequacy of the internal control systems in their agencies. Weak or insufficient internal controls may result in audit findings and, more importantly, can lead to theft, shortages, operational inefficiency, or a breakdown in the control structure.

² This subsection on the effect of IT on internal control was adapted from AICPA Professional Standards, AU Section 319.17, Consideration of Internal Control in a Financial Statement Audit.

E. Effect of Information Technology on Internal Control³

The use of information technology (IT) affects the fundamental manner in which transactions are initiated, recorded, processed, and reported. In a manual system, an entity uses manual procedures to record transactions in a paper format. Internal controls are also manual and may include such procedures as approvals and reviews of activities, reconciliations and follow-up of reconciling items. Alternatively, computerized information systems use automated procedures to initiate, record, process and report transactions. As a result, records are stored in electronic formats that may replace paper documents. Controls for computerized systems generally consist of a combination of automated controls (e.g., controls embedded in the computer programs) and manual controls. The manual controls may be independent of IT; they may use information produced by IT; or they may be limited to monitoring the information systems and automated controls and handling exceptions. The mix of manual and automated controls will vary with the nature and complexity of an entity's use of IT.

F. Limitations of Internal Control

Internal controls, no matter how well designed and operated, can provide only *reasonable assurance* to management regarding the achievement of an entity's objectives, the reliability of reports, and compliance with laws and regulations. Certain limitations are inherent in all internal control systems.

Cost will prevent management from installing an ideal system and, for this reason; management will choose to take certain risks because the cost of preventing such risks cannot be justified. In addition, *more* is not necessarily *better* in the case of internal controls. Not only does the cost of excessive or redundant controls exceed the benefits, but a negative perception may also result. If employees consider internal controls to be red tape and viewpoint can adversely affect their regard for internal controls in general.

A second limitation to internal control is the reality that the process is subject to *human judgment* which can be faulty. Breakdowns can also occur because of simple errors or mistakes. Management may fail to anticipate certain risks and, thus, does not design and implement appropriate controls. Controls can also be circumvented by the collusion of two or more people and/or by management's improper override of the system.

³ The discussion on the limitations of IT controls was adapted from AICPA Professional Standards, AU Section 319.21, Consideration of Internal Control in a Financial Statement Audit.

CHAPTER TWO: THE FIVE HORSEMEN OF INTERNAL CONTROL

Each agency and each business unit's internal controls and internal control plan will be unique; however, the internal control components set forth in this chapter should be incorporated into all systems of internal control. Using the COSO model, referred to in *Chapter One*, the internal control process can be broken down into five interrelated components that are derived from and integrated with the management process. These five components, which are the necessary foundation for an effective internal control system, include:⁴

- . Control environment
- . Risk assessments
- . Control activities
- . Information and communication
- . Monitoring

A. Control Environment

The *control environment* of a local government sets the tone of the organization and influences the effectiveness of internal controls within the agency. The control environment is an intangible factor. Yet, it is the foundation for all other components of internal control, providing discipline and structure and encompassing both technical competence and ethical commitment. Managers must evaluate the internal control environment in their own business unit and agency as the first step in the process of analyzing internal controls. Many factors determine the control environment, including the following:

- . **Management's attitude, actions, and values** set the tone of an organization, influencing the control consciousness of its people. Internal controls are likely to function well if management believes that those controls are important and communicates that view to employees at all levels through policy statements, codes of conduct and by behavioral example.

Management demonstrates a positive attitude toward internal control by providing appropriate training and including internal control in performance evaluations, discussing internal controls at management and staff meetings, and by rewarding employees for

⁴ The information presented in this chapter is based on the principles set forth in Internal Control—Integrated Framework, Committee of Sponsoring Organizations of the Treadway Commission (COSO), American Institute of Certified Public Accountants, USA, 1992.

good internal control practices. Management supports good internal controls by emphasizing the value of internal auditing and being responsive to information developed through internal and external audits.

Commitment to competence and human resources policies and practices.

Commitment to competence includes management's consideration of the competence levels for jobs and how those levels translate into requisite skills and knowledge. Managers are required to comply with established personnel policies and practices for hiring, training, evaluating, promoting, and compensating employees, and to provide employees the resources necessary to perform their duties. Hiring and staffing decisions include pertinent verification of education and experience and, once on the job, the employee is given the necessary formal and on-the-job training.

Management should provide candid and constructive counseling and performance appraisals. Promotions driven by periodic performance appraisals demonstrate commitment to the advancement of qualified personnel to higher levels of responsibility.

. Assignment of authority and responsibility; organizational structure.

This factor includes management's responsibility for defining key areas of authority and responsibility and establishing appropriate lines of reporting. Management should provide policies and direct communications so that all personnel understand the County's objectives, know how their individual actions interrelate and contribute to those objectives, and recognize how and for what they will be held accountable.

In addition to organizational hierarchies, a proper segregation of duties is a necessary condition to make control procedures effective. Management should ensure adequate separation of the following responsibilities: authorization of transactions, recording of transactions, custody of assets, and periodic reconciliation of existing assets to recorded amounts.

. Advisory board participation. The involvement of the County's governing board in a review of internal controls and audit activities can be a positive influence on the County's control environment.

B. Risk Assessment

Organizations exist to achieve some purpose or goal. Goals, because they tend to be broad, are usually divided into specific targets known as objectives. A *risk* is anything that endangers the achievement of an objective.

Risk assessment, the second internal control component, is the process used to identify, analyze, and manage potential risks. Over the course of time, situations can occur which prevent a business unit or an agency from fulfilling its responsibilities and meeting its goals and objectives. Because of this possibility, successful managers continually identify and analyze potential risks to their organizations.

- . What circumstances might endanger future funding of agency programs?
- . What practices are being questioned by auditors and other oversight agencies?
- . What information is critical to the County's operations and how vulnerable is it?
- . What activities are regulated by the federal government?
- . Which areas are most susceptible to fraud?
- . Are assets (cash, inventory, fixed assets) adequately protected?

When beginning a risk assessment, managers should start by analyzing the two circumstances most likely to create problems: *change* and *inherent risk*.

Periods of Change

The risk that objectives will not be achieved increases dramatically during a time of change. Some examples of circumstances that expose an agency to increased risk are listed below:

- . Changes in management responsibilities
- . Disruption of information systems processing due to new or revamped systems
- . Rapid growth and/or new technology
- . New programs or services
- . Re-engineering agency operating processes
- . Downsizing agency operations
- . Early retirements that reduce workforce and knowledge base

Inherent Risks

The second risk category involves activities, which due to their nature, have a greater potential for loss from fraud, waste, unauthorized use, or misappropriation. Cash handling, for example, has a much higher inherent risk for theft than data entry activities do.

Other examples of activities where inherent risk is high include the following:

- . Situations and systems that involve great *complexity* increase the risk that a program or activity will not operate properly or comply fully with applicable regulations.
- . *Third party beneficiaries* are more likely to fraudulently attempt to obtain benefits when those benefits are similar to cash.
- . *Decentralization* increases the likelihood that problems will occur. However, a problem in a centralized system may be more serious than a problem in a decentralized system because, if a problem does exist, it could affect the entire agency.

- . *A prior record of control weaknesses* often indicates a higher level of risk because bad situations tend to repeat themselves.
- . *A lack of corrective actions* in response to control weaknesses identified in prior audits often indicates that future problems are likely to occur.

Evaluate Identified Risks

Once potential risks are identified, they should be analyzed for their possible effect.

- . *How important is this risk?*
- . *How likely is it that this risk will occur?*
- . *How large is the dollar amount involved?*
- . *To what extent does the risk potential of one activity affect other activities?*
- . *Are existing controls (policies and procedures) sufficient to manage this risk?*
- . *To what degree are secondary controls in place?*

Both quantitative and qualitative ranking activities (link to Risk Assessment Form??) should be used to evaluate the severity of identified risks and the likelihood of their occurrence. A moderate loss that is likely to occur may pose as much danger as a more serious loss that is less likely to occur.

Risk Response

Many risks are accepted or avoided by implementing effective control activities ahead of time. Other risks, beyond our control (e.g. a severe weather event or power outage that prevents access to financial systems) should also be identified. Managers must be ready to respond to these with a set of activities (e.g. disaster recovery plan).

C. Control Activities

Once managers identify and assess risks, the next step is to develop methods to minimize the risks. These methods are referred to collectively as *control activities*, the third component of internal control. By control activities, we mean the *policies, procedures, techniques, and mechanisms* that enforce management's directives. Control activities occur at all levels and functions. They include a wide range of diverse activities such as approvals, authorizations, verifications, reconciliations, performance reviews, security measures, and the creation and maintenance of appropriate documentation. In short, these activities represent basic management practices. See example below.

ACCOUNTS PAYABLE UNIT

OBJECTIVE NO. 1: Compliance with statewide bill paying policies.

a. **RISK NO. 1:** A/P staff does not have required knowledge, skills and ability.

i. **MITIGATING CONTROL NO. 1:** All A/P employees receive training within 2 weeks of hire.

ii. **MITIGATING CONTROL NO. 2:** The A/P accounting manager designates staff for cross-training.

b. **RISK NO. 2:** Payments are made too late to take vendor discounts.

i. **MITIGATING CONTROL NO. 1:** All invoices are date-stamped upon receipt in the Financial Services office.

ii. **MITIGATING CONTROL NO. 2:** Monthly reports are generated that help A/P identify and investigate reasons for late payments.

Managers should be careful to avoid excessive control, recognizing that absolute assurance is generally not achievable and would be prohibitively expensive and impede productivity. When a problem arises, before implementing a new policy or procedure, managers should make sure that a relevant policy does not already exist that simply needs to be enforced.

Chapter Three presents a detailed discussion of the control methods and techniques commonly used by managers to mitigate risks.

D. Information and Communication

The County's control structure must provide for the identification, capture and exchange of information both within the agency and with external parties. For example, management relies on the information system, including the accounting system, for reporting on agency or program activities to the Legislature, oversight agencies, and federal grantors. Accurate information communicated in a timely manner is, therefore, the focus of the fourth component of internal control.

Within the organization, communication must be up, as well as down. Supervisors must communicate duties and responsibilities to their staff. Staff and middle management must be able to alert upper management to potential problems. Administrative and program staff must communicate requirements and expectations to each other. Well-designed internal controls outline the specific authority and responsibility of individual employees in carrying out their day-to-day activities. They also serve as a point of reference for employees seeking guidance when unusual situations arise.

Sending information electronically allows management to immediately distribute new procedures and other information to a large staff. Agencies should consider conducting in-house training sessions upon releasing new or revised internal control policies and procedures. Internal control concepts should be emphasized as a part of the orientation for new employees. Managers should reinforce policies and procedures through their own actions and words.

Effective communication also encourages employee involvement. Agencies should consider establishing a process that supports recommendations from employees for quality improvement and acknowledges good suggestions with meaningful recognition. Employees should also feel they can report suspected improprieties without fear of reprisal and that their anonymity and confidentiality will be respected.

E. Monitoring

After risks have been identified, policies and procedures put into place and information on control activities communicated, managers must implement the fifth component of internal control, *monitoring*. Monitoring assesses the quality of internal controls over time, adjusting as necessary. Like the other four components, monitoring is a basic management practice that involves activities such as performance evaluations; ongoing supervisory activities, reviews and analyses; and independent evaluations of internal controls performed by management or other parties outside of the process. Proper monitoring ensures that controls continue to be adequate and to function properly.

Monitoring allows a manager to identify whether controls are being followed before problems occur. For example, a business unit's internal control plan may identify situations where cross-training is required. If the manager does not monitor the plan to ensure that cross-training occurs on a regular basis, he or she may discover too late that the back-up staff will not be able to handle the operations when circumstances change.

The monitoring process should also include policies and procedures designed to ensure that the findings of audits and other reviews are promptly resolved. Managers should determine the proper remedies in response to audit findings and complete, within established time frames, all actions needed to correct identified deficiencies.

CHAPTER THREE: ACTIVITIES FOR THE CONTROLLING MIND

Control activities help ensure that management directives are carried out. They include (1) performance reviews, such as an analysis and follow-up of budget variances; (2) transaction processing controls, including approvals, verifications and reconciliations; (3) physical controls designed to ensure safeguarding and security of assets and records; and (4) segregation of duties designed to reduce opportunities for a person to be in a position to perpetrate and conceal errors and frauds when performing normal duties.

A. Transaction Processing Errors and Frauds

Control activities (both computerized and manual) are imposed on the accounting system for the purpose of preventing and detecting errors and frauds that might enter and flow through to the financial statements.

Seven Categories of Errors and Frauds

1. *Invalid transactions are recorded:* Fictitious revenue transactions are recorded and charged to nonexistent customers.
2. *Valid transactions are omitted from the accounts:* Shipments of merchandise to customers are not recorded.
3. *Unauthorized transactions are executed and recorded:* A customer's order is not approved for credit, yet the goods are shipped and/or the service is provided and billed to the customer without requiring payment or an advance deposit.
4. *Transaction amounts are inaccurate:* A customer is billed and the sale is recorded in the wrong amount because the quantity shipped and quantity billed are not the same and the unit price is for a different product.
5. *Transactions are classified in the wrong accounts:* Expenditures for capital acquisitions are coded and charged to an operating supplies object.
6. *Transaction accounting and posting are incorrect:* Sales are posted in total to the accounts receivable GL control account, but not all of them are posted to the individual customer account records in the subsidiary ledger.
7. *Transactions are recorded in the wrong period:* Purchases made in one fiscal year (June) are recorded as expenditures in the next fiscal year when the invoice is received (July). Revenues attributable to July are recorded as transactions occurring in June.

Management's task is to design control activities that prevent, detect and correct these and other potential errors and other frauds. Front-end, or *preventive*, controls are performed before an action takes place. For example, a supervisor or manager must approve an invoice before it is processed for payment. Back-end, or *detective*, controls examine transactions after they have been processed to ensure they are appropriate. An example would be the month-end reconciliation of cash account balances to the bank statement to ensure that all payments have been recorded. Sometimes, the existence of detective controls can also serve to prevent irregularities. An individual tempted to use agency funds inappropriately may be deterred by the knowledge that the bank account is regularly reconciled.

B. Control Methods and Techniques

Control activities can be automated or manual, have various objectives and are performed at various organizational and functional levels. Generally, control activities that pertain to financial reporting can be grouped into the following categories.

Segregation of Duties

Segregation of duties is one of the most important features of an internal control plan. The fundamental premise of segregated duties is that an individual or small group of individuals should not be in a position to initiate, approve, undertake and review the same action. These are called incompatible duties when performed by the same individual. Examples of incompatible duties include situations where the same individual (or small group of people) is responsible for:

- . Managing both the operation of and recordkeeping for the same activity.

- . Managing custodial activities and recordkeeping for the same assets.
- . Authorizing transactions and managing the custody or disposal of the related assets or records.

Stated differently, there are four kinds of functional responsibilities that should be performed by different work units, or at a minimum, by different persons within the same unit:

- . *Authorization to execute transactions:* This duty belongs to persons with authority and responsibility to initiate and execute transactions.
- . *Recording transactions:* This duty refers to the accounting or recordkeeping function, which in most organizations, is accomplished by entering data into a computer system.
- . *Custody of assets involved in the transactions:* This duty refers to the actual physical possession or effective physical control/safekeeping of property.
- . *Periodic reviews and reconciliation of existing assets to recorded amounts:* This duty refers to making comparisons at regular intervals and taking appropriate action to resolve differences.

The advantage derived from an appropriate segregation of duties is twofold:

- . Fraud is more difficult to perpetrate because it would require collusion of two or more persons, and most people hesitate to seek the help of others to conduct wrongful acts.
- . By handling different aspects of the transaction, innocent errors are more likely to be found and flagged for correction.

At a minimum, the County's plan of internal control should ensure that the following activities are properly segregated:

1. Personnel and Payroll Activities

- . Individuals responsible for hiring, terminating and approving promotions should not be directly involved in preparing payroll or personnel transactions or inputting data.
- . Managers should review and approve payroll deductions and time sheets before data entry but should not be involved in entering payroll transactions.
- . Individuals involved in payroll data entry should not have payroll approval authority.
- . Individuals who are part of the payroll staff should not enter changes to their own data files.

- . An individual who is not involved in the payroll process should periodically verify all personnel salaries and wage rates.
- . Unless otherwise approved, dual update access to the central payroll processing system and the human resources personnel database should not be permitted.
- . Gross pay adjustment reports should be received and reviewed by an individual outside of the payroll function.

2. Other Expenditure Activities

- . Individuals responsible for cash disbursement functions should be segregated from those responsible for cash receipts.
- . Individuals responsible for data entry of encumbrances and payment vouchers should not be responsible for approving these documents, nor batch release.
- . Departments should not delegate expenditure transaction approval to the immediate supervisor of data entry staff or to data entry personnel.
- . Delegated expenditure authority must be in writing and approved by the appointing authority.
- . Individuals responsible for acknowledging the receipt of goods or services should not also be responsible for purchasing or accounts payable activities.

3. Inventories

- . Individuals responsible for monitoring inventories should not have the authority to authorize withdrawals of items maintained in inventory.
- . Individuals performing physical inventory counts should not be involved in maintaining inventory records.

4. Check Writing Activities

- . Individuals who prepare/record checks should not sign the checks.
- . Individuals who prepare/record checks should not reconcile the checking account.

5. Revenue Activities

- . Individuals responsible for cash receipts functions should be segregated from those responsible for cash disbursements.

. Individuals who receive cash into the office should not be involved in preparing bank deposits.

. Individuals who receive cash or make deposits should not be involved in reconciling the bank accounts.

. Individuals responsible for issuing agency billings should not be involved in estimating, budgeting, collecting or processing cash receipts and should not be directly involved in maintaining accounts receivable.

. Individuals responsible for maintaining accounts receivable records should not be directly involved in the billing process or cash receipting.

If the County do not have sufficient staff to accomplish an optimum division of duties, management will need to be more actively involved in reviewing reports and reconciliations and ensuring transactions are adequately documented and properly authorized.

Access Controls

Control over physical access refers to the physical security of assets. Physical safeguards include secured facilities; limited access to assets and important records, documents and blank forms; and periodic physical counts that are compared with amounts shown on control records. Inventories of items held for sale and stocks of materials and supplies should not be available to persons who have no need to handle them. Likewise, access to accounts receivable records and payroll data should be denied to people who do not have a recordkeeping responsibility for them. Access control over information systems means that access to program documentation, data files, programs and computer hardware is limited to the extent required by individual job duties. Access controls should include the use of multilevel security, user identifications coupled with regularly changed passwords, limited access rooms, call backs and dial-up systems, use of file attributes and firewalls, and encryption of confidential information.

Periodic Reconciliations

Manager should provide for periodic comparison of recorded amounts with independent evidence of existence and valuation. Internal auditors and/or other members of the accounting staff can perform such comparisons on a regular basis. These individuals, however, should not also have responsibility for authorization of the related transactions, accounting or recordkeeping, or custodial responsibility for the assets.

Periodic comparisons may include reconciliation of bank statements, inventory counting, confirmation of accounts receivable and accounts payable. The more frequent the comparisons, the greater the opportunity to detect errors. The results of nightly processing in the central accounting system for example, should be compared the next morning to the County's detail summary records. Cash account balances per the central accounting system should be reconciled monthly to monthly bank statements (and to the County's internal subsystem if one is involved).

For other records, the frequency of periodic comparisons must be balanced against the costs and benefits.

Subsequent action to correct differences is also important. Together, periodic comparisons and actions to correct errors lower the risk that material misstatements in the financial statements will occur.

Periodic Performance Comparisons

This category of controls includes periodic reviews of actual performance versus budgets, forecasts and prior period performance. Operating (activity-based) data is compared to financial data. The relationship of the two data sets is analyzed, with the differences investigated and corrective action taken if necessary. This type of control activity is usually performed by management employees that have no recordkeeping or custodial responsibilities.

Authority

Evidence must be maintained to demonstrate that only persons acting within the scope of their authority are allowed to authorize and execute transactions. Agencies need to document which persons have expenditure authority and the extent of that authority. The signature of authorized personnel is a matter of record and should be readily available for comparison when the underlying documents are audited. Periodically, the agency chief fiscal officer or delegate should perform reviews to ensure compliance.

Transfer transactions and adjusting entries, particularly yearend financial statement entries, require special control to avoid errors and possible misstatement. Management oversight is critical. The supporting documentation should provide clear evidence that these transactions have been properly reviewed and authorized *before* they are entered into the accounting system.

Documentation Control

Internal control systems, all transactions and other significant events should be clearly documented, and the documentation should be readily available for examination at each agency.

. *Detailed written evidence of the internal control system*, its objectives and activities, is essential. This documentation is valuable to managers in controlling their operations and is useful to auditors or others involved in analyzing and reviewing operations. Written documentation facilitates job training by communicating specific responsibilities. The documentation should appear in management directives, administrative policy, and accounting procedure manuals. Many documentation tools are available such as checklists, flow charts, narratives, and software packages. These tools may be particularly helpful in documenting complex information systems and the related control activities.

. *Internal control reviews and risk analyses* should be documented. Supporting documentation for conclusions should be kept on file for seven (7) years.

. *Documentation of transactions* and other significant events should be timely, complete and accurate and should allow tracing the transaction or event from the source documents, while it is in process, through to the financial reports. It is important that each step in the transaction process is documented, and the appropriate control accounts, ledgers and files are updated.

Regardless of format, the supporting documentation should indicate the purpose or reason for the transaction and that the transaction was properly authorized. The transaction amount should be clearly evident or easily verified upon recalculation. In addition, the documentation should fully support the information entered into the following data: fund number and/or project identifier, general ledger account, comptroller object; and vendor name/number, if applicable.

Adjusting entries, which include reclassifications, error corrections and yearend financial statement adjustments must be fully documented. In cases where estimates are used, the estimates must be reasonable, based on relevant information and sufficiently documented. For system-generated transactions, documentation that clearly describes the methodology, formulas and calculations, and the applicable system links and processes should be maintained.

Finally, transaction documentation should be archived in accordance with state archival rules.

Supervision

The effectiveness of any system of internal control depends on continuous, qualified supervision of all staff. It is management's primary means of monitoring and maintaining a system of internal control. In fulfilling their responsibilities, managers and supervisors should:

- . Assign tasks and establish written procedures for completing assignments.
- . Systematically review each staff member's work.
- . Approve work at critical points to ensure quality and accuracy.
- . Provide guidance and training when necessary.
- . Provide documentation of supervision and review (e.g., initialing examined work).

Adequate and timely supervision is especially important in small departments, where limited personnel make it difficult to establish a complete segregation of duties. Accounting and payroll reports are vital tools that managers can use in carrying out their supervisory responsibilities. The reports provide managers with timely information for transaction verification, analysis and forecasting, and reference purposes.

CHAPTER FOUR: ALL SYSTEMS GO

Because the accuracy and timeliness of financial reporting is largely dependent on a well-controlled systems environment, more and more attention is being focused on the role of information technology (IT) in the financial reporting process. For most agencies, the role of information technology is critical to achieving an agency's financial objectives. Whether transactions are processed directly in central accounting system or transmitted to the central accounting system from independent agency subsystems, IT systems are deeply embedded in the initiation, recording, processing and reporting of financial transactions.

A. Potential Benefits of Using IT in the Financial Reporting Process

IT provides the following potential internal control benefits because it enables an agency to:

- . Consistently apply predefined business rules and perform complex calculations in processing large volumes of transactions or data.
- . Enhance timeliness, availability and accuracy of information.
- . Facilitate additional analysis of information.
- . Enhance the ability to monitor the performance of the agency's activities and its policies and procedures.
- . Reduce the risk that control will be circumvented.
- . Enhance the ability to achieve effective segregation of duties by implementing security controls in applications, databases, and operating systems.

B. Potential Risks of Using IT in the Financial Reporting Process

IT also poses specific risks to the County's internal control, such as:

- . Reliance on systems or programs that are inaccurately processing data, processing inaccurate data, or both.
- . Unauthorized access to data that may result in destruction of data or improper changes to data, including the recording of unauthorized or nonexistent transactions or inaccurate recording of transactions.
- . Unauthorized changes to data in master files.
- . Unauthorized changes to systems or programs.
- . Failure to make necessary changes to systems or programs.
- . Inappropriate manual intervention.
- . Potential loss or compromise of data.

The use of computer systems to process financial transactions, store data, and perform statistical and other analysis does not change the internal control objectives already discussed. However, extensive use of computer systems may change the techniques used to meet control objectives. For example, when IT is used in an information system, segregation of duties may be achieved or enhanced by implementing access security controls.

C. General Controls Versus Application Controls

In an automated environment there are two broad categories of controls: *general controls* and *application controls*.

General Controls

General controls apply to all information systems—mainframe, minicomputer, network, and end-user environments; they impact the entire data processing environment, including application systems. General controls address data center and network operations; system software acquisition and maintenance; physical security, environmental protection, disaster recovery, hardware maintenance and computer operations. Other examples include program change controls; controls that restrict access to programs or data; controls over implementation of packaged software or development of new software applications; and controls over system software that monitors the use of system utilities that could change financial data without leaving an audit trail.

Application Controls

Application controls, on the other hand, are more specific to individual application systems. They include both computerized and manual controls and are designed to help ensure the completeness, accuracy, and validity of all information processed. Application controls should be installed at an application's interfaces with other systems to ensure that all inputs are received and are valid and outputs are correct and properly distributed.

. **Input control activities:** Input controls are designed to provide reasonable assurance that data received for computer processing have been properly authorized and converted into machine-sensible form, and that the data have not been lost, suppressed, added, duplicated, or improperly changed. Computerized input controls include validation procedures such as check digits, record counts, hash totals and batch financial totals. Computerized edit routines include valid character tests, missing data tests, sequence tests and limit or reasonableness tests – all designed to detect data conversion errors.

. **Processing control activities:** Processing controls are designed to provide reasonable assurance that data processing has been performed as intended without any omission or double-counting. Many processing controls are the same as the input controls, but they are used during the actual processing phases. These controls include run-to-run totals, control total reports, file and operator controls, such as external and internal labels, system logs of computer operations, and limit or reasonableness tests.⁵

. **Output control activities:** Output controls are designed to provide reasonable assurance that processing results are accurate and distributed to authorize personnel only. Control totals produced as output during processing should be compared and reconciled to input and run-to-run

⁵This subsection was adapted from the example on project team organization presented by Mr. Michael Ramos in his book entitled, *How to Comply with Sarbanes-Oxley Section 404 – Assessing the Effectiveness of Internal Control*, John Wiley & Sons, Inc., Hoboken, NJ, 2004.

control totals produced during processing. Computer-generated change reports for master files should be compared to original source documents for assurance that data are correct.

General and application controls over computer systems are interrelated. General control supports the functioning of application control, and both are needed to ensure complete and accurate information processing. If general controls are inadequate, the application controls are unlikely to function properly and could be overridden.

The checklists developed in conjunction with this *Guidebook* contain questions that relate to IT general and application control objectives from a financial systems perspective. Large agencies with internal audit functions may have already addressed most of these questions, particularly those agencies that operate in highly complex data processing environments and have large IT organizations. All agencies, however, will find that answering these questions provides the following benefits:

- . Assurance that the County's IT operations and investment strategies, as they relate to financial systems, are well planned, properly staffed and executed in accordance with the agency and statewide IT strategies and security and control policies.
- . Documentation that the agency has conducted a review of IT general, and applications controls over financial systems, which can be incorporated into the county's internal control plan.
- . A tool that agencies, who are contemplating replacement of existing financial systems or who are currently in the implementation phase, can use to monitor and control the acquisition/development software project.

D. The Role of the IT Specialist or Contractor

When evaluating controls over computer processing, the presence of one or more of the following conditions may require the expertise of an IT specialist:

- . Technology is an integral part of the County's business processes, involving both its primary, customer-oriented activities and its support activities, such as general management, planning, finance and accounting.
- . The agency has recently implemented a new IT financial system or made significant modifications to an existing financial system.
- . The agency is engaged in significant e-commerce activity.
- . Data is shared extensively between computer applications.

The IT specialist can help the evaluation team identify risks related to the IT system, document and test controls, design and assist in implementing missing controls, and monitor the continued effectiveness of IT controls.

The successful completion of the IT component of the evaluation project will largely depend on (1) how well the evaluation team leader and agency financial management understand the risks inherent in IT systems, and (2) IT management's understanding of the financial reporting process and its supporting systems. Ideally, senior IT management should be well-informed concerning the types of IT controls needed to support reliable financial information processing.

CHAPTER FIVE: "THE PLAN"

The Internal Control Guidebook requires each agency head to designate one senior manager as the agency's internal control officer. This person shall be responsible for the County's overall internal control review. Working with agency managers and other personnel, the internal control officer's mission is to develop a cost-effective approach that best fits the County's size, staff and budget.

To get started, agencies are encouraged to create an internal control team. The team will need to formulate a strategy, establish timelines and set milestones, assign tasks to key personnel and keep the agency head informed of progress. Certain activities that should be undertaken in conjunction with the internal control review include:

- . Updating/creating policies and procedures to reflect current processes
- . Updating organization charts
- . Identifying and listing electronic files
- . Identifying financial data reports/data warehouse queries, where they are located and how they are accessed (central accounting system, accounting data mart, central payroll processing system; payroll data mart, PC based)
- . Reviewing the organization of paper filing systems and archiving procedures
- . Completing an inventory of fixed assets

There is no single prescribed methodology for conducting an evaluation of internal controls. Agencies that have an internal audit unit may already have adopted one of several risk assessment models. These models generally involve an assessment of administrative controls, as well as fiscal controls. For those agencies that do not have an internal audit function, the balance of this chapter presents a plan to evaluate fiscal internal controls, using a six-step approach.

1. Identify who does what; obtain copies of agency governance documents (mission statement, charter of governing boards, code of conduct, human resource policies and personnel handbook, accounting manuals, etc.).
2. Determine what business cycles/processes/activities to evaluate. Document the transaction processing cycles and related controls. Supplement written sources through inquiries and surveys.

3. Test the controls (how is the work being done versus how *should* the work be done)
4. Evaluate findings and report the results.
5. Monitor controls on a continuous basis.

AN INTERNAL CONTROL EVALUATION AND MONITORING PLAN

STEP 1: IDENTIFY WHO DOES WHAT

- a. Introduction:** In this section of the internal control plan, identify the agency's internal control officer and his/her responsibilities for providing technical support and assistance. Include brief statements that address the frequency of internal control evaluations, the agency's commitment to maintaining an effective internal control system, and how recommendations for improvement are handled, including those based on the findings of the Secretary of State, Audits division and federal auditors, if applicable. Identify other internal control contacts/team members.
- b. Agency Mission:** State the County's mission and mandate and cite applicable statutory references.
- c. Organizational Structure:** Include names and titles of executive management. Discuss agency programs, number of employees, internal plan of organization, etc. Insert an organizational chart.
- d. Management's Key Internal Control Concepts:** Discuss the key internal control concepts, philosophies and actions already put into effect that significantly strengthen the County's overall control environment. Incorporate the agency's governance documents.

STEP 2: DETERMINE WHAT TO EVALUATE

- a. Set priorities:** Focus first on high-risk divisions, business units, programs or activities. Incorporate management's special concerns and knowledge. Consideration should be given to the following factors.

- The degree of centralization versus decentralization
- Competency and integrity of personnel
- Dollar amount of budget
- Degree to which public purpose may be affected
- Safeguarding of resources
- Organizational checks and balances that may provide a type of secondary control
- Negotiability of the assets involved
- Legal mandates

Once the high risk divisions, programs and/or activities have been evaluated, a systematic plan should be established to review all other risk areas.

- b. Identify financial cycles and sub-cycles:** Most agencies have the following basic transaction cycles.

Expenditures
Revenue
Inventory
Fixed Assets
Payroll
Automated transaction processing
Agency specific programs and activities

STEP 3: DOCUMENT THE TRANSACTION PROCESSING CYCLES

In this section of the plan, document the types and the flow of transactions, the persons who process the transactions and the related control features, such as reviews and approvals, for each financial cycle identified above. Interview and involve other senior and line managers in the documentation phase, as necessary. Ask them to make the following records available to the members of the internal control team:

- Policies and procedure manuals, desk procedure manuals, flowcharts
- Job descriptions
- Business unit organizational charts
- Output reports

Agencies may find that the documentation phase is best accomplished by using a combination of documentation tools and formats, such as checklists, questionnaires, flow charts, narratives, and software packages. *Initially, focus on key processes and key check points.* With each successive review, more details can be added.

Review prior internal and external audit reports. If control weaknesses identified in prior audits have not been corrected, it may be an indicator of further problems.

STEP 4: TEST THE CONTROLS

Use a variety of techniques to test internal controls and gather evidence. For example, a county's control environment may be verified through document reviews, employee surveys, and management inquiries. For transaction-oriented controls, use an employee focus group to help identify the various control points in a processing stream and then perform a walk through to test a prescribed procedures against actual operations. See *Chapter Six* for more details on testing procedures and example survey/inquiry tools.

STEP 5: EVALUATE FINDINGS AND REPORT THE RESULTS

The next step is to evaluate your findings and determine whether existing controls are sufficient to manage the risks. The risk questions presented in *Chapter Two* are repeated here:

. *How important is this risk?*

- . *How likely is it that this risk will occur?*
- . *How large is the dollar amount involved?*
- . *To what extent does the risk potential of one activity affect other activities?*
- . *Are existing controls (policies and procedures) sufficient to manage this risk?*
- . *To what degree are secondary controls in place?*

Be certain to confirm your findings and evaluation by discussing them with appropriate business unit and agency managers. Ask them to develop corrective action plans and to submit a schedule for completion.

Finally, document your findings, both positive and negative, in a written report that is presented to senior management. Include recommendations for improvements, identify any redundant controls that should be modified or eliminated, and present the business unit's responses and corrective action plans.

STEP 6: CONTINUOUS MONITORING

Review internal controls for high-risk divisions, business units and activities annually, more frequently if warranted. Review areas of lower risk annually by spot checking key controls, with full reviews every five years, unless there are significant changes in the operating environment. Situations involving new programs, changes in personnel, agency reorganizations or new systems increase the exposure to risk and, therefore, require more frequent review. Perform follow up for prior evaluations to make certain that corrective actions have been taken.⁶

CHAPTER SIX: TESTING, TESTING, 1-2-3

The COSO framework (described in *Chapter Two*) divides internal controls into two different levels, the general, entity-wide level and the specific, activity-level. The approach presented in this *Guidebook* is to test the effectiveness of entity-level controls first. By understanding entity-level controls, the County's internal control team should be better able to develop tests at the activity-level.

ENTITY-LEVEL TESTS

⁶ This information in this chapter was adapted from the testing strategies and techniques presented by Mr. Michael Ramos in his book entitled *How to Comply with Sarbanes-Oxley Section 404 – Assessing the Effectiveness of Internal Control*, John Wiley & Sons, Inc., Hoboken, NJ, 2004.

Because entity-level controls are indirect and not transaction oriented, they are not easily verified through observation or by re-performing transaction related tests. As a result, the internal control team will need to use other techniques to gather evidence to support their evaluation of entity-wide controls.

A. Document Review

Governance Documents

To start, obtain copies of the agency governance documents. The team should review these documents to ensure it understands the County's mission. Generally, the governance documents will describe the membership of the governing board, including number of members, their qualifications, independence requirements and selection process and their roles and responsibilities. Throughout this process, the internal control team should keep in mind the importance to the governing board of receiving reliable and accurate information on a timely basis. The team may want to explore and suggest changes to the ways in which information is gathered and communicated to the board.

Code of Conduct

A written code of conduct helps establish values, norms and shared beliefs. The form and content of a code of conduct may vary greatly from agency to agency. Nonetheless, a typical code of conduct will include a statement of values, identification of key behaviors that are accepted and not accepted in the workplace, examples of ethical situations that agency personnel are likely to encounter, and information on reporting violations of the code and how they will be investigated.

Other Documentation

Most agencies document their human resource policies and communicate them to their employees in the form of a *personnel handbook*. For purposes of an internal control evaluation, the internal control team should focus on those policies that demonstrate the County's commitment to competence and address expectations regarding integrity and ethical behavior.

The County's *accounting manual* should include important information relating to the procedures used to capture and process accounting information, the documents required and the related control procedures. This information is typically most useful in documenting activity-level controls. However, the accounting manual may also provide important documentation that is relevant for entity-wide controls, such as those related to the annual financial closing process.

B. Surveys and Inquiries

Employee Surveys

Reviewing the written code of conduct and personnel policies, by themselves, will most likely not be sufficient to determine whether entity-level controls are operating effectively. One way to gather additional information is to develop and conduct an employee survey.

To ensure the most reliable and most valid results, many of the same concepts applicable to statistical sampling methods should be employed.

- . The more respondents, the more reliable the results.
- . Survey employees in several divisions or locations. In other words, stratify the sample. Try to obtain results from different levels of employees, ranging from executive management down to clerical staff.
- . Each employee within the population being sampled should have an equal chance of being selected.
- . The internal control team should consider whether it is appropriate to exclude a group from the survey just because they are not directly involved in the financial reporting process. Operational and administrative personnel may provide valuable insights.

Employees will need time to complete the survey and the internal control team will need time to follow up and compile the results. The internal control team should keep this in mind when developing its work schedule.

All responses should be returned directly to the internal control team. To score the survey, assign a numerical value to each of the five possible answers: Strongly Agree = 5; Agree = 4; Neither Agree or Disagree = 3; Disagree = 2; Strongly Disagree = 1. The results can then be broken down into the following categories.

Awareness: Low scores in this area could mean ineffective communications. The agency should consider (1) increasing the frequency of communication concerning agency policies and procedures, (2) revising existing policies for greater clarity and (3) requiring signed acknowledgements from employees that policies have been read and understood.

Attitudes: Low scores for this category may indicate negative attitudes that require (1) changes in management behavior and/or (2) interactive communications between management and employees in which frank and open discussion is encouraged.

Actions: Low scores may indicate that a "disconnect" exists between what management says and what management does. Either written policies should be revised or the behavior of managers should change. If the latter condition is true, agencies should consider additional training for managers and informal coaching or mentoring of managers. In some cases, the allocation of additional resources may be required to relieve overburdened managers.

Management Inquiries

In addition to employee surveys, the internal control team should develop a questionnaire to interview key financial managers regarding entity-level controls. Depending on the answers to the questions, it may be necessary to develop follow-up questions. The goal of this exercise is to determine if entity-level controls can be relied on to support the effective operation of day-to-day controls at the activity-level.

The interview process should provide sufficient information to form an opinion on the reliability of entity-level controls:

- . **Limited awareness:** Managers demonstrate only a limited awareness of the importance of internal controls, including the perception that internal controls are separate from the agency's main operations and someone else's responsibility. Control policies and procedures are ad hoc, generally undocumented, and highly dependent on the skills, competence and ethical values of individuals, rather than the agency, as an integrated whole. There is a lack of formal communication and training.

- . **Knowledgeable:** Managers understand that internal controls are an integral part of the agency's business and maintaining an effective system is one of their primary responsibilities. Substantial resources are devoted to developing formal documentation of policies and procedures. The effectiveness of the system of internal control depends more on the agency's internal organization taken as a whole than on the capabilities of individuals.

- . **Proactive:** Managers are committed to a process of continuous improvement of internal controls. The agency uses automated tools and sophisticated techniques to monitor controls on a real-time basis and makes changes as needed.

C. General Computer Controls

Computer controls consist of both general and application-specific controls. General controls apply to many if not all application systems and help ensure their continued, proper operation; while application controls ensure the proper processing of various types of transactions and include both computerized steps within the application software and manual follow-up procedures.

Before beginning a detailed assessment of computer general controls, the internal control team or IT specialist should seek answers to the following questions:

- . Have there been any significant changes to the County's IT systems (changes in hardware, software, processes or personnel)?

- . What risks do the changes create?

- . If there have been no significant changes, what previously identified risks remain?

- . How many different computing platforms or environments exist within the agency?

- . Do the various systems interface with each other?

- . How is the data exchanged and how is the exchange controlled?

- . What might impair the reliability of the County's IT systems or otherwise negatively affect the ability to capture, process and store data?

ACTIVITY-LEVEL TESTS

Transaction processing begins with the capture of raw transactional data and ends with posting to the general ledger. Along the way, the raw data is converted into accounting information. It may be combined with other data, added, multiplied, subtracted and divided, or otherwise manipulated to create new information. Throughout this process, controls are needed to ensure that the information retains its integrity.

Within the information-processing stream, errors can be introduced at various points.

- . The point in the system where events or transactions are initially identified, authorized and captured.
- . The point where updating and maintenance is performed for databases, master files, or other electronic storage systems.
- . The processing points in the stream where information is manipulated (matched to or combined with other data; used as part of a calculation) or processed, such as posted to the general ledger, subsidiary ledger, or other accounting records.

The goal of the internal control team is to identify these points in the information processing stream and to test and evaluate the effectiveness of the related control measures. Several different types of tests may be used, including individual or group inquiries, direct observation methods, and re-performance of control procedures and reconciliations.

A. Using Focus Groups

Conducting an internal control evaluation provides the opportunity to bring people together in the agency, who may not interact on a regular basis. Hopefully, through participation in a focus group, agency personnel will gain a better understanding of their responsibilities and how these fit into the big picture.

To conduct a group discussion, the following suggestions are offered:

First, review the policies/procedures and other written documentation for the transaction cycle or processing stream under evaluation to determine who does what. To the extent possible, include individuals who have experience with every process, control, document, or electronic file described in the documentation. However, too large a group can make it difficult to have a meaningful discussion.

- . A generic flowchart of the processing stream should be prepared in advance on a large piece of paper that allows for revisions. Post the flowchart on the wall and walk the participants through the process.

- . The internal control team should develop a set of questions to facilitate the discussion. The group should reach a decision on what —should happen and then identify those instances in which exceptions exist. (stickies) can be used to modify the flowchart so it reflects what really happens.

- . Establish boundaries. The internal control team should make certain that focus groups understand they are concerned only with the information that flows into the financial statements. In addition, the discussion should be limited to what the agency or business unit does internally, not on how outside parties prepare information that the agency or business unit uses.

- . Set an expectation that differences of opinion are acceptable.

- . Try to quantify the information gained, whenever possible: *How often do you encounter . . . ?* "About what percentage of transactions . . . ?"

- . At some level, try to reach agreement on the issues.

B. Observation

The IC Team may be able to *observe* the application of some control procedures, such as computer edit checks. Another procedure that is easily observed is physical inventory accounts. If the physical count is performed only occasionally, it may be possible to observe the control each time it is performed.

C. Re-performing Control Procedures

In some cases, the internal control team may decide to test the effectiveness of control procedures by selecting a random sample of transactions and *re-performing* the procedures. For example, the process for paying vendor invoices might require:

- . Physically matching a receiving document with the invoice.

- . Determining whether bids and a formal purchase order/contract was necessary.

- . Determining that the invoice was properly approved for payment, as evidenced by an authorized signature.

- . Determining whether a price agreement was in effect.

To test the effectiveness of the controls over payment processing, a team member might examine the underlying documentation to determine that:

- . The invoice was physically matched to a receiving document.

- . Bids were obtained and attached; a copy of the signed purchase order is attached or the underlying contract number is noted, if applicable.

- . The receiving copy of the PO or other receiving document is signed/initialed and dated.

- . Approval signature is noted on invoice.

To determine that the control was performed properly, the team member would ensure that:

- . The purchase order and/or bids (if any), receiving document and invoice are for the same transaction.
- . Where a price agreement applies, the appropriate vendor was used.
- . Signers approving payment of the invoice have the appropriate authority.

Before the internal control team begins its test of transactions, the team should clearly define what is considered a control procedure error.

To conclude that a control has been properly performed, both of the following statements should be true:

- . There is evidence that the control procedure was performed, and
- . The re-performance of the procedure indicates it was performed properly.

D. Reconciliations

Reconciliations are a common control procedure, such as bank reconciliations or the reconciliation of a subsidiary ledger balance to the general ledger account balance. The internal control team can test the effectiveness of reconciliation procedures through observation and re- performance:

- . Review the documentation to determine that the reconciliation was performed on a timely basis throughout the year.
- . Re-perform the reconciliation to confirm that all reconciling items were identified.
- . Investigate the resolution of significant reconciling items.

E. Application Controls

After completing the applications control checklist, the internal control team or IT specialist may decide to test the processing controls related to individual application systems. One method is to prepare a file of test transactions and run them through the system to determine that all pre- defined errors are identified. The internal control team should also review suspense account entries occurring throughout the year to ensure they were properly resolved.

When reviewing IT controls over financial applications, it is important that the internal control team/IT specialist understand the business risks and then identify the *key* process controls and the relevant automated procedures. In some situations, the internal control team/IT specialist may find a user control procedure that management relies on to detect the failure of a key automated procedure promptly and effectively. Although the internal control team/IT specialist should

examine evidence that the automated control is operating appropriately, the focus of the team/specialist in this situation would be testing the reliability of the detective control.

F. Summary

The amount of testing to be performed is a matter of judgment. It will depend on the internal control team's assessment of the County's overall control environment; the significance of the business cycle, process or activity to the agency's mission; and the results of the team's initial testing – all the while bearing in mind that the ultimate goal is to draw a conclusion about the effectiveness of internal control *as a whole*, not individual controls standing alone.

Finally, it should be reiterated that internal control can provide management with only reasonable assurance that the County's goals and objectives will be achieved.

Within the context of this Guidebook, the effectiveness of internal controls should be evaluated on the basis of the financial statements and whether any errors that internal controls fail to detect or prevent might be material.⁷

CHAPTER SEVEN: THE BOTTOM LINE

The internal control team's next step is to evaluate its findings and prepare a report for senior management. The report should highlight the positive aspects of the County's system of internal control, as well as describe the control deficiencies. Recommended corrective actions and division/business unit responses should also be included. The report should be addressed to the County's Manager and signed by both the County's chief fiscal officer and the internal control officer. Copies of the report should be distributed to the County's internal audit unit and governing board.

A. Judging the Severity of Internal Control Deficiencies

A *control deficiency* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect financial misstatements on a timely basis.

A *significant deficiency* is a control deficiency or a combination of control deficiencies that adversely affects an agency's ability to initiate, authorize, record, process, or report external financial data reliably in accordance with generally accepted accounting principles such that there is *more than a remote likelihood* that a misstatement of the [State of Name] Comprehensive Annual Financial Report (CAFR) that is *more than inconsequential* will not be prevented or detected.

⁷ The factors for determining the severity of a control deficiency are based on the criteria set forth in Statement on Auditing Standards (SAS) No. 112, Communicating Internal Control Related Matters Identified in an Audit, May 2006 and similar criteria presented by Mr. Michael Ramos in his book entitled How to Comply with Sarbanes-Oxley Section 404 – Assessing the Effectiveness of Internal Control, John Wiley & Sons, Inc., Hoboken, NJ, 2004.

A *material weakness* is a significant deficiency or a combination of significant deficiencies that results in *more than a remote likelihood that material misstatements* in the information provided by an agency for preparation and inclusion in the [State of Name] CAFR will not be prevented or detected.

In determining whether an internal control deficiency is more than inconsequential and should be reported, the internal control team should perform a risk assessment that takes into account the following criteria.

- **Likelihood of Misstatement**

Many factors affect the likelihood that a deficiency, or a combination of deficiencies, could result in a misstatement of an account balance or disclosure. Some of the factors the team should consider include, but are not limited to, the following:

- . The nature of the financial statement accounts, disclosures, and assertions involved. For example, suspense accounts and related party transactions involve greater risk.
- . The susceptibility of the related assets or liabilities to loss or fraud.
- . The subjectivity and complexity of the amount involved, and the extent of judgment needed to determine that amount.
- . Whether the control in question is automated and whether it can be expected to perform consistently over time.
- . The interaction or relationship of the control with other controls. For example, what is the relative importance of the control and is the *overall* control objective achieved by interaction with other control activities and mitigating factors?
- . The cause and frequency of any known or detected exceptions related to the operating effectiveness of a control. For example, if a deficiency is deemed to be an operating deficiency (rather than a deficiency in the design of a control feature), what is the operating failure rate, i.e., repeated failures versus isolated occurrences?
- . The interaction of the control deficiency with other control deficiencies.
- . The possible future consequences of the deficiency.

Magnitude of Misstatement

If the likelihood is high that an internal control deficiency could result in a financial statement misstatement, the next step is to assess the magnitude of the potential misstatement. The following factors should be considered:

- . The financial statement amounts or total of transactions affected by the deficiency and the financial statement assertions involved.

- . Whether the deficiency relates to an entity-level or activity-level control. Weaknesses in entity-level controls that seem relatively insignificant, by themselves, could result in material financial statement misstatements because they affect many accounts and classes of transactions.

- . The volume of activity in the account balance or class of transactions exposed to the deficiency that has occurred in the current period, or that is expected in future periods.

When evaluating the significance of a potential misstatement, the focus should be on the *potential* for misstatement, not on whether a misstatement has occurred.

Strong Indicators of a Significant Weakness

SAS No. 112 suggests that deficiencies in the following areas should be regarded, at a minimum, as significant deficiencies in internal control over financial reporting:

- . Controls over the selection and application of accounting policies. Antifraud programs and controls.

- . Controls over non-routine and non-systematic transactions.

- . Controls over the year-end financial reporting process, including controls over procedures used to (1) enter transaction totals into the general ledger; (2) initiate, authorize, record, and process journal entries into the general ledger; and (3) record recurring and non-recurring adjustments to the financial statements.

Strong Indicators of a Material Weakness

Identification of fraud of any magnitude on the part of senior management should be considered a significant, if not, material weakness. In addition, significant deficiencies that have been communicated to management by the financial statement auditors or the agency's internal auditors that remain uncorrected after a reasonable period of time should be regarded as a strong indicator that a material weakness exists.

B. Reporting Guidelines

Once the team has evaluated its findings, the next step is to review them with division and business unit managers to reach consensus on the appropriate corrective actions. At the conclusion of this process, the team should be ready to prepare its final report. The report should include:

- . A statement describing management's responsibility for establishing and maintaining internal control over financial reporting;

- . A statement of the framework or criteria used to evaluate the effectiveness of internal control over financial reporting;
- . A statement about the inherent limitations of internal control systems;
- . The internal control team's assessment of the overall effectiveness of internal control over financial reporting, including disclosure of any significant or material control deficiencies identified by the team; and
- . A summary of the steps each division or business unit plans to take to correct any reported deficiencies and the estimated dates of completion. Corrective actions that management plans to address through a budgetary request should also be noted.

Lastly, the report should address control weaknesses identified in prior reports, commenting on (1) whether the weaknesses have been corrected and (2) whether the new policies and/or procedures have been in place for a sufficient period of time to determine they are operating effectively

CHAPTER EIGHT: BUDGET & ACCOUNTING

INTRODUCTION

Authoritative Requirements

In addition to the legal requirements of New Mexico Statutes and New Mexico Administrative Code as well as federal guidelines, local county governments are required to present their financial statements in accordance with generally accepted accounting principles (GAAP) for state and local governments. GAAP sets the minimum requirements for a fair presentation of financial data in external reports. Since 1984, determination of GAAP for state and local governments has been the responsibility of the Governmental Accounting Standards Board (GASB). For private enterprises and non-profits, GAAP is established by the Financial Accounting Standards Board (FASB) and older pronouncements issued by the American Institute of Certified Public Accountants (AICPA). GAAP provides uniform minimum standard of and guidelines for financial accounting and reporting. They are the framework within which financial transactions are recorded and reported resulting in financial statements that provide comparability between governmental entities, consistency between accounting periods and reliability for internal and external users of financial statements.

The GAAP hierarchy for financial reporting by state and local governments is defined in GASB Statement on Auditing Standard (SAS) No. 69, The meaning of Present Fairly in Conformity with Generally Accepted Accounting Principles in the Independent Auditors' Report, issued by the AICPA as follows:

Level 1 - GASB Statements and Interpretations, and AICPA and FASB pronouncements made

applicable by GASB Statements or Interpretations. GASB Statements and Interpretations are periodically incorporated in the Codification of Governmental Accounting and Financial Reporting Standards.

Level 2 - GASB Technical Bulletins, AICPA Industry Audit and Accounting Guides and Statements of Position specific to Governmental entities made applicable by the AICPA and cleared by the GASB.

Level 3 - GASB Emerging Issue Task Force consensus positions and AICPA Accounting Standards Executive Committee (AcSEC) Practice Bulletins made applicable by the AICPA and cleared by the GASB. There may be other widely recognized and prevalent practices also incorporated.

Level 4 - GASB Implementation Guides (Q & A's), AICPA Audit and Accounting Guides/Statements of Position (COP's) that are specific to Governmental entities and NOT Cleared by GASB.

Other Sources - GASB Concepts Statements. The Governmental Accounting and Financial Reporting (GAAFR) textbook published by GFOA.

Many groups and individuals need reliable information on a county's finances. An accounting system must meet the basic informational needs of these interested parties. As a result, the accounting system must make it possible to: *(a) present fairly and with full disclosure the financial position and results of financial operations of the governmental unit in conformity with GAAP; and (b) determine and demonstrate compliance with finance-related legal and contractual provisions.* [GASB Codifications Section 1200, NCGA-1]

Neither GAAP nor legal compliance takes precedence in governmental financial statements. Both are essential. When legal provisions conflict with GAAP, governments should prepare basic financial statements in conformity with GAAP and also present such supporting schedules, in addition to the GAAP-based basic financial statements, as may be necessary to clearly report upon their legal compliance responsibilities and accountabilities.

While BAM tries to summarize GAAP for application in California Community Colleges, it may not be a complete and exhaustive text for defining, clarifying, and interpreting all potential situations that may be encountered by every community college or district. It is also limited by the fact that it represents the applicable GAAP at a given point in time. GAAP for local governments is not static but evolving. It is necessary to continually monitor and respond to proposed pronouncements and amend the prescribed guidance in light of new or revised standards. GASB Statements and other changes to GAAP issued after the completion of this manual are not addressed in this document. These advisories should be referenced in conjunction with the BAM and are incorporated into the BAM periodically as applicable

New Mexico Law;
New Mexico Administrative Code;

Accounting Principles;
Government Finance Officer's Association's *Governmental Accounting and Financial Reporting (GAAFR)* www.gfoa.org;
American Institute of CPA's *Statements on Auditing Standards (Generally Accepted Auditing Standards)*;
Governmental Accounting Standards Board's *Codification of Governmental Accounting and Financial Reporting Standards* and *Original Pronouncements of Governmental Accounting and Financial Reporting Standards* www.gasb.org;
General Information.

Objective and Purpose

The Batement Act [6-6-11 NMSA 1978] states: *It is unlawful for any board of county commissioners, municipal governing body or any local school board, for any purpose whatever to become indebted or contract any debts of any kind or nature whatsoever during any current year which, at the end of such current year, is not and cannot then be paid out of the money actually collected and belonging to that current year, and any indebtedness for any current year which is not paid and cannot be paid, as above provided for, is void. Any officer of any county, municipality, school district or local school board, who shall issue any certificate or other form of approval of indebtedness separate from the account filed in the first place or who shall at any time use the fund belonging to any current year for any other purpose than paying the current expenses of that year, or who shall violate any of the provisions of this section, is guilty of a misdemeanor.*

The objective of this *Budget and Accounting Manual* is to facilitate compliance with this requirement by providing for a uniform fund structure, revenue and expenditure classifications, and other accounting procedures for the consistent and comparable reporting of financial data by Colfax County. The manual is primarily written for the individuals who work daily with county financial accounting system; however, this chapter and the general section at the beginning of each of the other chapters have been written to assist those readers who may desire more general background information.

ACCOUNTING OVERVIEW

The following overview is provided to assist the reader's understanding of the conceptual framework of county government accounting.

Accounting: The Language of Business

There is no single, concise, comprehensive description of accounting. Accounting has been defined as *the system of recording and summarizing business and financial transactions and analyzing, verifying, and reporting the results.* [Webster's Collegiate Dictionary, Tenth Edition, 1998]

Accounting, then, is the special field of theory and practice concerned with the design and implementation of procedures for the accumulation and reporting of financial data. An accounting system is the total structure of records and procedures that identify, assemble,

analyze, record and report information on the financial operations of a county government or any of its funds and organizational components.

An accounting system must make it possible both: (a) To present fairly and with full disclosure the financial position and results of financial operations of the funds of a community college district in conformity with generally accepted accounting principles (GAAP); and (b) to determine and demonstrate compliance with finance-related legal and contractual provisions. An effective control environment helps ensure reliable financial reporting, effective and efficient operations as well as safeguarding assets against theft and unauthorized use, acquisition, or disposal. The control environment includes oversight provided by each county's board of commissioners, the County's internal and/or external auditors, and the Office of the County Manager.

Government versus Private Accounting: Measurement Focus & Basis of Accounting

Governmental accounting is founded upon the same basic concepts and conventions that underlie the accounting discipline as a whole. However, governmental accounting tends to focus on the uses of resources to attain the institution's objectives, rather than upon profits or losses. In general, in a private enterprise, products or services are sold directly to consumers who pay at least the cost of producing the products or providing the services. In contrast, the primary services provided by local county governments (public peace, health, safety, welfare) are paid for from a variety of revenue sources, most of which are not direct beneficiaries of the services.

The nonprofit nature of local county governments and the unique flow of revenue results in the use of the flow of current financial resources measurement focus used by other governmental entities. This measurement focus is intended to answer the question- Are there more or less resources that can be spent in the near future as a result of events and transactions of the period? To better answer this question, the modified accrual basis of accounting is used. Under the modified accrual basis, revenues are recognized only when they are earned, measurable, and available. Measurable is interpreted as the ability to provide a reasonable estimate of actual cash flow. Revenues are available if collectible within the current period or soon enough thereafter to pay liabilities of the current period. Expenditures are recognized when an event or transaction is expected to draw upon current spendable resources.

However, certain county activities may be similar to private enterprise in that they are funded in large part by direct charges to consumers (e.g. water utility, transit programs). Such activities use the flow of economic resources measurement focus to answer the question Is the fund better or worse off economically as a result of events and transactions of the period? To better answer this question, the full accrual basis of accounting is used to account for all revenues earned and expenses incurred during the period, regardless of the timing of the cash flows.

Fund Accounting

Because of the varied sources of revenue, some with restrictions and some without restrictions, governmental accounting systems should be organized and operated on a fund basis. A fund is

defined as a fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances, and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations. [GASB Codification Section 1300, NCGA-1]

Fund accounting, therefore, is used as a control device to separate financial resources and ensure that they are used for their intended purposes with the fund as the basic recording entity for reporting specified assets and liabilities and related transactional movements of its resources.

Revenue and Expenditure Classification

Basic to all revenue and expenditure accounting is a systematic classification scheme for describing transactions. There can be no consistency and comparability in the recording of transactions without precise descriptions of the transaction elements.

Revenue classification is primarily by **source** and **purpose**.

Expenditure classification is by **object** and by **activity**. Object classification relates to the commodity or service obtained. Activity classification relates to the purpose of the expenditure.

Annual Financial Report and Audit

The annual financial report of the county is the vehicle for summarizing and communicating the results of budgetary decisions and transactions. The *Annual Financial Report presented by the county's Independent Public Auditor (IPA)* contains, actual revenues, expenditures, and corresponding accruals for the prior fiscal year.

An annual financial and compliance external audit, required by *Audit Rule 2.2.2 NMAC*, is the final examination of the annual financial statements' fairness and reliability. The audit must be conducted by certified public accountants approved by the Office of the State Auditor. The annual independent audit, financial statements and supplemental information shall be prepared in accordance with GASB Statements No. 34, *Basic Financial Statements – and Management Discussions and Analysis – for State and Local governments* and 35, *Basic Financial Statements*.

In the event federal grant revenues exceed \$500,000 in one fiscal year the Financial Specialist should budget for a Single Audit under OMB Circular A-133 Compliance Supplement.

Budgeting Overview

General Requirements

Budgeting is an essential element of the financial planning, control and evaluation processes of governments. Every governmental unit prepares a comprehensive budget covering all governmental, proprietary, and fiduciary funds for each annual fiscal period. The accounting system provides the basis for appropriate budgetary control. [GASB Codification Section 2400, NCGA Statement 1] The Colfax County budget is a plan of proposed expenditure for operations and estimated revenue for a given period of time (fiscal year). The budget represents the operational plans of the county in terms of economic decisions.

Important Dates

The following is from the recommended budget schedule located on the NM Department of Finance and Administration's Budget and Finance Bureau for FY 14. All relevant forms and publications can be found at the DFA Budget and Finance Bureau's website:

http://www.nmdfa.state.nm.us/Forms_and_Pilot_Project_Forms_1.aspx

Recommended Budget Calendar		
Task	Timing	Responsibility
1. Set up budget format for each fund, department, division and account.	January	Financial Specialist
2. Compare total actual expenditures from previous fiscal year to establish total expenditures and revenue for current fiscal year.	Mid-February	Financial Specialist
3. Prepare instructions for elected officials & department heads. Indicate any guidelines that should be considered, such as estimated gasoline increases, telephone, postage, etc.	Mid-February	Financial Specialist
4. Send instructions, appropriate budget page and appropriate analysis of expenditures.	First week in March	Financial Specialist

Recommended Budget Calendar		
Task	Timing	Responsibility
5. Complete or update estimates for this year and budget requests for next year.	Mid-March	Elected Officials & Department Heads
6. Attach justification for budget requests and return.	April 1	Elected Officials & Department Heads
7. Review departmental requests and update revenue estimates and proposed adjustments.	First week in April	County/City Manager & Financial Specialist
8. Send budget proposals to Governing Body.	Second week in April	Financial Specialist
9. Hold workshops with elected officials, department heads, and have hearings for public input.	Third week in April	Governing Body
10. Return budget preparation turnaround worksheet to elected official or department head for review and comment.	End of April	Financial Specialist
11. Finalize budget and submit to governing body for review. Estimate ending cash balance as of June 30 and reflect on recap of budget.	Early-May	Financial Specialist
12. Review recommended budget and approve.	May Meeting	Governing Body
13. Prepare budget for submission to DFA/LGD.	By June 1	Financial Specialist
14. Budget approval granted.	By July 1	DFA/LGD

Recommended Budget Calendar		
Task	Timing	Responsibility
15. Hold final budget hearing, submit final adjustments and financial reports as of June 30 to DFA/LGD.	By July 30	Governing Body/Manager
16. Load budget into accounting system.	For July processing	Financial Specialist
17. Review and certify budget.	By 1st Monday in September	DFA/LGD
18. Load final budget adjustment into accounting system.	September	Financial Specialist
19. Certification of tax rates to counties.	September	DFA/LGD
20. Instructions to impose tax rate to county assessor.	September	Governing Body

After the certified budget is authorized by NM DFA the county is required to submit quarterly reports to DFA using the proper form made available on the NM DFA Budget and Finance Bureau's website.

Budget Procedures

- Except for quarterly budget adjustments, emergency adjustments and newly acquired grants, a budget adjustment is not allowed during the year unless authorized by the County Manager.
- Any adjustment to the certified budget that does not meet emergency or newly acquired grant criteria will only be allowed at the end of a quarter of a fiscal year and must be submitted via budget request form issued by the Financial Specialist.
- The Financial Specialist must closely monitor the certified budget to assure that expenses do not exceed revenues during the fiscal year. Proper budget adjustments should be executed to keep the budget balanced throughout a fiscal year.
- Each elected official and department head shall manage budgets according to all statutes, administrative code, ordinances and generally accepted accounting principles.
- An elected office or department head shall promptly report in writing to the Financial Specialist any significant change or problem related to the elected office or department budget.

GENERAL

The primary purpose of fund accounting is to segregate financial information. This is accomplished by accounting for financial transactions related to specific activities or objectives within separate funds. A Governmental Accounting system should be organized and operated on a fund basis. A fund is defined as a *fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equity or fund balances and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions and/or limitations.* [GASB Codification Section 1300, NCGA-1].

Included in this definition would be any and all subfunds.

Unlike typical private business accounting, the diverse nature of public operations and complexity of legal requirements preclude maintenance of financial transactions and balances in a single accounting entity. In public agency accounting, separate funds and accounts are required to maintain records of separately designated assets, liabilities, and balances. A governmental agency is, in effect, a combination of several distinct accounting entities functioning independently of each other.

A basic principle of fund accounting is the concept of grouping funds. A funds group consists of individual funds used to report sources and uses of resources in providing some major service or group of services. In general, funds of a similar nature and function should be assigned to the same funds group.

The local government county fund structure presented here is based largely on concepts and principles contained in GAAFR. This structure allows districts to establish any number of funds, subfunds, or accounts for internal accounting, but requires for external financial reporting purposes that all accounts be consolidated into one of three broad fund types:

- Governmental Fund Types
- Proprietary Fund Types
- Fiduciary Fund Types

Generally accepted accounting principles further require that all accounts reported within a single fund group use the same basis of accounting for timing the recognition of revenues, expenditures, and transfers. The proper timing of that recognition is discussed as part of the accounting requirements for each fund type. Fund code numbers have been assigned to each fund.

GOVERNMENTAL FUNDS TYPES

General Fund

Please refer to the County's general fund allocation and codes if applicable.

The general fund is the primary funding source for county operations. The revenues that are deposited in the general fund are unrestricted and are appropriated by the board of county commissioners annually to support general operations of the county.

Expense Account Object Code Definitions

Please refer to the Colfax County's expense account codes or lists if applicable.

Department Categories

Department categories identify general classifications depending on the type of department.

CHAPTER TEN: FINANCIAL PROCEDURES

FINANCIAL SPECIALIST PROCEDURES

The financial specialist or CPA hired for this position, in accordance with the job description, is responsible for the fiscal accountability of Colfax County in accordance with all laws, administrative rules, ordinances and generally accepted accounting principles. The primary purpose of the financial specialist is strategic planning of the annual budget and accuracy of the accounting system so that the public and other stakeholders can utilize financial information to make informed financial decisions.

Required Procedures

- In collaboration with the county manager the financial specialist is responsible for promoting the importance of internal control and updating control policies and procedures. The financial specialist is also responsible for disseminating internal control policies and procedures and assuring that departments have a high respect for and are trained in internal control methods.
- In collaboration with the Office of the County Treasurer the financial specialist will review check signer's access to all county bank accounts by January 1 of every year and obtain proper approval from board of county commissioners in accordance with county policy.
- The financial specialist will work with the finance staff to assure that proper accounting for capital assets is accurate and in accordance with law and generally accepted accounting principles, specifically GASB 34. The financial specialist will frequently review the capital assets sub ledger to assure accuracy and that the sub ledger reconciles with the general ledger. The financial specialist will assure that proper additions and deletions are recorded in accordance with appropriate laws and regulations.
- No employee in the Financial Specialist, including the financial specialist, shall have financial software privileges that allow full administrative authority that would allow complete control over user account privileges.
- The information technology director should be the only county individual that has full administrative authority over the financial software system.

SENIOR ACCOUNTANT OR CPA PROCEDURES

Under general direction of the financial specialist or Manager and according to the job description, the senior accountant or CPA position interacts primarily with the general ledger. Bank reconciliation fund reconciliation, and liability reconciliation, as well as internal control implementation are primary duties of the senior accountant. The senior accountant position is also responsible for reconciliation of the capital assets sub ledger to the general ledger and additions and deletions of capital assets in the general ledger. The senior accountant is responsible for other duties as assigned.

Required Procedures

- Prepaid expenditures and inventory such as insurance, postage and raw materials at the Public Works Department and Older Americans Program shall be identified and accounted for by the senior accountant.
- The senior accountant is also responsible for activities related to accounting for inventories at end of year.

ACCOUNTS PAYABLE PROCEDURES

Under general direction of the financial specialist and according to the accounts payable job description, the accounts payable office is the central county office that handles payments of outstanding obligations of the county. The accounts payable officer administers county disbursements after the purchasing process has gone through the proper approval channels. The accounts payable officer is responsible for other duties as assigned.

Required Procedures

- Procedures identified in the prior discussion in chapter three of this document under section *B Control Techniques* will govern as proper procedures for accounts payable cash disbursements.
- Procedures related to the Purchasing Card Program (P-Card) are identified in the county's purchasing card manual and shall govern as proper procedures for accounts payable related to the purchasing card program.
- If actual expenditures for an invoice exceed an authorized purchase order by a maximum amount of \$50 for tax and shipping purposes, then accounts payable is authorized to issue a disbursement for the actual costs incurred.
- Purchase orders dated after the receipt of an invoice shall not be paid. County employees that execute purchases prior to the issuance of a purchase order shall be subject to disciplinary action up to and including termination.
- All required travel documentation shall be submitted and approved prior to approval of a purchase order related to travel.
- The accounts payable office shall not have the ability to create or modify vendor profiles in the financial software system.
- The accounts payable office shall prepare a packet or batch of payables that must be reviewed and approved by the financial specialist prior to the issuance of any actual disbursement check or other allowable payment instrument.

- Upon submittal to the Office of the County Treasurer for final signature, checks and other approved accounts payable disbursements must be accompanied by a corresponding hard copy check register.

PAYROLL OFFICE PROCEDURES

Under general direction of the financial specialist and according to the terms of the payroll officer job description, the payroll officer oversees payment (cash disbursement) of salaries and benefits for county employees. Payroll is responsible for payment of retirement, healthcare benefits according to county policies and collective bargaining agreements. The payroll officer is responsible for other duties as assigned.

Required Procedures

- Segregation of duties in the payroll office is of critical importance to the financial function of Colfax County.
- The ability for the payroll officer to create an employee or make changes to pay rates or deductions is prohibited. All new hire employees must be created, after the appropriate approval process, by the Human Resources Department. The Human Resources Department shall not have access to the processing of payroll function in the financial software.
- A timesheet that is signed and verified by the employee and the department head is required before the payroll officer inputs employee time into the financial software system.
- A handwritten correction to a time sheet is not allowed and the payroll officer shall not use handwritten adjustments to calculate payroll.
- Prior to payroll check disbursements and payroll direct deposits being processed, the payroll officer and the financial specialist or his or her assigned finance employee, must meet to review the payroll register for appropriateness and correctness. The individual reviewing the payroll register must initial on the pages being reviewed.
- The financial software for the payroll function must be activated to require dual control for finalizing or executing cash disbursements. The Colfax County's software that the Financial Specialist is currently utilizing allows for a payment process whereby the financial specialist must enter a password prior to a cash disbursement being made. The lock for payment dual control method shall be required for all payroll disbursements.
- To bolster quality control in payroll information, the payroll office must work with the Human Resources Department to select a sample of twenty employee records to periodically verify correct withholdings related to county policies, retirement, healthcare and other benefit requirements.
- Cross training of finance employees for the payroll function is required.
- The payroll office in collaboration with the Public Works Director, who oversees the fleet department, will account for employees, whom by virtue of their position, are required to take vehicles home on a twenty-four-hour period basis. Employees who take vehicles home and do not meet the exclusion requirements provided by IRS rules, will have proper fringe benefit withholdings presented on the employees W2 at the end of the calendar year or at termination of employment.
- The end of fiscal year close process for the payroll office will incorporate accruing wages

- that extend between fiscal years as well as accrued compensated absences.
- Reporting of other fringe benefits as required by the Office of the State Auditor's Rule 2.2.2.10 will be required by the payroll office.
- Changes to personnel action forms (PAFs) that affect the calculation of an employee's wages shall only become effective at the first day of a pay period or at the written authorization of the county manager.

GRANTS ADMINISTRATION OFFICE PROCEDURES

Under general direction of the financial specialist and according to the terms of the grant's administrator job description, the grant administrator/writer is responsible for all issues related to grant facilitation, record keeping, compliance and acquisition. All documentation and financial reporting related to grants shall be centralized through the grants administration office.

Required Grant Procedures

PRE AWARD

Initiator: an idea, identified need or a Request for Proposals (RFP), Notice of Funds Available (NOFA), etc., gets the ball rolling. Grants Office is available to assist in researching possible funding and to analyze RFPs, NOFAs, application(s), etc. and assist lead in interpretation and confirming eligibility and other technical aspects of the RFP/NOFA/application.

Go ahead from Department Director: internal Department policies and procedures apply here.

Grant development/writing: prepare grant application, including budget, identify match if applicable, staffing and impact on County. Grants, including analysis of RFP, NOFA, application, etc., and facilitating or coordinating Strategic Planning, participation in writing and editing.

ARF: prepare Agenda Request Form, including review sign-offs (Legal, Finance, Procurement). Get it submitted to County Manager Administrative Assistant (timely!) and get on the agenda. Make sure to have all supporting documentation including completed grant application and a Resolution authorizing submission, identifying authorized signatory, authorized fiscal agent (who can sign off on reimbursement requests, etc.), identify Project Manager or County Manager (who is Point of Contact (POI) and responsible for getting the Scope of Work done, preparing reports and doing the day-to-day management and accounting), identify match requirements, amount and source (if applicable).

Submission: provide copy of RFP/NOFA/application, ARF, authorizing Resolution and completed grant application to Grants Office. Submit your grant.

POST AWARD

Notice of Award: upon formal Notice of Award, provide a copy to Grants Office and initiate

approval process.

Receipt of grant award Agreement: grant Agreements will be routed to the Financial Specialist for review. Terms and conditions will be reviewed by Legal and the Grants Administrator and communicated to the Project Manager/department. If there are questions, the Grants Administrator will follow up with Grantor and Project Manager for clarification.

ARF: Prepare Agenda Request Form, including review sign-offs. Get it submitted to County Manager Administrative Assistant (timely!) and get on the agenda. Make sure to have all supporting documentation including Notice of Award, grant Agreement and a Resolution authorizing acceptance of the grant.

Authorization to Proceed Process:

- Upon authorization (passed Resolution) and sign-off by Commissioners, the signed Agreement (usually three copies) will be forwarded to Grantor for signatures.
- Once a signed copy of the Grant Agreement is received by Finance, the department and Project Manager will be notified. Grants Office will start a Grant File.
- Finance will prepare a Budget Amendment to reflect the grant amount and submit this to DFA for approval. Department/Project Manager will be notified when this approval has been secured.
- **Request an Account Number:** through Grants Office, obtain a Request for Account Number form. The form asks for basic grant information and a detailed line-item budget. This request is then submitted to the Finance Administrator who will assign an Account Code and enter this into the system.
- **Initiate Grant SOW.**

GRANT DELIVERY

Scope of Work (SOW): it is the responsibility of the Project Manager to implement, supervise and deliver the Scope of Work for the grant per the terms and conditions of the Grant Agreement (this will include activities to be completed, services to be delivered and timeframes).

Grant Management: it is the responsibility of the Project Manager to maintain program Grants File and to provide copies of all narrative and fiscal reports, correspondence and other grant documents to the Grants Administrator. A quarterly summary report is to be prepared for the Board of Commissioners and is to include: a brief narrative of accomplishments, challenges and next steps; and a summary of expenditures.

Reporting: it is the responsibility of the Project Manager or Manager to comply with all reporting requirements of the Grant Award. This includes Narrative Reports, Financial Reports, Close-out Report (note: Close-out Report is to be provided to Grants Administrator for review prior to submission to Grantor), and other reports required by the terms and conditions of the Grant Agreement. Provide copies of all reports to the Grants Office at time of submission to Grantor. Technical Assistance is available from the Grants Administrator. It is very important to

provide these reports so that they can be added to the Grant File and be available for compliance review and audit.

Purchases of goods and services:

Purchases of goods:

Manager sends Purchase Order

Pre-Approval form with all

backup to Grants Administrator

for review as to compliance with

terms and conditions of the Grant

Agreement.

- The Grants Administrator/Writer will work with the Manager/Department to resolve any issues or questions should they arise.
- The Grant Administrator/Writer will enter the PR into the System.
- Procurement reviews for compliance with Policies and Procedures and cuts a Purchase Order.
- Manager is authorized to make purchases of goods.

Securing services - sub-contracting procedures:

- Manager submits proposed sub-contract, service agreement or professional services agreement with backup documentation (bids, RFPs, etc.) to Grants Administrator/Writer for review as to allowability and compliance with terms and conditions of the Grant Agreement. The sub-contract will be forwarded by Grants Administrator to Legal for review.
- Grants Administrator will forward proposed sub-contract to Procurement.
- Procurement reviews for compliance with Policies and Procedures, authorizes sub-contract and cuts a Purchase Order.
- Sub-contract is submitted to sub-contractor for review and original signature (at least two copies are sent).
- Sub-contractor returns both signed copies.
- Sub-contracts are submitted to County Manager and Finance for signatures.
- Grants Office will retain one original for Grant File and return one original signed copy to Contractor and a copy to Manager.
- Sub-contract is in place.

Receipt of and Payment for goods and services:

- Services are provided by vendor/contractor. Note, Manager is responsible for

monitoring to ensure services are delivered per terms and conditions of Service Agreement and sub-contract SOW.

- Goods are received by Procurement. Manager will be notified to pick up goods.
- Vendor submits Invoice to Accounts Payable who pays vendor.
- Accounts Payable provides copy of Invoice and payment check to Manager and Grant Administrator.

Requests for Reimbursement/Requests for Payment:

- Manager will prepare the Request for Payment/Reimbursement using the forms and/or procedures required by the Grantor under the terms and conditions spelled out in the Grant Agreement. Backup documentation (RFP/RFR Package) will include at a minimum:
 - Pre-authorization from Grantor (if applicable)
 - Bid documents (if applicable)
 - State Vendor listing (if applicable)
 - Purchase Order
 - Invoice
 - Documentation of receipt of goods and/or services
 - Document disposition of goods (especially equipment)
 - Provide serial number and description
 - Document billed hours (e.g. certified timesheet, sign-in sheets w/ meeting agenda, etc.)
 - Copy of payment check
 - Cover letter certifying documents submitted
- The RFP/RFR is submitted to the Grants Administrator for review and submission to the Grantor. Copies will be provided to Finance Administrator and Project Manager or Manager.

Required Procedures for Capital Outlay Grants Requiring a Fiscal Agent

PRE AWARD

Initiator: Project, equipment, etc. is identified, prioritized and placed on the Colfax County.

Solicitation: At the direction of the Board of Commissioners, County Manager (or others?), contact is made with the NM Congressional Delegation for support/commitment for Capital Outlay funds.

Capital Outlay Request: follow procedures and required forms.

POST AWARD

Notice of Award: upon formal Notice of Award, provide a copy to Grants Office and initiate approval process.

Receipt of Grant Award Agreement: Grant Agreements will be routed to the Financial Specialist for review. Terms and conditions will be reviewed by Legal and the Grants Administrator and communicated to the Project Manager/department. If there are questions, the Grants Administrator will follow up with Grantor and Project Manager for clarification.

ARF: Prepare Agenda Request Form, including review sign-offs. Get it submitted to County Manager Administrative Assistant (timely!) and get on the agenda. Make sure to have all supporting documentation including Notice of Award, grant Agreement and a Resolution authorizing submission, identifying authorized signatory, authorized fiscal agent (who can sign off on reimbursement requests, etc.), identify Project Manager (who is Point of Contact (POI) and responsible for getting the Scope of Work done, preparing reports and doing the day-to-day management and accounting), identify match requirements, amount and source (if applicable).

Authorization to Proceed Process:

- Upon authorization (passed Resolution) and sign-off by Commissioners, the signed Agreement (usually three copies) will be forwarded to Grantor for signatures.
- Once a signed copy of the Grant Agreement is received from Grantor by Finance, the department and Manager will be notified. Grants Office will start a Grant File.
- Finance will prepare a Budget Amendment to reflect the grant amount and submit this to DFA for approval. the Grants Administrator and Department/Project Manager will be notified and provided copy of documentation from DFA when this approval has been secured.
- **Request an Account Number:** through Grants Office, obtain a Request for Account Number form. The form asks for basic grant information and a detailed line-item budget. This request is then submitted to the Finance Administrator who will assign an Account Code and enter this into the system.
- **Initiate Grant SOW.**

GRANT DELIVERY

Scope of Work (SOW): it is the responsibility of the Project Manager to implement, supervise and deliver the Scope of Work for the grant per the terms and conditions of the Grant Agreement (this will include activities to be completed, services to be delivered and timeframes).

Grant Management: it is the responsibility of the Project Manager to maintain a program Grants File and to provide copies of all narrative and fiscal reports, correspondence and other grant documents to the Grants Administrator/Writer. A quarterly summary report is to be prepared for the Board of Commissioners and is to include: a brief narrative of accomplishments, challenges and next steps; and a summary of expenditures.

Reporting: it is the responsibility of the Project Manager to comply with all reporting requirements of the Grant Award. This includes Narrative Reports, Financial Reports, Close-out Report (note: Close-out Report is to be provided to Grants Administrator for review prior to submission to Grantor), and other reports required by the terms and conditions of the Grant

Agreement. Provide copies of all reports to the Grants Office at time of submission to Grantor. Technical Assistance is available from the Grants Administrator. It is very important to provide these reports so that they can be added to the Grant File and be available for compliance review and audit. Grants Administrator will provide copies of all fiscal reports to Manager.

Purchases of goods and services:

Purchases of goods:

- Project Manager sends **Purchase Order Pre-Approval** form with all backup to Grants Administrator for review as to —allowability and compliance with terms and conditions of the Grant Agreement.
- A copy of the **Purchase Order Pre-Approval** form with backup will be provided to approval.
- The Grants Administrator will work with the Manager/Department to resolve any issues or questions should they arise.
- The Manager will provide the Grants Administrator with an authorizing memo to proceed.
- With Manager's approval, the Grant Administrator will enter the PR into the System.
- Procurement reviews for compliance with Policies and Procedures and cuts a Purchase Order.
- Grants Administrator/Writer forwards Purchase Order, backup documentation and Manager authorization memo to DFA/LGD for review and approval.
- The Purchase Order is held by the Grants Administrator pending review and approval by DFA/LGD.
- DFA/Local Government notifies Grant Administrator of approval and issues a Notice of Obligation.
- Upon receipt of Notice of Obligation, Grants Administrator will release the PO and the Project Manager or Manager is authorized to make purchases of goods.

Securing services -- sub-contracting procedures:

- Manager submits proposed sub-contract, service agreement or professional services agreement with backup documentation (bids, RFPs, etc.) to Grants Administrator for review as to allowability and compliance with terms and conditions of the Grant Agreement. The sub-contract will be forwarded by Grants Administrator to Legal for review.
- Proposed sub-contract with backup documentation is submitted for review and approval.
- Upon review acceptance, Manager will provide the Grants Administrator with an authorizing memo to proceed.
- Grants Administrator will forward proposed sub-contract to Procurement.
- Procurement reviews for compliance with Colfax County Policies and Procedures and authorizes sub-contract by memo.
- Sub-contract is submitted to sub-contractor for review and original signature (at least two copies are sent).
- Sub-contractor returns both signed copies.
- Grants Administrator forwards the sub-contractor signed proposed sub-contract with

- backup documentation and authorizing memo to DFA/LGD for review and approval.
- DFA/LGD issues Notice of Obligation and authorizing memo.
- Upon approval and receipt of a Notice of Obligation from DFA/LGD, Grants Administrator will secure signatures from County Manager and Financial specialist.
- Grants Office will retain one original copy of sub-contract for Grant File and return one original signed copy to Contractor and a copy each to Project Manager and MRCOG.
- Sub-contract is in place.

Receipt of and Payment for goods and services:

- Services are provided by vendor/contractor. Note, Project Manager or Manager is responsible for monitoring to ensure services are delivered per terms and conditions of Service Agreement and sub-contract SOW.
- Goods are received by Procurement. Project Manager will be notified to pick up goods.
- Vendor submits Invoice to Accounts Payable who pays vendor.
- Accounts Payable provides copy of Invoice and payment check to Project Manager and Grant Administrator.

Requests for Reimbursement/Requests for Payment:

- Project Manager or Manager will prepare the Request for Payment/Reimbursement using the forms and/or procedures required by the Grantor under the terms and conditions spelled out in the Grant Agreement. Backup documentation (RFP/RFR Package) will include at a minimum:
 - Pre-authorization from Grantor (if applicable)
 - Bid documents (if applicable)
 - State Vendor listing (if applicable)
 - Purchase Order
 - Invoice
 - Documentation of receipt of goods and/or services
 - Document disposition of goods (especially equipment)
 - Provide serial number and description
 - Document billed hours (e.g. certified timesheet, sign-in sheets w/ meeting agenda, etc.)
 - Copy of payment check
 - Cover letter certifying documents submitted
- The RFP/RFR is submitted to the Grants Administrator for review.
- The RFP/RFR is submitted to Manager for review and approval.
- Upon notice from Manager of approval, the Grants Administrator will submit it to DFA/Local Government Division Grant Specialist. Copies will be provided to Finance Administrator and Project Manager.

Internal Control Over Disbursement.

1. Department Requisition Goods/Services thru the accounting software Triadic. All requisition are electronic.
 - a) Electronic Requisitions require at a minimum the line item associated with the budgeted good/service, vendor, dollar amount including any shipping charges or service charges and description of the item to be purchased
2. Requisition is reviewed by Colfax County Financial Specialist and Chief Purchasing Officer
 - a) Financial Specialist first reviews requisitions to make sure it is in compliance with budget and then approves. CPO determines if the selected line item on the requisition is appropriate for the purchase of good/service description set forth in the requisition then approves the requisition.
3. CPO determines if requestion meets County Procurement Policy
 - a) If CPO determines the requestion is missing detail or violates county purchasing policy the requestion is rejected and returned thru Triadic
 - b) Once the department corrects issues related to the requestion and the CPO reviews it for corrections and find no other issues the
4. CPO issues Purchase Order thru Triadic
 - a) After the Financial Specialist and CPO both sign the PO, copies will be submitted to the department.
5. Department can order items after the requisition and P.O are issued.
6. Goods/Services ordered must match the P.O. detail exactly.
 - a) Goods/Services are received by department.
7. Department must verify goods/services received match P.O.
 - a) All invoices are signed by department head, this signifies that goods/service meet P.O. criteria.
8. Invoice is forwarded to Accounts Payable
9. AP reconciles invoice to P.O.
 - a) Any differences halt the AP process, all items must be reconciled before AP can issue a payment voucher.
10. Invoice is approved and then paid by AP.

CASH MANAGEMENT PROCEDURES

Internal controls are necessary for cash collection to prevent mishandling of county funds and to safeguard employees from inappropriate charges of mishandling of county funds. The internal controls are designed to define the procedures and responsibilities of employees in the cash handling process.

Required Procedures

Establishing Cash Collection Points

A cash collection point can be defined as department that handles cash on either an irregular or regular basis.

A cash collection point must be authorized by both the Treasurers' office and the Finance office before collection begins. Departments requesting to be considered as a cash collection point must

submit, in writing, a request to the abovementioned offices that includes:

- Reason(s) why a cash collection point needs to be established.
- A list of the positions involved with the cash collection point, a description of their duties at the cash collection point and how segregation of duties will be maintained.
- A description of the reconciliation process, including frequency.
- A description of the safeguarding process of County cash until it is deposited.

Cash Collections

To define cash, for the purposes of this policy, it includes, separately or combined: coins, currency, checks, money orders, and credit card transactions.

The following list of procedures is required for the operation of cash collection points:

- All cash received will be recorded, at time of collection, in a computerized accounting system capable of generating official county receipts.
- When a cash collection point is approved where all cash cannot be, at time of collection, recorded in a computerized accounting system capable of generating official county receipts, approved temporary receipts may be issued.
- The customer must be presented an official county receipt with a duplicate record being retained by the receiving department.
- All receipts must be numbered and accounted for using the correct receipt account code, including voided transactions.
- Temporary receipts must be pre-numbered and approved by the County Treasurers' Office before issuance of such temporary receipts. No other types of temporary receipts are acceptable. When a cash collection point disburses non computerized, temporary receipts, those receipts must be converted over to official county receipts as soon as possible.
- Checks must be clearly made payable to Colfax County and the department name or to Colfax County and the Elected or Public Officials title (i.e. Colfax County Treasurer). Acronyms and abbreviations are not acceptable.
- Checks or credit card transactions will not be cashed or written for more than the amount of purchase.
- All cash received must be protected immediately by using a cash drawer, safe or other secure device until cash is reconciled and deposited.
- Access to cash receipts is only allowed by authorized personnel for the purposes of reconciliation and accounting and proper segregation of duties are required upon receipt of cash and preparing deposits.
- The cash collection point must maintain a clear separation of duties. Any specific County employee at a cash collection point should not be responsible for more than one of the cash handling components: collecting, reconciling, disbursement, and depositing.

Fundraising-Cash Collections

Any and all cash collected at a site other than the, approved, regular cash collection site, as part of irregular business activities, should be handled in accordance with the following procedures:

- The County Treasurer and Financial Specialists must be notified, in advance, of the date time and location of the fundraising.
- Any and all cash collected at any event should not be directly handled by any member of a county department or a county volunteer.
- Cash should be placed in a locked boxed where no member participating in the fundraising event possesses a means of entry to the box.
- Cash should be taken from the off-site location, directly to the normal operating office. The cash collected should be counted and deposited at the County Treasurer's office on the next regular business day.

Balancing/Reconciling

The following list of procedures is required daily after operation of cash collection points:

- Collections must be reconciled and deposited at the end of each business day.
- County Funds received must be reconciled to the computerized accounting system cash report at the end of the day or the end of each shift.
- Cash must be reconciled separately from checks, credit cards, and money orders by comparing actual cash received to the cash totals from the computerized cash report.
- All cash must be deposited intact, and not intermingled or substituted with other cash.
- Reconciliations should be prepared by one employee and verified by a second employee. Each employee must initial all reconciliations as a form of verification.
- A record of all reconciliations must be kept and made available during an internal audit.

Preparation of Deposits

- Someone not involved in collecting cash or reconciling the deposit should prepare the deposit.
- Cash must be recorded on the deposit slip in the appropriate space.
- A copy of the computerized accounting reports, reconciliation form and any and all voided transactions should be included in the deposit.
- The deposit must be delivered to the Treasurer's Office or the Depository the same business day as the collections occurred.
- All deposits should be placed in a locking deposit bag. Locking deposit bags are available at the Treasurers' office.
- It is the responsibility of each department head that accepts cash for ensuring that proper cash collections and handling procedures are followed. The department head should review all forms that are prepared in reconciling and depositing cash for verification of completeness and accuracy.
- County employees that do not follow the proper cash collection policies and procedures shall be subject to disciplinary action up to and including termination.

INTERNAL CONTROL PROCEDURE CHECKLISTS

The following checklists should be completed at a minimum of once a fiscal year.

Please see appendix A

APPENDIX A: INTERNAL CONTROL CHECKLISTS

The following internal control checklists apply primarily to the Financial Specialist, but they serve as a standard to which all county offices must adhere.

Control Activities Form for Financial Close and Reporting

<i>Defining the Financial Closing and Reporting Process</i>	<i>Addresses Fraud or Significant Risk?</i>	<i>Control Has Been Implemented?</i>	<i>Automated?</i>	<i>Effectively Designed?</i>	<i>Test Control?</i>	<i>Comments</i>
<i>Management establishes a well-defined process for financial reporting. The process and its key attributes (e.g., overall timing, methodology, format, and frequency of analyses) are formally documented, approved, and reviewed on a regular basis.</i>						
<i>Knowledgeable personnel monitor changes in authoritative guidance and regulations that affect the entity and make the appropriate changes to the entity's accounting policies and procedures on a timely basis.</i>						
<i>An independent review of significant judgments and estimates included in the financial records is performed at the end of every accounting period by knowledgeable personnel.</i>						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
<i>A supporting analysis is prepared for each nonroutine event or transaction that requires management's judgment and/or estimate. The analysis documents compliance with relevant GAAP or an OCBOA (including relevant regulatory rules) and the entity's accounting policies.</i>						
<i>Management receives appropriate reporting packages, sign-offs, and representations from appropriate areas of the organization to ensure all relevant information has been recorded or disclosed on a timely basis.</i>						
Performing the Accounting Period Close						
<i>Budget to actual comparison statements, by the governmental unit's level of budgetary control, are reviewed by management. Significant variances from budget and/or prior periods are investigated.</i>						
<i>Management establishes a well-defined process for financial reporting. The process and its key attributes (e.g., overall timing, methodology, format, and frequency of analyses) are formally documented, approved, and reviewed on a regular basis.</i>						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
<i>Routine and nonroutine events and transactions occurring near period end are analyzed and reviewed to ensure they are accounted for in the correct accounting period.</i>						
<i>All related-party events and transactions are identified, and a schedule detailing them is prepared; the schedule is reviewed by management and other appropriate parties.</i>						
<i>Unusual items and exceptions in analyses and reconciliations are documented, resolved, and reviewed by management on a timely basis.</i>						
<i>All journal entries, including nonstandard/nonroutine entries, have adequate supporting documentation and are reviewed and approved independently prior to posting.</i>						
<i>Management has a process in place to ensure that the trial balance(s) used in the financial statement preparation process is final, contains all valid journal entries made, and is in balance.</i>						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
<i>Management receives appropriate reporting packages, sign-offs, and representations from appropriate areas of the organization to ensure all relevant information has been recorded or disclosed on a timely basis.</i>						
<i>There is appropriate segregation of duties among those who:</i> <ul style="list-style-type: none"> • <i>Initiate journal entries.</i> • <i>Approve journal entries.</i> • <i>Post journal entries to the general ledger.</i> 						
Capturing and Processing Nonroutine Information Requiring Significant Estimates and Judgments						
<i>Budget to actual comparison statements, by the governmental unit's level of budgetary control, are reviewed by management. Significant variances from budget and/or prior periods are investigated.</i>						
<i>Knowledgeable personnel monitor changes in authoritative guidance and regulations that affect the entity and make the appropriate changes to the entity's accounting policies and procedures on a timely basis.</i>						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
<i>An independent review of significant judgments and estimates included in the financial records is performed at the end of every accounting period by knowledgeable personnel.</i>						
<i>A supporting analysis is prepared for each nonroutine event or transaction that requires management's judgment and/or estimate. The analysis documents compliance with relevant GAAP or an OCBOA (including relevant regulatory rules) and the entity's accounting policies.</i>						
<i>All journal entries, including nonstandard/nonroutine entries, have adequate supporting documentation and are reviewed and approved independently prior to posting.</i>						
<i>Management and those charged with governance (if separate from management) are briefed by financial reporting personnel on a regular basis and at each period end for which financial statements are released to third parties. Such briefing includes a discussion of significant nonroutine events and transactions, selection and application of critical accounting policies, areas with unusual fluctuations, and other relevant significant issues.</i>						

	<i>Addresses Fraud or Significant Risk?</i>	<i>Control Has Been Implemented?</i>	<i>Automated?</i>	<i>Effectively Designed?</i>	<i>Test Control?</i>	<i>Comments</i>
<i>Preparing and Reviewing Financial Statement Disclosures</i>						
<i>Up-to-date disclosure checklists are used to ensure that all relevant financial information is disclosed in the appropriate accounting period in accordance with GAAP (or an OCBOA) and the entity's accounting and disclosure policies.</i>						
<i>Management receives appropriate reporting packages, sign-offs, and representations from appropriate areas of the organization to ensure all relevant information has been recorded or disclosed on a timely basis.</i>						
<i>For each financial statement disclosure, a supporting analysis is prepared and documented in accordance with relevant GAAP (or an OCBOA) (including relevant regulatory rules) and the entity's accounting and disclosure policies.</i>						
<i>An independent review of the financial statements and all related disclosures is performed by management and/or other suitably qualified personnel for completeness, consistency, and compliance with GAAP (or an OCBOA) and the entity's accounting and disclosure policies.</i>						

	<i>Addresses Fraud or Significant Risk?</i>	<i>Control Has Been Implemented?</i>	<i>Automated?</i>	<i>Effectively Designed?</i>	<i>Test Control?</i>	<i>Comments</i>
<i>Reviewing and Approving the Financial Statements</i>						
<i>Management and those charged with governance (if separate from management) are briefed by financial reporting personnel on a regular basis and at each period end for which financial statements are released to third parties. Such briefing includes a discussion of significant nonroutine events and transactions, selection and application of critical accounting policies, areas with unusual fluctuations, and other relevant significant issues.</i>						
<i>An independent review of the financial statements and all related disclosures is performed by management and/or other suitably qualified personnel for completeness, consistency, and compliance with GAAP (or an OCBOA) and the entity's accounting and disclosure policies.</i>						
<i>All financial statements and related disclosures are approved by management prior to the release of the reports to third parties.</i>						

Control Activities Form for Cash

Financial Statement Date:

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Processing Cash Receipts						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Delinquent receivables are reviewed.						
The receivables aging/subledger is reviewed and reconciled to the general ledger.						
There is adequate segregation of duties among those who: <ul style="list-style-type: none"> • Collect accounts receivable. • Open the mail or copy checks received. • Prepare deposits. • Deposit cash receipts. • Post cash receipts to the receivables subledger. • Review the receivables aging trial balance. • Authorize write-offs of delinquent accounts. • Independently investigate receivables discrepancies. • Maintain or authorize receivables adjustments. • Edit the receivables master file. • Process customer service calls and complaints. • Investigate discrepancies or issues related to revenue. • Reconcile bank accounts. 						
Cash receipts (restricted revenue) are deposited in separate bank accounts when legally or contractually required.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
The government has a formal deposit policy that limits the government's allowable deposits and addresses the specific types of risk to which the government is exposed.						
Cash receipts are deposited intact promptly or stored in a secure location.						
Cash receipts are reconciled to general ledger postings daily.						
The entity uses a lockbox.						
Lockbox receipts are compared to remittances.						
Adjustments of cash accounts are approved and documented by the appropriate level of management or another appropriate person.						
Bank reconciliations are prepared and reviewed in a timely fashion.						
There is adequate segregation of duties among those who: <ul style="list-style-type: none"> • Authorize shipments. • Initiate shipping documents. • Open the mail or copy checks received. • Prepare deposits. • Deposit cash receipts. • Reconcile bank accounts. • Investigate discrepancies or issues related to cash. • Maintain the cash receipts journal. • Post journal entries to the general ledger. 						
Bank statements are received and reviewed by a responsible person other than the person who reconciles the bank account before being submitted for reconciliation.						
Processing Disbursements						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
System rejects duplicate entry of an invoice from a vendor.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Purchase order, receiving report, and invoice are matched and cancelled prior to payment.						
Accounts payable aging/subledger is reviewed and reconciled to the general ledger.						
There is adequate segregation of duties among those who: <ul style="list-style-type: none"> • Review, authorize, or sign checks. • Initiate checks for expenditures. • Prepare checks. • Mail checks. • Edit the vendor master file. • Investigate discrepancies or issues involving expenditures. • Open the mail or copy checks received. • Reconcile bank accounts. 						
Checks are prenumbered, the sequence is accounted for regularly, and unissued checks are controlled and kept in a secure location.						
The check signer reviews all supporting documentation prior to signing a check.						
Passwords are established and used for individuals authorized to make wire transfers, and bank callback verifications are in place for telephone transfers exceeding a predetermined dollar amount.						
Disbursements that require special approval of funding sources or the governing body are properly documented.						
Bank reconciliations are prepared and reviewed in a timely fashion.						
Bank statements are received and reviewed by a responsible person other than the person who reconciles the bank account before being submitted for reconciliation.						

Control Activities Form for Revenue, Receivables, and Receipts—Governmental Funds

Financial Statement Date:

Completed by:

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Processing and Managing Billings for Property Taxes, Special Assessments, and Other Revenues						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Rates and fees are approved by the governing body and publicly announced or published in accordance with applicable laws and regulations.						
The governmental unit has established procedures to ensure that all reimbursable costs or contract costs are billed (as assessments, fees, etc.) and adherence to those procedures is periodically reviewed by the appropriate level of management or another appropriate person.						
The governmental unit prohibits loans to employees and governing body members.						
Bills, assessments, permits, license renewals, etc., are agreed to authorized and/or approved amounts before recording.						
There is adequate segregation of duties among those who: <ul style="list-style-type: none"> • Authorize rates, fees, fines, or assessments. • Prepare bills, notices, permit renewals, etc. • Collect accounts receivable. • Post cash receipts to accounts receivable subledger. • Review accounts receivable aging trial balance. • Authorize write-offs of delinquent accounts. • Independently investigate accounts receivable discrepancies. • Maintain or authorize accounts receivable adjustments. • Edit the accounts receivable master file. • Process citizen service calls and complaints. • Investigate discrepancies or issues related to revenue. 						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Tax and special assessments, including any interest and penalties, are checked for accuracy.						
Bills, assessments, permits, license renewals, fines, etc., are prenumbered and the sequence is accounted for.						
Summary totals (for example, batch totals) of billings are prepared and compared to the posting to the control accounts.						
Penalties and interest are agreed to authorized and/or approved amounts before recording.						
Abatement, cancellation, and refund policies (including legal requirements) are in writing and adhered to.						
Delinquent receivables are reviewed.						
The receivables aging/subledger is reviewed and reconciled to the general ledger.						
Revenues by revenue source and/or governmental activity are reviewed regularly by management.						
Receivables from miscellaneous activities are periodically reviewed and significant amounts are reported to the governing board.						
If the property tax roll and assessed valuation is maintained by another agency, the agency's records are reviewed and reconciled to the government's control accounts and general ledger.						
Interfund receivables and payables are balanced monthly and reconciled to the general ledger.						
Taxes collected for other governmental units are segregated in a trust fund.						
Processing Billing Adjustments						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Abatement, cancellation, and refund policies (including legal requirements) are in writing and adhered to.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
All write-offs, adjustments, and abatements greater than amounts specified by the government's policies are approved.						
Delinquent receivables are reviewed.						
There is adequate segregation of duties among those who: <ul style="list-style-type: none"> • Authorize rates, fees, fines, or assessments. • Authorize write-offs of delinquent accounts. • Maintain or authorize accounts receivable adjustments. • Edit the receivables master file. • Open the mail or copy checks received. • Maintain access to cash. 						
Processing Cash Receipts						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Delinquent receivables are reviewed.						
Cash receipts are reconciled to general ledger postings daily.						
Lockbox receipts are compared to remittances.						
The receivables aging/subledger is reviewed and reconciled to the general ledger.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
There is adequate segregation of duties among those who: <ul style="list-style-type: none"> Collect accounts receivable. Open the mail or copy checks received. Prepare deposits. Deposit cash receipts. Post cash receipts to the receivables subledger. Review the receivables aging trial balance. Authorize write-offs of delinquent accounts. Independently investigate receivables discrepancies. Maintain or authorize receivables adjustments. Edit the receivables master file. Process customer service calls and complaints. Investigate discrepancies or issues related to revenue. 						
The entity uses a lockbox.						
Cash receipts are deposited intact promptly or stored in a secure location.						
Adjustments of cash accounts are approved and documented by the appropriate level of management or another appropriate person.						
Cash receipts (restricted revenue) are deposited in separate bank accounts when legally or contractually required.						
The government has a formal deposit policy that limits the government's allowable deposits and addresses the specific types of risk to which the government is exposed.						
Bank reconciliations are prepared and reviewed in a timely fashion.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
<p>There is adequate segregation of duties among those who:</p> <ul style="list-style-type: none"> • Authorize rates, fees, fines, or assessments. • Collect accounts receivable. • Open the mail or copy checks received. • Prepare tax bills, assessments, permits, license renewals, notices, etc. • Prepare deposits. • Deposit cash receipts. • Reconcile bank accounts. • Investigate discrepancies or issues related to cash. • Maintain access to cash. • Maintain the cash receipts journal. • Post journal entries to the general ledger. 						
Bank statements are received and reviewed by a responsible person other than the person who reconciles the bank account before being submitted for reconciliation.						
Estimating the Allowance for Uncollectible Accounts and Bad Debt Expense						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Accounting policies and procedures specify the correct treatment for estimating the allowance for uncollectible accounts and bad debt expense.						
A supporting analysis is prepared for estimating the allowance for uncollectible accounts and bad debt expense. The analysis documents compliance with relevant GAAP or an OCBOA (including relevant regulatory rules) and the entity's accounting policies.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
There is adequate segregation of duties among those who: <ul style="list-style-type: none"> • Authorize rates, fees, fines, or assessments. • Initiate tax bills, assessments, permits, license renewals, notices, etc. • Authorize write-offs of delinquent accounts. • Maintain or authorize accounts receivable adjustments. • Edit the receivables master file. • Open the mail or copy checks received. • Maintain access to cash. 						
An independent review of significant judgments and estimates included in the financial records is performed at the end of every accounting period by knowledgeable personnel.						
The governmental unit prohibits loans to employees and governing body members.						
Recording Deferred Revenue						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Accounting policies and procedures specify the correct treatment for calculating deferred revenue.						
A supporting analysis is prepared for calculating deferred revenue. The analysis documents compliance with relevant GAAP or an OCBOA (including relevant regulatory rules) and the government's accounting policies.						
An independent review of significant judgments and estimates included in the financial records is performed at the end of every accounting period by knowledgeable personnel.						
Maintaining Master Files						
Only authorized users can modify data in the master records.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Only authorized users can modify data in the property tax rolls.						

Control Activities Form for Sales and Service Revenue and Receivables—Proprietary Funds

Completed by:

Financial Statement Date:
Date: []

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	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Processing and Managing Billings for Sales, Service, and Other Revenues						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Service fee rates, deposits, late fees, penalties, etc., are approved by the governing body and publicly announced or published in accordance with applicable laws and regulations.						
The government has established policies for the recording or deferral and amortization of income related to revenues and fees, etc., and adherence to those policies is periodically reviewed by the appropriate level of management.						
The government has established procedures to ensure that all reimbursable costs or contract costs are billed and adherence to those procedures is periodically reviewed by the appropriate level of management.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
The government has established procedures to ensure that documents indicate that services are verified and adherence to those procedures is periodically reviewed by the appropriate level of management.						
The governmental unit prohibits loans to employees and governing body members.						
There is adequate segregation of duties among those who: <ul style="list-style-type: none"> • Approve rate schedules, usage, billing cycles, and credit policies. • Authorize rates, late fees, or other charges. • Prepare bills. • Collect accounts receivable. • Post cash receipts to the accounts receivable subledger. • Review the accounts receivable aging trial balance. • Authorize write-offs of delinquent accounts. • Independently investigate accounts receivable discrepancies. • Maintain or authorize accounts receivable adjustments. • Edit the accounts receivable master file. • Process service calls and complaints. • Investigate discrepancies or issues related to revenue. 						
Bills are prenumbered and the sequence is accounted for.						
Summary totals (for example, batch totals) of billings are prepared and compared to the posting to the control accounts.						
Credit policies are adhered to.						
Billing records are periodically compared to service logs with follow-up of services not yet billed.						
Delinquent accounts receivable are reviewed.						
The accounts receivable aging/subledger is reviewed and reconciled to the general ledger.						
Revenues by revenue source and/or governmental activity are reviewed regularly by management.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Receivables from miscellaneous activities are periodically reviewed and significant amounts are reported to those charged with governance.						
Interfund receivables and payables are balanced monthly and reconciled to the general ledger.						
Processing Billing Adjustments						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Deposit, cancellation, and refund policies (including legal requirements) are in writing and adhered to.						
All write-offs, adjustments, and abatements greater than amounts specified by the government's policies are approved.						
Delinquent accounts receivable are reviewed.						
There is adequate segregation of duties among those who: <ul style="list-style-type: none"> • Approve rate schedules, usage, billing cycles, and credit policies. • Authorize write-offs of delinquent accounts. • Maintain or authorize accounts receivable adjustments. • Edit the accounts receivable master file. • Open the mail or copy checks received. • Maintain access to cash. 						
Processing Cash Receipts						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Delinquent accounts receivable are reviewed.						
Cash receipts are reconciled to general ledger postings daily.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Lockbox receipts are compared to remittances.						
The accounts receivable aging/subledger is reviewed and reconciled to the general ledger.						
<p>There is adequate segregation of duties among those who:</p> <ul style="list-style-type: none"> • Collect accounts receivable. • Open the mail or copy checks received. • Prepare deposits. • Deposit cash receipts. • Post cash receipts to the receivables subledger. • Review the receivables aging trial balance. • Authorize write-offs of delinquent accounts. • Independently investigate receivables discrepancies. • Maintain or authorize receivables adjustments. • Edit the receivables master file. • Process customer service calls and complaints. • Investigate discrepancies or issues related to revenue. 						
The entity uses a lockbox.						
Cash receipts are deposited intact promptly or stored in a secure location.						
Adjustments of cash accounts are approved and documented by the appropriate level of management or another appropriate person.						
Cash receipts (restricted revenue) are deposited in separate bank accounts when legally or contractually required.						
Bank reconciliations are prepared and reviewed in a timely fashion.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
<p>There is adequate segregation of duties among those who:</p> <ul style="list-style-type: none"> • Approve rate schedules, usage, billing cycles, and credit policies. • Collect accounts receivable. • Open the mail or copy checks received. • Prepare bills. • Prepare deposits. • Deposit cash receipts. • Reconcile bank accounts. • Investigate discrepancies or issues related to cash. • Maintain access to cash. • Maintain the cash receipts journal. • Post journal entries to the general ledger. 						
Bank statements are received and reviewed by a responsible person other than the person who reconciles the bank account before being submitted for reconciliation.						
Estimating the Allowance for Uncollectible Accounts and Bad Debt Expense						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Accounting policies and procedures specify the correct treatment for estimating the allowance for uncollectible accounts and bad debt expense.						
A supporting analysis is prepared for estimating the allowance for uncollectible accounts and bad debt expense. The analysis documents compliance with relevant GAAP or an OCBOA (including relevant regulatory rules) and the entity's accounting policies.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
There is adequate segregation of duties among those who: <ul style="list-style-type: none"> • Authorize rates, fees, penalties, etc. • Initiate bills. • Authorize write-offs of delinquent accounts. • Maintain or authorize accounts receivable adjustments. • Edit the accounts receivable master file. • Open the mail or copy checks received. • Maintain access to cash. 						
An independent review of significant judgments and estimates included in the financial records is performed at the end of every accounting period by knowledgeable personnel.						
The governmental unit prohibits loans to employees and governing body members.						
Recording Deferred Revenue						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
The government has established policies for the recording or deferral and amortization of income related to revenues and fees, etc., and adherence to those policies is periodically reviewed by the appropriate level of management.						
Accounting policies and procedures specify the correct treatment for calculating deferred revenue.						
A supporting analysis is prepared for calculating deferred revenue. The analysis documents compliance with relevant GAAP or an OCBOA (including relevant regulatory rules) and the government's accounting policies.						
An independent review of significant judgments and estimates included in the financial records is performed at the end of every accounting period by knowledgeable personnel.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Maintaining Master Files						
Only authorized users can modify data in the master records.						

Control Activities Form for Expenditures/Expenses for Goods and Services and Accounts Payable and Other Liabilities

Completed by:

Financial Statement Date:

Date:

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Recording Purchases						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Management or governing body approval of purchase orders is required for purchases that exceed established limits according to entity policy.						
Purchase order, receiving report, and invoice are matched and cancelled prior to payment.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
<p>There is adequate segregation of duties among those who:</p> <ul style="list-style-type: none"> • Initiate purchase orders. • Approve purchase orders. • Maintain the purchase journal. • Initiate checks for expenditures. • Review, authorize, or sign checks. • Prepare or issue debit memos. • Edit the vendor master file. • Input purchase orders. • Verify or process receipt of inventory. • Receive goods from or transfer goods to inventory. • Investigate discrepancies or issues related to expenditures, inventory, capital assets, revenue, debt, or cash. • Maintain access to or custody of inventory. • Process sales orders. • Maintain the chart of accounts. 						
Purchase orders, receiving reports, debit/credit memos, and shipping orders for returned goods (including unused forms) are prenumbered and the sequence is accounted for.						
A current purchasing manual defines restrictions on purchases of goods or services from governing body members, employees, or other suppliers that would create a conflict of interest.						
Purchases are reviewed for compliance with requirements of laws and regulations, the governing body, and of funding sources, if applicable (for example, competitive bidding requirements).						
The government has procedures for coding expenditures in compliance with funding and organization accounting requirements.						
Processing Accounts Payable and Accruals						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
System rejects duplicate entry of an invoice from a vendor.						
Purchase order, receiving report, and invoice are matched and cancelled prior to payment.						
After each period end, management creates a log of all invoices received above the limit dictated by entity policy and checks to ensure that they were recorded in the proper period.						
Accruals for goods/services received but not invoiced are reviewed.						
Accounts payable aging/subledger is reviewed and reconciled to the general ledger.						
Open purchase orders are reconciled to the outstanding encumbrance listing at year end.						
The appropriate level of management reviews reconciliations between the outstanding encumbrance listing and the general ledger control accounts.						
Processing Disbursements						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
System rejects duplicate entry of an invoice from a vendor.						
Purchase order, receiving report, and invoice are matched and cancelled prior to payment.						
Accounts payable aging/subledger is reviewed and reconciled to the general ledger.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
There is adequate segregation of duties among those who: <ul style="list-style-type: none"> • Review, authorize, or sign checks. • Initiate checks for expenditures. • Prepare checks. • Mail checks. • Edit the vendor master file. • Investigate discrepancies or issues involving expenditures. • Open the mail or copy checks received. • Reconcile bank accounts. 						
Checks are prenumbered, the sequence is accounted for regularly, and unissued checks are controlled and kept in a secure location.						
The check signer reviews all supporting documentation prior to signing the check.						
Passwords are established and used for individuals authorized to make wire transfers, and bank callback verifications are in place for telephone transfers exceeding a predetermined dollar amount.						
Bank reconciliations are prepared and reviewed in a timely fashion.						
Bank statements are received and reviewed by a responsible person other than the person who reconciles the bank account before being submitted for reconciliation.						
Maintaining the Supplier Master File						
Changes to the vendor master file are periodically reviewed for reasonableness.						

Control Activities Form for Payroll and Related Liabilities

Completed by:

Financial Statement Date:

Date:

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	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Processing Payroll						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Bank reconciliations are prepared and reviewed in a timely fashion.						
Access to data and/or transaction files is appropriately restricted.						
Standard programmed algorithms perform significant payroll calculations.						
The payroll system master file change log, showing all changes made to payroll information, is reviewed by management to ensure it reflects accurate and complete information.						
There is adequate segregation of duties among those who: <ul style="list-style-type: none"> • Prepare payroll checks. • Sign payroll checks. • Review and authorize electronic payroll disbursements. • Resolve employee payroll inquiries. • Edit the payroll master file. • Open mail or copy checks received. 						
Current payrolls are compared with previous payrolls and variances are investigated and documented.						
Payroll registers are reviewed after processing, reconciled to control totals, and approved by an appropriate level of management.						
Maintaining the Employee Database Master File						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Access to data and/or transaction files is appropriately restricted.						
The payroll system master file change log, showing all changes made to payroll information, is reviewed by management to ensure it reflects accurate and complete information.						

Control Activities Form for Inventories

Governmental Unit:
Completed by:

Financial Statement Date:
Date:

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Recording Purchases						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Management or governing body approval of purchase orders is required for purchases that exceed established limits according to entity policy.						
Purchase order, receiving report, and invoice are matched and cancelled prior to payment.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
<p>There is adequate segregation of duties among those who:</p> <ul style="list-style-type: none"> • Initiate purchase orders. • Maintain the purchase journal. • Initiate checks for expenditures • Review, authorize, or sign checks. • Prepare or issue debit memos. • Edit the vendor master file. • Input purchase orders. • Verify or process receipt of inventory. • Receive goods from or transfer goods to inventory. • Investigate discrepancies or issues related to expenditures, inventory, capital assets, revenue, debt, or cash. • Maintain access to or custody of inventory. • Process sales orders. • Maintain the chart of accounts. 						
Purchase orders, receiving reports, debit/credit memos, and shipping orders for returned goods (including unused forms) are prenumbered and the sequence is accounted for.						
Receiving and Storing Inventory						
Management or governing body approval of purchase orders is required for purchases that exceed established limits according to entity policy.						
Purchase orders, receiving reports, and invoice entries that do not match are investigated promptly.						
After each period end, management creates a log of all invoices received above the limit dictated by entity policy and checks to ensure that they were recorded in the proper period.						
The inventory subledger (detail listing or perpetual record) is reviewed and reconciled to the general ledger.						
Physical inventory counts are reconciled to the perpetual record (subledger).						
Physical inventory counts to verify quantities on hand are performed.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
<p>There is adequate segregation of duties among those who:</p> <ul style="list-style-type: none"> • Initiate inventory purchases. • Input purchase orders. • Authorize inventory purchases. • Verify and process receipt of inventory. • Authorize transfer requests. • Initiate checks for inventory purchases. • Ship inventory. • Record inventory transactions. • Have responsibility for inventory counts. • Investigate inventory count discrepancies. • Investigate discrepancies or issues related to inventory. • Approve changes to inventory cost/quantity (including disposal). • Maintain inventory records. • Edit the inventory master file. • Maintain access to and custody of inventory. • Process sales orders. • Investigate discrepancies or issues related to revenue, investments, borrowings, derivatives, or cash. • Post journal entries to the general ledger. • Maintain the chart of accounts. 						
Costing Inventory						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Only authorized individuals have access to make changes to the inventory master file.						
Inventory pricing procedures are in accordance with the costing method used by the entity (FIFO, average cost, etc.).						
Management reviews and approves the final priced inventory listing.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Managing Inventory						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
The inventory subledger (detail listing or perpetual record) is reviewed and reconciled to the general ledger.						
Only authorized individuals have access to and make changes to the inventory master file.						
Physical inventory counts are reconciled to the perpetual record (subledger).						
Physical inventory counts to verify quantities on hand are performed.						
Book-to-physical adjustments are reviewed at period end.						
Inventory is stored in properly secured locations. Access is restricted to authorized personnel.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
<p>There is adequate segregation of duties among those who:</p> <ul style="list-style-type: none"> • Initiate inventory purchases. • Input purchase orders. • Authorize inventory purchases. • Verify and process receipt of inventory. • Authorize transfer requests. • Initiate checks for inventory purchases. • Ship inventory. • Record inventory transactions. • Have responsibility for inventory counts. • Investigate inventory count discrepancies. • Investigate discrepancies or issues related to inventory. • Approve changes to inventory cost/quantity (including disposal). • Maintain inventory records. • Edit the inventory master file. • Maintain access to and custody of inventory. • Process sales orders. • Investigate discrepancies or issues related to revenue, investments, borrowings, derivatives, or cash. • Post journal entries to the general ledger. • Maintain the chart of accounts. 						
Management reviews and approves adjustments to inventory control accounts and/or perpetual records.						
Estimating Excess and Obsolete Inventory Reserves						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Accounting policies and procedures specify correct treatment for estimating excess and obsolete inventory reserves, including those requiring management's estimates and judgments.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
A supporting analysis is prepared for estimating excess and obsolete inventory reserves. The analysis documents compliance with relevant GAAP or an OCBOA (including relevant regulatory rules) and the entity's accounting policies.						
Management periodically assesses whether excess, slow-moving, obsolete, and defective inventories are identified and accounted for on a timely basis.						

Control Activities Form for Capital Assets and Expenditures

Governmental Unit:
Completed by:

Financial Statement Date:
Date:

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Acquiring and Safeguarding Capital Assets						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Management or governing body approval of purchase orders is required for purchases that exceed established limits according to entity policy.						
Management tracks capital asset acquisitions and remaining costs and compares to capital budgets.						
Periodically, capital asset listings are routed to the appropriate managers to determine whether the assets still physically exist.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
The entity has a capitalization and useful lives policy, and the policy has been formally reviewed and approved by management and communicated to departments that request capital asset purchases.						
Capital assets are located in an appropriately secured area, where access is restricted to authorized personnel.						
Prior to entry, accounting personnel compare capital asset information to the capitalization policy to ensure appropriate accounting treatment.						
The capital assets subledger is reviewed and reconciled to the general ledger.						
The government has written policies and procedures to ensure items considered collections (either capitalized or noncapitalized) meet the definition of a collection and to track accessions and deaccessions of collection items.						
The government has written policies for determining the fair value of contributed capital assets, including collections, and adherence to those policies is periodically reviewed by the appropriate level of management or another appropriate person.						
Individuals are designated with responsibility for assuring compliance with the terms and conditions of all grants, restricted contributions, exchange contracts, etc., that relate to capital assets.						
Individuals are designated with responsibility for monitoring all significant construction projects.						
Depreciating Capital Assets						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Capital asset depreciation charges are calculated correctly by the automated system and are reviewed for reasonableness by management.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
The automated system generates the depreciation journal entry, which is manually entered into the general ledger by accounting personnel and reviewed by management.						
Prior to entry, accounting personnel compare capital asset information to the capitalization policy to ensure appropriate accounting treatment.						
Disposing of Capital Assets (Sales and Retirements)						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Periodically, capital assets listings are routed to the appropriate managers to determine whether the assets still physically exist.						
The capital assets subledger is reviewed and reconciled to the general ledger.						
Disposals of capital assets are reviewed by management and entered into the capital assets subledger by accounting personnel in a timely fashion.						
Based on disposal information entered, the capital assets subledger automatically calculates any gain or loss on the disposal.						
Accounting personnel create a journal entry to record the disposal and any gain or loss on the disposal, which is reviewed and approved by management.						
Maintaining the Capital Assets Subledger						
Management tracks capital asset acquisitions and remaining costs and compares to capital budgets.						
Periodically, capital assets listings are routed to the appropriate managers to determine whether the assets still physically exist.						
Prior to entry, accounting personnel compare capital asset information to the capitalization policy to ensure appropriate accounting treatment.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
The capital assets subledger is reviewed and reconciled to the general ledger.						
Disposals of capital assets are reviewed by management and entered into the capital assets subledger by accounting personnel in a timely fashion.						
Capital asset depreciation charges are calculated correctly by the automated system and are reviewed for reasonableness by management.						
The automated system generates the depreciation journal entry, which is manually entered into the general ledger by accounting personnel and reviewed by management.						
Management reviews and approves write-offs or other adjustments to capital asset accounts.						
Assessing Assets for Impairment						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Accounting policies and procedures specify correct treatment for calculating asset impairment, including those requiring management's estimates and judgments.						
Recorded capital assets are reviewed for impairment.						
A supporting analysis is prepared for calculating asset impairment. The analysis documents compliance with relevant GAAP or an OCBOA (including relevant regulatory rules) and the entity's accounting policies.						
An independent review of significant judgments and estimates included in the financial records is performed at the end of every accounting period by knowledgeable personnel.						

Control Activities Form for Debt and Debt Service Expenditures

Governmental Unit:
Completed by:

Financial Statement Date:
Date:

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	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Managing Borrowings						
Management reviews the entity's financial statements on a periodic basis and investigates significant variances from budgets and expected results.						
Debt agreement(s) is (are) reviewed for appropriate classification of outstanding debt.						
Debt compliance determinations are prepared and reviewed timely.						
Financial commitments require approval by management and/or those charged with governance.						
Leases are reviewed for capitalization.						
A reconciliation of outstanding debt instruments to the general ledger is prepared and reviewed timely.						
Statements received from lenders are reconciled to the subsidiary ledger (debt register) and differences are investigated.						
Bank reconciliations are prepared and reviewed in a timely fashion.						
Bank statements are received and reviewed by a responsible person other than the person who reconciles the bank account before being submitted for reconciliation.						
A responsible official reviews use of proceeds from bond sales to ensure that proceeds are used in accordance with legal requirements.						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
The government has review procedures in place to determine compliance with debt agreement restrictions and procedures and adherence to those procedures is periodically reviewed by the appropriate level of management or another appropriate person.						
If paying agents are used for the payment of bonds and interest, the governmental unit receives periodic reports of bonds outstanding and unclaimed interest.						
A responsible official performs an annual review for compliance with IRS arbitrage requirements.						
Calculations and adjustments related to current or advance debt refundings have been reviewed and approved by an appropriate person.						

Control Activities Form for Equity and Financial Statement Reconciliations

Governmental Unit:
Completed by:

Financial Statement Date:
Date:

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	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
Recording Equity Transactions						
Equity restrictions and classifications have adequate supporting documentation and are periodically reviewed by the appropriate level of management or another appropriate person.						
The government has written policies and procedures to ensure proper authorization for and use of restricted, committed, and assigned amounts, including stabilization amounts.						
Restrictions, commitments, or assignments of equity, including stabilization amounts, are approved by the governing board or management, as applicable.						
Management or the governing board authorizes the use of restricted, committed, or assigned resources.						
Management periodically reviews the use of nonspendable, restricted, committed, assigned, or unassigned resources.						
Management periodically reviews fund balance/net position accounts to ensure amounts are valid and in compliance with the entity's policies and procedures.						
A fund balance/net position rollforward is performed. Unusual or reconciling items are investigated and resolved in a timely manner.						
Preparing Financial Statement Reconciliations						

	Addresses Fraud or Significant Risk?	Control Has Been Implemented?	Automated?	Effectively Designed?	Test Control?	Comments
All reconciling items between the fund and the government-wide financial statements have adequate supporting documentation and are reviewed and approved by appropriate personnel.						

APPENDIX B: FINANCIAL STATUTES

§ 4-38-28. Payments without authority; liability of commissioners

All moneys, county warrants or other indebtedness paid out or ordered to be paid out by any of the said county commissioners before mentioned, without authority of law, each and every county commissioner so doing shall be liable for and to the county for the amount so by them paid out without authority of law and all the costs and expenses incurred in the recovery of such money, which amount shall be collected and recovered in a suit before the district court, and upon the said bond, in the same manner as other actions.

CREDIT(S)

L. 1887, Ch. 8, § 2.

§ 4-38-29. Approving unauthorized account; penalty; recovery of money

Any county commissioner who shall vote to approve any account, or order any money paid to any officer or individual, except as provided by law, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding five hundred dollars [(\$500)], and the money so illegally ordered to be paid shall be recovered in a suit brought in the name of the county on his official bond.

CREDIT(S)

L. 1897, Ch. 60, § 15 [14].

§ 6-6-7. Limitation on county expenditures during year official's term expires; exceptions Currentness

It shall be unlawful for the board of county commissioners, the county clerk or any other county official authorized to make purchases to disburse, expend or obligate any sum in excess of fifty per centum of the approved budget for the fiscal year during which the terms of office of any such official will expire; provided, however, that expenditures or [expenditures for] election expense, record books, necessary office equipment and fuel shall be excepted from the provisions of this act. In the event it may be deemed advisable or advantageous to contract for fuel for the entire year, proper precaution must be exercised that a sufficient supply of fuel will be on hand and available for the needs of the incoming officials, or an amount equal to the sum by which one-half the budget item has been exceeded.

Credits

L. 1941, Ch. 190, § 1.

N.M. Stat. Ann. § 6-6-7 (West)
§ 6-10-8. County boards of finance
Currentness

The board of county commissioners in each county in the state shall, ex officio and without additional compensation, constitute a county board of finance and as such shall, subject to the limitations of this act, have supervision over the determination of the qualifications and selection of banks, savings and loan associations and credit unions, whose deposits are insured by an agency of the United States, to receive the public money of their respective counties and of independent rural school districts, rural school districts and municipal school districts of municipalities having less than twenty-five thousand population according to the next preceding United States census and of any special or other districts in their respective counties for which the respective county treasurers of such counties act as ex-officio tax collectors. The county clerk in each county shall, ex officio and without additional compensation, act as clerk of such county board of finance. Every county board of finance shall hold meetings whenever necessary for the discharge of its duties, and the chairman shall convene such board whenever necessity therefor exists or when requested so to do by two of its members or at any time when the county treasurer shall advise the chairman that he has in his custody public money in excess of the aggregate amount which depositories qualified by law are entitled to hold. A majority of the board shall constitute a quorum for the transaction of business.

The county treasurer of each county in the state shall have supervision of the deposit and safekeeping of the public money of his county and all the money which may at any time come into or be in his possession as county treasurer and ex-officio tax collector for the use and benefit of the state or of any county, municipality or district or of any subdivision of any county or of any state or public institution and by and with the advice and consent of the respective boards of finance having jurisdiction over the respective funds shall designate banks, savings and loan associations and credit unions, whose deposits are insured by an agency of the United States, to receive on deposit all moneys entrusted in his care.

Credits

L. 1933, Ch. 175, § 1; L. 1968, Ch. 18, § 2; L. 1981, Ch. 332, § 1; L. 1987, Ch. 79, § 4.

§ 6-10-9. Boards of finance for institutions
Currentness

The boards in control of the various public and educational institutions in this state, and all other boards handling funds in any manner whatever, except local boards of education, are hereby designated as boards of finance for such institutions and boards respectively. Each of such boards shall receive, handle and account, as provided by law, for all public moneys received by it, and shall deposit the funds of such institutions or boards in a depository or depositories qualified in accordance with the requirements of this act, equitably and upon the terms and conditions and in like manner and subject to such limitations as in this act prescribed for the deposit of public moneys by other boards of finance.

Credits

L. 1933, Ch. 175, § 3; L. 1963, Ch. 190, § 1; L. 1981, Ch. 332, § 2.

N.M. Stat. Ann. § 6-10-9 (West)
Finance

The BOCC serves as the county board of finance ex officio (6-10-8 through 6-10-10). In coordination with and upon the advice of the county treasurer, the board of finance determines the qualifications and selection of banks, savings and loans, credit unions and other institutions to receive the county's deposits.

The BOCC must examine and settle all accounts of the receipts and expenses of the county, and all accounts chargeable against the county (4-38-16). All accounts must be itemized and the board can disapprove all or part of the accounts (4-45-3).

The BOCC is responsible for seeing that a statement of receipts and expenditures is prepared on an annual basis (4-38-27). The fiscal year shall begin on July 1 and end on June 30 of each year. All transactions are public record.

If the BOCC approves payment of county funds without the authority of law, they become liable for the amount paid, and sometimes for more (4-38-28).

Counties are construed as agents of the United States Government when making expenditures authorized by any act of the U.S. Congress (4-36-3).

No county shall issue general obligation bonds unless approved by the voters. However, revenue bonds can be issued by 2/3 vote of the BOCC (4-62-4).

This supplement will be subject to the Colfax County Commission’s review and approval.

Approved and Directed by:

Monte Gore

**Monte Gore
Colfax County Manager**

DATED: June 13, 2024

Approved in open meeting this 25th day of June 2024.

COLFAX COUNTY BOARD OF COMMISSIONERS

Si Trujillo, CHAIRMAN

Mary Lou Kern, VICE-CHAIR

Bret Wier, MEMBER

ATTEST:

Rayetta M. Trujillo, CLERK OF THE BOARD

COLFAX COUNTY COMPLIANCE REQUIREMENTS 2 CFR Part 200

Colfax County hereby adopts and recognizes the threshold requirements of the 2 CFR Part 200, and the compliance requirements shall be added to the Colfax County's Financial Policies and Procedures. This supplement will be subject to the Colfax County Commission's review and approval.

INTRODUCTION

Overview

The objectives of most compliance requirements for federal programs administered by states, local governments, Indian tribes, institutions of higher education, and nonprofit organizations (non-federal entities) are generic in nature. For example, many programs have eligibility requirements for individuals or organizations to participate in a particular program. While the criteria for determining eligibility vary by program, the objective of the compliance requirement that only eligible individuals or organizations participate is consistent across programs.

Relationship between Frequently Asked Questions and the 2 CFR Part 200, Subpart F, Audit

With the issuance of the 2 CFR Part 200, the Council on Financial Assistance Reform (COFAR) issued Frequently Asked Questions (FAQs) to assist federal agencies and grantees to interpret and implement the guidance. These FAQs are meant to provide additional context, background, and clarification of the policies described in 2 CFR part 200 and should be considered in the single audit work plan and reviews. The complete list of FAQs (updated as of July 2017) is found at <https://cfo.gov/wp-content/uploads/2017/08/July2017-UniformGuidanceFrequentlyAskedQuestions.pdf>. Any FAQs that may be issued or updated after July 2017 will be available upon issuance at the CFO Council website indicated above and also should be considered in the single audit work plan and reviews, as appropriate for the subject matter and the audit period.

Use of Terminology

This supplement presents statements of compliance requirements, related audit objectives, and suggested audit procedures. When restating compliance requirements, it uses the conventions employed in 2 CFR part 200. For example, when the word "must" is used it indicates a requirement, whereas use of the word "should" indicates a best practice or recommended approach rather than a requirement (see FAQ 303-2). Given that different terminology (e.g., "shall") was used before the issuance of 2 CFR part 200, the language of this supplement continues to reflect the way in which the compliance requirements previously were stated. The limited use of the term "should not" (e.g., with respect to improper payments) refers to an action or activity that is non-compliant.

Similarly, when the supplement speaks to auditors, the word "must," which is used in limited instances, means that the auditor is required to do what the statement indicates. However, the suggested audit procedures associated with each compliance requirement, which are specifically directed to auditors, uses the term "should," which indicates a recommended approach.

Internal Control

Consistent with the requirements of 2 CFR part 200, subpart F, this supplement includes generic audit objectives and suggested audit procedures to test internal control. However, the auditor must determine the specific procedures to test internal control on a case-by-case basis considering factors such as the non-federal entity's internal controls, the compliance requirements, the audit objectives for compliance, the auditor's assessment of control risk, and the audit requirement to test internal control as prescribed in 2 CFR part 200, subpart F.

Improper Payments

Under OMB guidance, Public Law (Pub. L.) No. 107-300, the Improper Payments Information Act of 2002, as amended by Pub. L. No. 111-204, the Improper Payments Elimination and Recovery Act, Executive Order 13520 on reducing improper payments, and the June 18, 2010 Presidential memorandum to enhance payment accuracy, federal agencies are required to take actions to prevent improper payments, review federal awards for such payments, and, as applicable, reclaim improper payments. Improper payments include the following:

1. Any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements, such as overpayments or underpayments made to eligible recipients resulting from inappropriate denials of payment or service, any payment that does not account for credit for applicable discounts, payments that are for the incorrect amount, and duplicate payments.
2. Any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services not received (except for such payments where authorized by statute).
3. Any payment that an agency's review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation.

A. ACTIVITIES ALLOWED OR UNALLOWED

Compliance Requirements

The specific requirements for activities allowed or unallowed are unique to each federal program and are found in the federal statutes, regulations, and the terms and conditions of the federal award pertaining to the program.

Source of Governing Requirements

The requirements for activities allowed or unallowed are contained in program legislation, federal awarding agency regulations, and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).
2. Determine whether federal awards were expended only for allowable activities.

Suggested Audit Procedures – Internal Control

1. Perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for activities allowed or unallowed and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR section 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR section 200.516, assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

1. Identify the types of activities which are either specifically allowed or prohibited by federal statutes, regulations, and the terms and conditions of the federal award pertaining to the program.
2. When allowability is determined based upon summary level data, perform procedures to verify that:
 - a. Activities were allowable.
 - b. Individual transactions were properly classified and accumulated into the activity total.
3. When allowability is determined based upon individual transactions, select a sample of transactions and perform procedures to verify that the transaction was for an allowable activity.
4. The auditor should be alert for large transfers of funds from program accounts which may have been used to fund unallowable activities.

B. ALLOWABLE COSTS/COST PRINCIPLES

Applicability of Cost Principles

The cost principles in 2 CFR part 200, subpart E (Cost Principles), prescribe the cost accounting requirements associated with the administration of federal awards by:

- a. States, local governments, and Indian tribes

As provided in 2 CFR section 200.101, the cost principles requirements apply to all federal awards with the exception of grant agreements and cooperative agreements providing food commodities; agreements for loans, loan guarantees, interest subsidies, insurance; and programs listed in 2 CFR section 200.101(d) (see Appendix I of this Supplement). Federal awards administered by publicly owned hospitals and other providers of medical care are exempt from 2 CFR part 200, subpart E, but are subject to the requirements 45 CFR part 75, Appendix IX, the Department of Health and Human Services (HHS) implementation of 2 CFR part 200. The cost principles applicable to a non-federal entity apply to all federal awards received by the entity, regardless of whether the awards are received directly from the federal awarding agency or indirectly through a pass-through entity. For this purpose, federal awards include cost-reimbursement contracts under the Federal Acquisition Regulation (FAR). The cost principles do not apply to federal awards under which a non-federal entity is not required to account to the federal awarding agency or pass-through entity for actual costs incurred.

Basic Guidelines

Except where otherwise authorized by statute, cost must meet the following general criteria in order to be allowable under federal awards;

1. Be necessary and reasonable for the performance of the federal award and be allocable thereto under the principles in 2 CFR part 200, subpart E.
2. Conform to any limitations or exclusions set forth in 2 CFR part 200, subpart E or in the federal award as to types or amount of cost items.
3. Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the non-federal entity.
4. Be accorded consistent treatment. A cost may not be assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the federal award as an indirect cost.
5. Be determined in accordance with generally accepted accounting principles (GAAP), except for state and local governments and Indian tribes only as otherwise provided for in 2 CFR part 200.
6. Not be included as a cost or used to meet cost-sharing or matching requirements of any other federally financed program in either the current or a prior period.
7. Be adequately documented.

Selected Items of Cost

The 2 CFR sections 200.420 through 200.475 provide the principles to be applied in establishing the allowability of certain items of cost, in addition to the basic considerations identified above. These principles apply whether or not a particular item of cost is treated as a direct cost or indirect (F&A) cost. Failure to mention a particular item of cost is not intended to imply that it is either allowable or unallowable; rather, determination of allowability in each case should be based on the treatment provided for similar or related items of cost and the principles described in 2 CFR sections 200.402 through 200.411.

List of Selected Items of Cost Contained in 2 CFR part 200

The following exhibit provides a listing of selected items of cost contained in the cost principles in 2 CFR part 200, subpart E. Several cost items are unique to one type of entity.

The exhibit lists the selected items of cost along with a brief description of their allowability. The reader is strongly cautioned not to rely exclusively on the summary but to place primary reliance on the referenced 2 CFR part 200 text.

Selected Items of Cost - Exhibit 1

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
Advertising and public relations costs	§200.421		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Advisory councils	§200.422		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Alcoholic beverages	§200.423		Unallowable	Unallowable	Unallowable	
Alumni/ae activities	§200.424		Not specifically addressed	Unallowable	Not specifically addressed	X
Audit services	§200.425		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Bad debts	§200.426		Unallowable	Unallowable	Unallowable	
Bonding costs	§200.427		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Collection of improper payments	§200.428		Allowable	Allowable	Allowable	
Commencement and convocation costs	§200.429		Not specifically addressed	Unallowable with exceptions	Not specifically addressed	X

Compliance Requirements - Allowable Costs/Cost Principles

Compensation for personal services	§200.430	X (related to the salaries of administrative and clerical staff)	Allowable with restrictions; Special conditions apply (e.g., §200.430(i)(5))	Allowable with restrictions; Special conditions apply (e.g., §200.430(h))	Allowable with restrictions; Special conditions apply (e.g., §200.430(g))	X
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Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
Compensation – fringe benefits	§200.431	X (related to costs for IHEs)	Allowable with restrictions	Allowable with restrictions; Special conditions apply	Allowable with restrictions	X
Conferences	§200.432		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Contingency provisions	§200.433		Unallowable with exceptions	Unallowable with exceptions	Unallowable with exceptions	
Contributions and donations	§200.434		Unallowable (made by non-federal entity); not reimbursable but value may be used as cost sharing or matching (made to non-federal entity)	Unallowable (made by non-federal entity); not reimbursable but value may be used as cost sharing or matching (made to non-federal entity)	Unallowable (made by non-federal entity); not reimbursable, but value may be used as cost sharing or matching (made to non-federal entity); with restrictions, the value of services may be considered when determining an entity's indirect cost rate under certain circumstances	X
Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements	§200.435		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Depreciation	§200.436		Allowable with qualifications	Allowable with qualifications	Allowable with qualifications	
Employee health and welfare costs	§200.437		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
Entertainment costs	§200.438	X	Unallowable with exceptions	Unallowable with exceptions	Unallowable with exceptions	
Equipment and other capital expenditures	§200.439	X	Allowability based on specific requirements	Allowability based on specific requirements	Allowability based on specific requirements	
Exchange rates	§200.440	X	Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Fines, penalties, damages and other settlements	§200.441	X	Unallowable with exception	Unallowable with exception	Unallowable with exception	
Fund raising and investment management costs	§200.442	X	Unallowable with exceptions	Unallowable with exceptions	Unallowable with exceptions	
Gains and losses on disposition of depreciable assets	§200.443		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
General costs of government	§200.444		Unallowable with exceptions	Not specifically addressed	Not specifically addressed	X
Goods or services for personal use	§200.445	X	Unallowable (goods/ services); allowable (housing) with restrictions	Unallowable (goods/ services); allowable (housing) with restrictions	Unallowable (goods/ services); allowable (housing) with restrictions	
Idle facilities and idle capacity	§200.446		Idle facilities - unallowable with exceptions; idle capacity - allowable with restrictions	Idle facilities - unallowable with exceptions; idle capacity - allowable with restrictions	Idle facilities - unallowable with exceptions; idle - capacity allowable with restrictions	
Insurance and indemnification	§200.447	X	Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
Intellectual property	§200.448		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Interest	§200.449		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	X
Lobbying	§200.450		Unallowable	Unallowable; Special additional restrictions	Unallowable; Special additional restrictions	X
Losses on other awards or contracts	§200.451		Unallowable (however, they are required to be included in the indirect cost rate base for allocation of indirect costs)	Unallowable (however, they are required to be included in the indirect cost rate base for allocation of indirect costs)	Unallowable (however, they are required to be included in the indirect cost rate base for allocation of indirect costs)	
Maintenance and repair costs	§200.452		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Materials and supplies costs, including computing devices	§200.453		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Memberships, subscriptions, and professional activity costs	§200.454	X	Allowable with restrictions; unallowable for lobbying organizations.	Allowable with restrictions; unallowable for lobbying organizations	Allowable with restrictions; unallowable for lobbying organizations.	
Organization costs	§200.455	X	Unallowable except federal prior approval	Unallowable except federal prior approval	Unallowable except federal prior approval	
Participant support costs	§200.456	X	Allowable with prior approval of the federal awarding agency	Allowable with prior approval of the federal awarding agency	Allowable with prior approval of the federal awarding agency	
Plant and security costs	§200.457		Allowable; capital expenditures are subject to	Allowable; capital expenditures are subject to	Allowable; capital expenditures are subject to	

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
			§200.439	§200.439	§200.439	
Professional service costs	§200.459		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Proposal costs	§200.460		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Publication and printing costs	§200.461		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Rearrangement and reconversion costs	§200.462	X	Allowable (ordinary and normal)	Allowable (ordinary and normal)	Allowable (ordinary and normal)	
Recruiting costs	§200.463		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Relocation costs of employees	§200.464		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Rental costs of real property and equipment	§200.465		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Scholarships and student aid costs	§200.466		Not specifically addressed	Allowable with restrictions	Not specifically addressed	X
Selling and marketing costs	§200.467	X	Unallowable with exceptions	Unallowable with exceptions	Unallowable with exceptions	
Specialized service facilities	§200.468		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Student activity costs	§200.469		Unallowable unless specifically provided for in the federal award	Unallowable unless specifically provided for in the federal award	Unallowable unless specifically provided for in the federal award	
Taxes (including Value Added Tax)	§200.470		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	X
Termination costs	§200.471		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	

Selected Cost Item	Uniform Guidance General Reference	Items of Cost Requiring Prior Approval	States, Local Governments, Indian Tribes	Institutions of Higher Education	Nonprofit Organizations	Items of Cost not Treated the Same Across Non-Federal Entities
Training and education costs	§200.472		Allowable for employee development	Allowable for employee development	Allowable for employee development	
Transportation costs	§200.473		Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Travel costs	§200.474	X	Allowable with restrictions	Allowable with restrictions	Allowable with restrictions	
Trustees	§200.475		Not specifically addressed	Allowable with restrictions	Allowable with restrictions	X

Suggested Internal Control Audit Procedures

1. Perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for allowable costs/cost principles and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR section 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR section 200.516, assessing the control risk at the maximum, and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the risk of non-compliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Indirect Cost Rate

Except for those non-federal entities described in 2 CFR part 200, Appendix VII, paragraph D.1.b, if a non-federal entity has never received a negotiated indirect cost rate, it may elect to charge a de minimis rate of 10 percent of modified total direct costs (MTDC). Such a rate may be used indefinitely or until the non-federal entity chooses to negotiate a rate, which the non-federal entity may do at any time. If a non-federal entity chooses to use the de minimis rate, that rate must be used consistently for all of its federal awards. Also, as described in 2 CFR section 200.403, costs must be consistently charged as either indirect or direct, but may not be double charged or inconsistently charged as both. In accordance with 2 CFR section 200.400(g), a non-federal entity may not earn or keep any profit resulting from federal financial assistance, unless explicitly authorized by the terms and conditions of the award. A non-federal entity can always choose to charge the federal awards less than the negotiated rates or the de minimis rate.

Audit Objectives – De Minimis Indirect Cost Rate

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).
2. Determine that the de minimis rate is applied to the appropriate base amount.
3. Determine that the de minimis rate is used consistently by a non-federal entity under its federal awards.

Suggested Compliance Audit Procedures – De Minimis Indirect Cost Rate

The following suggested audit procedures apply to any non-federal entity using a de minimis indirect cost rate, whether as a recipient or subrecipient. None of the procedures related to indirect costs in the sections organized by type of non-federal entity apply when a de minimis rate is used.

1. Determine that the non-federal entity has not previously claimed indirect costs on the basis of a negotiated rate. Auditors are required to test only for the three fiscal years immediately prior to the current audit period.
2. Test a sample of transactions for conformance with 2 CFR section 200.414(f).
 - a. Select a sample of claims for reimbursement of indirect costs and verify that the de minimis rate was used consistently, the rate was applied to the appropriate base, and the amounts claimed were the product of applying the rate to a modified total direct costs base.
 - b. Verify that the costs included in the base are consistent with the costs that were included in the base year, i.e., verify that current year modified total direct costs do not include costs items that were treated as indirect costs in the base year.
3. For a non-federal entity conducting a single function, which is predominately funded by federal awards, determine whether use of the de minimis indirect cost rate resulted in the non-federal entity double-charging or inconsistently charging costs as both direct and indirect.

2 CFR PART 200

COST PRINCIPLES FOR STATES, LOCAL GOVERNMENTS, AND INDIAN TRIBES

Introduction

The 2 CFR part 200, subpart E and appendices III–VII establish principles and standards for determining allowable direct and indirect costs for federal awards. This section is organized into the following areas of allowable costs: states and local government and Indian tribe costs (direct and indirect); state/local government central service costs; and state public assistance agency costs.

Cognizant Agency for Indirect Costs

The 2 CFR part 200, Appendix V, paragraph F, provides the guidelines to use when determining the federal agency that will serve as the cognizant agency for indirect costs for states, local governments, and Indian tribes. References to the “cognizant agency for indirect costs” are not equivalent to the cognizant agency for audit responsibilities, which is defined in 2 CFR section 200.18. In addition, the change from the term “cognizant agency” in OMB Circular A-87 to the term “cognizant agency for indirect costs” in 2 CFR part 200 was not intended to change the scope of cognizance for central service or public assistance cost allocation plans.

For indirect cost rates and departmental indirect cost allocation plans, the cognizant agency is the federal agency with the largest value of *direct* federal awards (excluding pass-through awards) with a governmental unit or component, as appropriate. In general, unless different arrangements are agreed to by the concerned federal agencies or described in 2 CFR part 200, Appendix V, paragraph F, the cognizant agency for central service cost allocation plans is the federal agency with the largest dollar value of *total* federal awards (including pass-through awards) with a governmental unit.

Once designated as the cognizant agency for indirect costs, the federal agency remains so for a period of five years. In addition, 2 CFR part 200, Appendix V, paragraph F, lists the cognizant agencies for certain specific types of plans and the cognizant agencies for indirect costs for certain types of governmental entities. For example, HHS is cognizant for all public assistance and state-wide cost allocation plans for all states (including the District of Columbia and Puerto Rico), state and local hospitals, libraries, and health districts, and the Department of the Interior (DOI) is cognizant for all Indian tribal governments, territorial governments, and state and local park and recreational districts.

Allowable Costs—Direct and Indirect Costs

The individual state/local government/Indian tribe departments or agencies (also known as “operating agencies”) are responsible for the performance or administration of federal awards. In order to receive cost reimbursement under federal awards, the department or agency usually submits claims asserting that allowable and eligible costs (direct and indirect) have been incurred in accordance with 2 CFR part 200, subpart E.

The indirect cost rate proposal (ICRP) provides the documentation prepared by a state/local government/Indian tribe department or agency to substantiate its request for the establishment of

an indirect cost rate. The indirect costs include (1) costs originating in the department or agency of the governmental unit carrying out federal awards, and (2) for states and local governments, costs of central governmental services distributed through the state/local government-wide central service CAP that are not otherwise treated as direct costs. The ICRPs are based on the most current financial data and are used to either establish predetermined, fixed, or provisional indirect cost rates or to finalize provisional rates (for rate definitions refer to 2 CFR part 200, Appendix VII, paragraph B).

1. Compliance Requirements – Direct Costs

- a. Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a federal award or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.
- b. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect costs.

2. Audit Objectives – Direct Costs

- a. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).
- b. Determine whether the organization complied with the provisions of 2 CFR part 200) as follows:
 - (1) Direct charges to federal awards were for allowable costs.
 - (2) Unallowable costs determined to be direct costs were included in the allocation base for the purpose of computing an indirect cost rate.

3. Suggested Compliance Audit Procedures – Direct Costs

Test a sample of transactions for conformance with the following criteria contained in 2 CFR part 200, as applicable:

- a. If the auditor identifies unallowable direct costs, the auditor should be aware that “directly associated costs” might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost, and would not have been incurred if the other cost had not been incurred. For example, fringe benefits are “directly associated” with payroll costs. When an unallowable cost is incurred, directly associated costs are also unallowable.
- b. Costs were approved by the federal awarding agency, if required (see the above table (Selected Items of Cost, Exhibit 1) or 2 CFR section 200.407 for selected items of cost that require prior written approval).

- c. Costs did not consist of improper payments, including (1) payments that should not have been made or that were made in incorrect amounts (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; (2) payments that do not account for credit for applicable discounts; (3) duplicate payments; (4) payments that were made to an ineligible party or for an ineligible good or service; and (5) payments for goods or services not received (except for such payments where authorized by law).
- d. Costs were necessary and reasonable for the performance of the federal award and allocable under the principles of 2 CFR part 200, subpart E.
- e. Costs conformed to any limitations or exclusions set forth in 2 CFR part 200, subpart E, or in the federal award as to types or amount of cost items.
- f. Costs were consistent with policies and procedures that apply uniformly to both federally financed and other activities of the state/local government/Indian tribe department or agency.
- g. Costs were accorded consistent treatment. Costs were not assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances was allocated to the federal award as an indirect cost.
- h. Costs were not included as a cost of any other federally financed program in either the current or a prior period.
- i. Costs were not used to meet the cost-sharing or matching requirements of another federal program, except where authorized by federal statute.
- j. Costs were adequately documented.

1. Compliance Requirements – Indirect Costs

- a. *Allocation of Indirect Costs and Determination of Indirect Cost Rates*
 - (1) The specific methods for allocating indirect costs and computing indirect cost rates are as follows:
 - (a) *Simplified Method* – This method is applicable where a governmental unit's department or agency has only one major function, or where all its major functions benefit from the indirect cost to approximately the same degree. The allocation of indirect costs and the computation of an indirect cost rate may be accomplished through simplified allocation procedures described in 2 CFR part 200, Appendix VII, paragraph C.2.

- (b) *Multiple Allocation Base Method* – This method is applicable where a governmental unit’s department or agency has several major functions that benefit from its indirect costs in varying degrees. The allocation of indirect costs may require the accumulation of such costs into separate groupings which are then allocated individually to benefiting functions by means of a base which best measures the relative degree of benefit. (For detailed information, refer to 2 CFR part 200, Appendix VII, paragraph C.3.)
- (c) *Special Indirect Cost Rates* – In some instances, a single indirect cost rate for all activities of a department or agency may not be appropriate. Different factors may substantially affect the indirect costs applicable to a particular program or group of programs, e.g., the physical location of the work, the nature of the facilities, or level of administrative support required. (For the requirements for a separate indirect cost rate, refer to 2 CFR part 200, Appendix VII, paragraph C.4.)
- (d) *Cost Allocation Plans* – In certain cases, the cognizant agency for indirect costs may require a state or local government or unit’s department or agency to prepare a CAP instead of an ICRP. These are infrequently occurring cases in which the nature of the department or agency’s federal awards makes impracticable the use of a rate to recover indirect costs. A CAP required in such cases consists of narrative descriptions of the methods the department or agency uses to allocate indirect costs to programs, awards, or other cost objectives. Like an ICRP, the CAP either must be submitted to the cognizant agency for indirect cost for review, negotiation, and approval, or retained on file for inspection during audits.

b. *Submission Requirements*

- (1) Submission requirements are identified in 2 CFR part 200, Appendix VII, paragraph D.1. All departments or agencies of a governmental unit claiming indirect costs under federal awards must prepare an ICRP and related documentation to support those costs.
- (2) A state/local department or agency or Indian tribe that receives more than \$35 million in direct federal funding must submit its ICRP to its cognizant agency for indirect costs. Other state/local government departments or agencies that are not required to submit a proposal to the cognizant agency for indirect costs must develop an ICRP in accordance with the requirements of 2 CFR part 200, and maintain the proposal and related supporting documentation for audit.

- (3) Where a government receives funds as a subrecipient only, the pass-through entity will be responsible for the indirect cost rate used (2 CFR section 200.331(a)(4).
- (4) Each Indian tribe desiring reimbursement of indirect costs must submit its ICRP to the DOI (its cognizant agency for indirect costs).
- (5) ICRPs must be developed (and, when required, submitted) within 6 months after the close of the governmental unit's fiscal year, unless an exception is approved by the cognizant agency for indirect costs.

c. *Documentation and Certification Requirements*

The documentation and certification requirements for ICRPs are included in 2 CFR part 200, Appendix VII, paragraphs D.2 and 3, respectively. The proposal and related documentation must be retained for audit in accordance with the record retention requirements contained in 2 CFR section 200.333(f).

2. Audit Objectives – Indirect Costs

- a. Obtain an understanding of internal control over the compliance requirements for state/local government/Indian tribe department or agency costs, assess risk, and test internal control as required by 2 CFR section 200.514(c).
- b. Determine whether the governmental unit complied with the provisions of 2 CFR part 200 as follows:
 - (1) Charges to cost pools used in calculating indirect cost rates were for allowable costs.
 - (2) The methods for allocating the costs are in accordance with the cost principles, and produce an equitable and consistent distribution of costs (e.g., all activities that benefit from the indirect cost, including unallowable activities, must receive an appropriate allocation of indirect costs).
 - (3) Indirect cost rates were applied in accordance with negotiated indirect cost rate agreements (ICRA).
 - (4) For state/local departments or agencies that do not have to submit an ICRP to the cognizant agency for indirect costs (those that receive less than \$35 million in direct federal awards), indirect cost rates were applied in accordance with the ICRP maintained on file.

3. Suggested Compliance Audit Procedures – Indirect Costs

- a. If the state/local department or agency is not required to submit an ICRP and related supporting documentation, the auditor should consider the risk of the reduced level of oversight in designing the nature, timing, and extent of compliance testing.
- b. *General Audit Procedures* – The following procedures apply to charges to cost pools that are allocated wholly or partially to federal awards or used in formulating indirect cost rates used for recovering indirect costs under federal awards.
 - (1) Test a sample of transactions for conformance with:
 - (a) The criteria contained in the “Basic Considerations” section of 2 CFR sections 200.402 through 200.411.
 - (b) The principles to establish allowability or unallowability of certain items of cost (2 CFR sections 200.420 through 200.475).
 - (2) If the auditor identifies unallowable costs, the auditor should be aware that directly associated costs might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost, and would have not been incurred if the other cost had not been incurred. When an unallowable cost is incurred, directly associated costs are also unallowable. For example, occupancy costs related to unallowable general costs of government are also unallowable.
- c. *Special Audit Procedures for State, Local Government, and Indian Tribe ICRPs*
 - (1) Verify that the ICRP includes the required documentation in accordance with 2 CFR part 200, Appendix VII, paragraph D.
 - (2) *Testing of the ICRP* – There may be a timing consideration when the audit is completed before the ICRP is completed. In this instance, the auditor should consider performing interim testing of the costs charged to the cost pools and the allocation bases (e.g., determine from management the cost pools that management expects to include in the ICRP and test the costs for compliance with 2 CFR part 200). If there are audit exceptions, corrective action may be taken earlier to minimize questioned costs. In the next year’s audit, the auditor should complete testing and verify management’s representations against the completed ICRP.

The following procedures are some acceptable options the auditor may use to obtain assurance that the costs collected in the cost pools and the allocation methods used are in compliance with 2 CFR part 200, subpart E:

- (a) *Indirect Cost Pool* – Test the indirect cost pool to ascertain if it includes only allowable costs in accordance with 2 CFR part 200.
 - (i) Test to ensure that unallowable costs are identified and eliminated from the indirect cost pool (e.g., capital expenditures, general costs of government).
 - (ii) Identify significant changes in expense categories between the prior ICRP and the current ICRP. Test a sample of transactions to verify the allowability of the costs.
 - (iii) Trace the central service costs that are included in the indirect cost pool to the approved state/local government or central service CAP or to plans on file when submission is not required.
- (b) *Direct Cost Base* – Test the methods of allocating the costs to ascertain if they are in accordance with the applicable provisions of 2 CFR part 200 and produce an equitable distribution of costs.
 - (i) Determine that the proposed base(s) includes all activities that benefit from the indirect costs being allocated.
 - (ii) If the direct cost base is not limited to direct salaries and wages, determine that distorting items are excluded from the base. Examples of distorting items include capital expenditures, flow-through funds (such as benefit payments), and subaward costs in excess of \$25,000 per subaward.
 - (iii) Determine the appropriateness of the allocation base (e.g., salaries and wages, modified total direct costs).
- (c) *Other Procedures*
 - (i) Examine the records for employee compensation to ascertain if they are accurate, and the costs are allowable and properly allocated to the various functional and programmatic activities to which salary and wage costs are charged. (Refer to 2 CFR section 200.430 for additional information on support of salaries and wages.)
 - (ii) For an ICRP using the multiple allocation base method, test statistical data (e.g., square footage, audit hours, salaries and wages) to ascertain if the proposed allocation or rate bases are reasonable, updated as necessary, and do not contain any material omissions.

- (3) *Testing of Charges Based Upon the ICRA* – Perform the following procedures to test the application of charges to federal awards based upon an ICRA:
 - (a) Obtain and read the current ICRA and determine the terms in effect.
 - (b) Select a sample of claims for reimbursement and verify that the rates used are in accordance with the rate agreement, that rates were applied to the appropriate bases, and that the amounts claimed were the product of applying the rate to the applicable base. Verify that the costs included in the base(s) are consistent with the costs that were included in the base year (e.g., if the allocation base is total direct costs, verify that current-year direct costs do not include costs items that were treated as indirect costs in the base year).
- (4) *Other Procedures – No Negotiated ICRA*
 - (a) If an indirect cost rate has not been negotiated by a cognizant agency for indirect costs, the auditor should determine whether documentation exists to support the costs. Where the auditee has documentation, the suggested general audit procedures under paragraph 3.b above should be performed to determine the appropriateness of the indirect cost charges to awards.
 - (b) If an indirect cost rate has not been negotiated by a cognizant agency for indirect costs, and documentation to support the indirect costs does not exist, the auditor should question the costs based on a lack of supporting documentation.

Allowable Costs – State/Local Government-Wide Central Service Costs

Most governmental entities provide services, such as accounting, purchasing, computer services, and fringe benefits, to operating agencies on a centralized basis. Since federal awards are performed within the individual operating agencies, there must be a process whereby these central service costs are identified and assigned to benefiting operating agency activities on a reasonable and consistent basis. The state/local government-wide central service cost allocation plan (CAP) provides that process. (Refer to 2 CFR part 200, Appendix V, for additional information and specific requirements.)

The allowable costs of central services that a governmental unit provides to its agencies may be allocated or billed to the user agencies. The state/local government-wide central service CAP is the required documentation of the methods used by the governmental unit to identify and accumulate these costs, and to allocate them or develop billing rates based on them.

Allocated central service costs (referred to as Section I costs) are allocated to benefiting operating agencies on some reasonable basis. These costs are usually negotiated and approved for a future year on a “fixed-with-carry-forward” basis. Examples of such services might include

general accounting, personnel administration, and purchasing. Section I costs assigned to an operating agency through the state/local government-wide central service CAP are typically included in the agency's indirect cost pool.

Billed central service costs (referred to as Section II costs) are billed to benefiting agencies and/or programs on an individual fee-for-service or similar basis. The billed rates are usually based on the estimated costs for providing the services. An adjustment will be made at least annually for the difference between the revenue generated by each billed service and the actual allowable costs. Examples of such billed services include computer services, transportation services, self- insurance, and fringe benefits. Section II costs billed to an operating agency may be charged as direct costs to the agency's federal awards or included in its indirect cost pool.

1. Compliance Requirements – State/Local Government-Wide Central Service Costs

a. *Submission Requirements*

- (1) Submission requirements are identified in 2 CFR part 200, Appendix V, paragraph D.
- (2) A state is required to submit a state-wide central service CAP to HHS for each year in which it claims central service costs under federal awards.
- (3) A “major local government” is required to submit a central service CAP to its cognizant agency for indirect costs annually. *Major local government* means a local government that receives more than \$100 million in direct federal awards (not including pass-through awards) subject to 2 CFR part 200, subpart E. All other local governments claiming central service costs must develop a CAP in accordance with the requirements described in 2 CFR part 200 and maintain the plan and related supporting documentation for audit. These local governments are not required to submit the plan for federal approval unless they are specifically requested to do so by the cognizant agency for indirect costs.
- (4) All central service CAPs will be prepared and, when required, submitted within the 6 months prior to the beginning of the governmental unit's fiscal years in which it proposes to claim central service costs. Extensions may be granted by the cognizant agency for indirect costs on a case-by-case basis.

b. *Documentation Requirements*

- (1) The central service CAP must include all central service costs that will be claimed (either as an allocated or a billed cost) under federal awards. Costs of central services omitted from the CAP will not be reimbursed.
- (2) The documentation requirements for all central service CAPs are contained in 2 CFR part 200 Appendix V, paragraph E. All plans and

related documentation used as a basis for claiming costs under federal awards must be retained for audit in accordance with the record retention requirements contained in 2 CFR section 200.333(f).

- c. *Required Certification* – No proposal to establish a central service CAP, whether submitted to the cognizant agency for indirect costs or maintained on file by the governmental unit, will be accepted and approved unless such costs have been certified by the governmental unit using the Certificate of Cost Allocation Plan as set forth in 2 CFR part 200, Appendix V, paragraph E.4.
- d. *Allocated Central Service Costs (Section I Costs)* – A carry-forward adjustment is not permitted for a central service activity that was not included in the approved plan, or for unallowable costs that must be reimbursed immediately (2 CFR part 200, Appendix V, paragraph G.3).
- e. *Billed Central Service Costs (Section II Costs)*
 - (1) Each billed central service activity must separately account for all revenues (including imputed revenues) generated by the service, expenses incurred to furnish the service, and profit/loss (2 CFR part 200, Appendix V, paragraph G.1).
 - (2) Internal service funds for central service activities are allowed a working capital reserve of up to 60 calendar days cash expenses for normal operating purposes (2 CFR part 200, Appendix V, paragraph G.2). A working capital reserve exceeding 60 calendar days may be approved by the cognizant agency for indirect costs in exceptional cases.
 - (3) Adjustments of billed central services are required when there is a difference between the revenue generated by each billed service and the actual allowable costs (2 CFR part 200, Appendix V, paragraph G.4). A comparison of the revenue generated by each billed service (including total revenues whether or not billed or collected) to the actual allowable costs of the service will be made at least annually, and an adjustment will be made for the difference between the revenue and the allowable costs. The adjustments will be made through one of the following methods, at the option of the cognizant agency:
 - (a) If revenue exceeds costs, a cash refund to the federal government for the federal share of the adjustment, including earned or imputed interest from the date of expenditure and debt interest, if applicable, chargeable in accordance with applicable cognizant agency for indirect costs regulations;
 - (b) Credits to the amounts charged to the individual programs;
 - (c) Adjustments to future billing rates; or

- (d) Adjustments to allocated central service costs (Section I) if the total amount of the adjustment for a particular service (federal share and non-federal share) does not exceed \$500,000.
- (4) Whenever funds are transferred from a self-insurance reserve to other accounts (e.g., general fund), refunds must be made to the federal government for its share of funds transferred, including earned or imputed interest from the date of transfer and debt interest, if applicable, chargeable in accordance with applicable cognizant agency for indirect cost claims collection regulations (2 CFR section 200.447(d)(5)).

2. Audit Objectives – State/Local Government-Wide Central Service Costs

- a. Obtain an understanding of internal control over the compliance requirements for central service costs, assess risk, and test internal control as required by 2 CFR section 200.514(c).
- b. Determine whether the governmental unit complied with the provisions of 2 CFR part 200 as follows:
 - (1) Charges to cost pools allocated to federal awards through the central service CAPs were for allowable costs.
 - (2) The methods of allocating the costs are in accordance with the cost principles, and produce an equitable and consistent distribution of costs, which benefit from the central service costs being allocated (e.g., cost allocation bases include all activities, including all state departments and agencies and, if appropriate, non-state organizations which receive services).
 - (3) Cost allocations were in accordance with central service CAPs approved by the cognizant agency for indirect costs or, in cases where such plans are not subject to approval, in accordance with the plan on file.

3. Suggested Compliance Audit Procedures – State/Local Government-Wide Central Service Costs

- a. For local governments that are not required to submit the central service CAP and related supporting documentation, the auditor should consider the risk of the reduced level of oversight in designing the nature, timing and extent of compliance testing.
- b. *General Audit Procedures for State/Local Government-Wide Central Service CAPs* – The following procedures apply to charges to cost pools that are allocated wholly or partially to federal awards or used in formulating indirect cost rates used for recovering indirect costs under federal awards.

- (1) Test a sample of transactions for conformance with:
 - (a) The criteria contained in the “Basic Considerations” section of 2 CFR part 200, subpart E (sections 200.402 through 200.411).
 - (b) The principles to establish allowability or unallowability of certain items of cost (2 CFR sections 200.420 through 475).
 - (2) If the auditor identifies unallowable costs, the auditor should be aware that directly associated costs might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost, and would have not been incurred if the other cost had not been incurred. When an unallowable cost is incurred, directly associated costs are also unallowable. For example, occupancy costs related to unallowable general costs of government are also unallowable.
- c. *Special Audit Procedures for State/Local Government-Wide Central Service CAPs*
- (1) Verify that the central service CAP includes the required documentation in accordance with 2 CFR part 200 Appendix V, paragraph E.
 - (2) *Testing of the State/Local Government-Wide Central Service CAPs – Allocated Section I Costs*
 - (a) If new allocated central service costs were added, review the justification for including the item as Section I costs to ascertain if the costs are allowable (e.g., if costs benefit federal awards).
 - (b) Identify the central service costs that incurred a significant increase in actual costs from the prior year’s costs. Test a sample of transactions to verify the allowability of the costs.
 - (c) Ascertain if the bases used to allocate costs are appropriate, i.e., costs are allocated in accordance with relative benefits received.
 - (d) Ascertain if the proposed bases include all activities that benefit from the central service costs being allocated, including all users that receive the services. For example, the state-wide central service CAP should allocate costs to all benefiting state departments and agencies, and, where appropriate, non-state organizations, such as local government agencies.
 - (e) Perform an analysis of the allocation bases by selecting agencies with significant federal awards to determine if the percentage of costs allocated to these agencies has increased from the prior year. For those selected agencies with significant allocation percentage

increases, ascertain if the data included in the bases are current and accurate.

- (f) Verify that carry-forward adjustments are properly computed in accordance with 2 CFR part 200, Appendix V, paragraph G.3.
- (3) *Testing of the State/Local Government-Wide Central Service CAPs – Billed Section II Costs*
 - (a) For billed central service activities accounted for in separate funds (e.g., internal service funds), ascertain if:
 - (i) Retained earnings/fund balances (including reserves) are computed in accordance with the cost principles;
 - (ii) Working capital reserves are not excessive in amount (generally not greater than 60 calendar days for cash expenses for normal operations incurred for the period exclusive of depreciation, capital costs, and debt principal costs); and
 - (iii) Adjustments were made when there is a difference between the revenue generated by each billed service and the actual allowable costs.
 - (b) Test to ensure that all users of services are billed in a consistent manner. For example, examine selected billings to determine if all users (including users outside the governmental unit) are charged the same rate for the same service.
 - (c) Test that billing rates exclude unallowable costs, in accordance with the cost principles and federal statutes.
 - (d) Test, where billed central service activities are funded through general revenue appropriations, that the billing rates (or charges) were developed based on actual costs and were adjusted to eliminate profits.
 - (e) For self-insurance and pension funds, ascertain if the fund contributions are appropriate for such activities as indicated in the current actuarial report.
 - (f) Determine if refunds were made to the federal government for its share of funds transferred from the self-insurance reserve to other accounts, including imputed or earned interest from the date of the transfer.

Allowable Costs – State Public Assistance Agency Costs

State public assistance agency costs are (1) defined as all costs allocated or incurred by the state agency except expenditures for financial assistance, medical vendor payments, and payments for services and goods provided directly to program recipients (e.g., day care services); and (2) normally charged to federal awards by implementing the public assistance cost allocation plan (CAP). The public assistance CAP provides a narrative description of the procedures that are used in identifying, measuring, and allocating all costs (direct and indirect) to each of the programs administered or supervised by state public assistance agencies.

2 CFR part 200, Appendix VI, paragraph A, states that, since the federally financed programs administered by state public assistance agencies are funded predominantly by HHS, HHS is responsible for the requirements for the development, documentation, submission, negotiation, and approval of public assistance CAPs. These requirements are specified in 45 CFR part 95, subpart E.

Major federal programs typically administered by state public assistance agencies include: Temporary Assistance for Needy Families (CFDA 93.558), Medicaid (CFDA 93.778), Supplemental Nutrition Assistance Program (CFDA 10.561), Child Support Enforcement (CFDA 93.563), Foster Care (CFDA 93.658), Adoption Assistance (CFDA 93.659), and Social Services Block Grant (CFDA 93.667).

1. Compliance Requirements – State Public Assistance Agency Costs

a. *Submission Requirements*

Unlike most state/local government-wide central service CAPs and ICRPs, an annual submission of the public assistance CAP is not required. Once a public assistance CAP is approved, state public assistance agencies are required to promptly submit amendments to the plan if any of the following events occur (45 CFR section 95.509):

- (1) The procedures shown in the existing CAP become outdated because of organizational changes, changes to the federal law or regulations, or significant changes in the program levels, affecting the validity of the approved cost allocation procedures.
- (2) A material defect is discovered in the CAP.
- (3) The CAP for public assistance programs is amended so as to affect the allocation of costs.
- (4) Other changes occur which make the allocation basis or procedures in the approved CAP invalid.

The amendments must be submitted to HHS for review and approval.

- b. *Documentation Requirements* – A state may claim federal financial participation for costs associated with a program only in accordance with its approved CAP. The public assistance CAP requirements are contained in 45 CFR section 95.507.
- c. *Implementation of Approved Public Assistance CAPs* – Since public assistance CAPs are of a narrative nature, the federal government needs assurance that the CAP has been implemented as approved. This is accomplished by funding agencies' reviews, single audits, or audits conducted by the cognizant agency for audit (2 CFR part 200 Appendix VI, paragraph E.1).

2. Audit Objectives – State Public Assistance Agency Costs

- a. Obtain an understanding of internal control over the compliance requirements for state public assistance agency costs, assess risk, and test internal control as required by 2 CFR section 200.514(c).
- b. Determine whether the governmental unit complied with the provisions of 2 CFR part 200 as follows:
 - (1) Direct charges to federal awards were for allowable costs.
 - (2) Charges to cost pools allocated to federal awards through the public assistance CAP were for allowable costs.
 - (3) The approved public assistance CAP correctly describes the actual procedures used to identify, measure, and allocate costs to each of the programs operated by the state public assistance agency. However, the actual procedures or methods of allocating costs must be in accordance with the cost principles, and produce an equitable and consistent distribution of costs.
 - (4) Charges to federal awards are in accordance with the approved public assistance CAP. This does not apply if the auditor first determines that the approved CAP is not in compliance with the cost principles and/or produces an inequitable distribution of costs.
 - (5) The employee compensation reporting systems are implemented and operated in accordance with the methodologies described in the approved public assistance CAP.

3. Suggested Compliance Audit Procedures – State Public Assistance Agency Costs

- a. Since a significant amount of the costs in the public assistance CAP are allocated based on employee compensation reporting systems, it is suggested that the auditor consider the risk when designing the nature, timing, and extent of compliance testing.

- b. *General Audit Procedures* – The following procedures apply to direct charges to federal awards as well as charges to cost pools that are allocated wholly or partially to federal awards.
- (1) Test a sample of transactions for conformance with:
 - (a) The criteria contained in the “Basic Considerations” section of 2 CFR part 200 (sections 200.402 through 200.411).
 - (b) The principles to establish allowability or unallowability of certain items of cost (2 CFR sections 200.420 through 200.475).
 - (2) If the auditor identifies unallowable costs, the auditor should be aware that directly associated costs might have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost, and would have not been incurred if the other cost had not been incurred. When an unallowable cost is incurred, directly associated costs are also unallowable. For example, occupancy costs related to unallowable general costs of government are also unallowable.
- c. *Special Audit Procedures for Public Assistance CAPs*
- (1) Verify that the state public assistance agency is complying with the submission requirements, i.e., an amendment is promptly submitted when any of the events identified in 45 CFR section 95.509 occur.
 - (2) Verify that public assistance CAP includes the required documentation in accordance with 45 CFR section 95.507.
 - (3) *Testing of the Public Assistance CAP* – Test the methods of allocating the costs to ascertain if they are in accordance with the applicable provisions of the cost principles and produce an equitable distribution of costs. Appropriate detailed tests may include:
 - (a) Examining the results of the employee compensation system or in addition the records for employee compensation to ascertain if they are accurate, allowable, and properly allocated to the various functional and programmatic activities to which salary and wage costs are charged.
 - (b) Since the most significant cost pools in terms of dollars are usually allocated based upon the distribution of income maintenance and social services workers’ efforts identified through random moment time studies, determining whether the time studies are implemented and operated in accordance with the methodologies described in the approved public assistance CAP. For example, verifying the adequacy of the controls governing the conduct and evaluation of the study, and determining that the sampled

observations were properly selected and performed, the documentation of the observations was properly completed, and the results of the study were correctly accumulated and applied. Testing may include observing or interviewing staff who participate in the time studies to determine if they are correctly recording their activities.

- (c) Testing statistical data (e.g., square footage, case counts, salaries and wages) to ascertain if the proposed allocation bases are reasonable, updated as necessary, and do not contain any material omissions.
- (4) *Testing of Charges Based Upon the Public Assistance CAP* – If the approved public assistance CAP is determined to be in compliance with the cost principles and produces an equitable distribution of costs, verify that the methods of charging costs to federal awards are in accordance with the approved CAP and the provisions of the approval documents issued by HHS. Detailed compliance tests may include:
 - (a) Verifying that the cost allocation schedules, supporting documentation and allocation data are accurate and that the costs are allocated in compliance with the approved CAP.
 - (b) Reconciling the allocation statistics of labor costs to employee compensation records (e.g., random moment sampling observation forms).
 - (c) Reconciling the allocation statistics of non-labor costs to allocation data, (e.g., square footage or case counts).
 - (d) Verifying direct charges to supporting documents (e.g., purchase orders).
 - (e) Reconciling the costs to the federal claims.

CASH MANAGEMENT

Compliance Requirements

Grants and Cooperative Agreements

All Non-Federal Entities

Non-federal entities must establish written procedures to implement the requirements of 2 CFR section 200.305 (2 CFR section 200.302(b)(6)).

States

U.S. Department of the Treasury (Treasury) regulations at 31 CFR part 205 implement the Cash Management Improvement Act of 1990 (CMIA), as amended (Pub. L. No. 101-453; 31 USC 6501 *et seq.*). Subpart A of those regulations requires state recipients to enter into Treasury-State Agreements that prescribe specific methods of drawing down federal funds (funding techniques) for federal programs listed in the Catalog of federal Domestic Assistance that meet the funding threshold for a major federal assistance program under the CMIA. Treasury-State Agreements also specify the terms and conditions under which an interest liability would be incurred. Programs not covered by a Treasury-State Agreement are subject to procedures prescribed by Treasury in subpart B of 31 CFR part 205 (subpart B), which at 31 CFR section 205.33(a) include the requirement for a state to minimize the time between the drawdown of federal funds and their disbursement for federal program purposes.

Non-Federal Entities Other Than States

Non-federal entities must minimize the time elapsing between the transfer of funds from the U.S. Treasury or pass-through entity and disbursement by the non-federal entity for direct program or project costs and the proportionate share of allowable indirect costs, whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means (2 CFR section 200.305(b)).

What constitutes minimized elapsed time for funds transfer will depend on what payment system/method a non-federal entity uses. For example:

- The U.S. Department of Health and Human Service (HHS) processes its financial transactions with non-federal entities through HHS's Program Support Center (PCS), which uses the Payment Management System (PMS). Usually, payments from PMS process overnight and the funds would be available in a non-federal entity's account the next business day. HHS also processes payments through same day wires (mostly state governments).
- Federal agencies, such as the U.S. Department of Commerce, and U.S. Department of the Interior, use the U.S. Treasury's Automated Standard Application for Payments (ASAP) system for grant and cooperative agreement payments. Non-federal entities can use the ASAP on-line process to request and receive same-day payment.

Under the advance payment method, federal awarding agency or pass-through entity payment is made to the non-federal entity before the non-federal entity disburses the funds for program purposes (2 CFR section 200.3). A non-federal entity must be paid in advance provided that it maintains, or demonstrates the willingness to maintain, both written procedures that minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by the non-federal entity, as well as a financial management system that meets the specified standards for fund control and accountability (2 CFR section 200.305(b)(1)).

The reimbursement payment method is the preferred payment method if (a) the non-federal entity cannot meet the requirements in 2 CFR section 200.305(b)(1) for advance payment, (b) the federal awarding agency sets a specific condition for use of the reimbursement or (3) if requested by the non-federal entity (2 CFR sections 200.305(b)(3) and 200.207)). The reimbursement payment method also may be used on a federal award for construction or for other construction activity as specified in 2 CFR section 200.305(b)(3), program costs must be paid by non-federal entity funds before submitting a payment request (2 CFR section 200.305(b)(3)), i.e., the non-federal entity must disburse funds for program purposes before requesting payment from the federal awarding agency or pass-through entity.

To the extent available, the non-federal entity must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional federal cash draws (2 CFR section 200.305(b)(5)).

Except for interest exempt under the Indian Self-Determination and Education Assistance Act (23 USC 450), interest earned by non-federal entities other than states on advances of federal funds is required to be remitted annually to the U.S. Department of Health and Human Services, Payment Management System, P.O. Box 6021, Rockville, MD 20852. Up to \$500 per year may be kept for administrative expenses (2 CFR section 200.305(b)(9)).

Cost-Reimbursement Contracts under the Federal Acquisition Regulation

For cost-reimbursement contracts under the FAR, reimbursement payment is the predominant method of funding. Advance payments under FAR-based contracts are rare. The FAR clause at 48 CFR section 52.216-7 applies to reimbursement payment. Paragraph (b)(1) of that clause requires that the non-federal entity request reimbursement for (a) only allocable, allowable, and reasonable contract costs that have already been paid, or (b) if the non-federal entity is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid. As defined in 48 CFR section 52.216-7(b)(1), with relation to supplies and services purchased for use on the contract, “ordinary course of business” would be in accordance with the terms and conditions of a subcontract or invoice, and ordinarily within 30 days of the request to the federal government for reimbursement.

For cost-reimbursement contracts using advance payment, the requirements are contained in the FAR clause at 48 CFR section 52.232-12. The non-federal entity is required to account for interest earned on advances from the federal government in accordance with paragraph (f) of that clause.

Loans, Loan Guarantees, Interest Subsidies, and Insurance

Non-federal entities must comply with applicable program requirements for payment under loans, loan guarantees, interest subsidies, and insurance.

Pass-through Entities

Pass-through entities must monitor cash drawdowns by their subrecipients to ensure that the time elapsing between the transfer of federal funds to the subrecipient and their disbursement for program purposes is minimized as required by the applicable cash management requirements in the federal award to the recipient (2 CFR section 200.305(b)(1)).

Source of Governing Requirements

The requirements for cash management are contained in 2 CFR sections 200.302(b)(6) and 200.305, 31 CFR part 205, 48 CFR sections 52.216-7(b) and 52.232-12, program legislation, federal awarding agency regulations, and the terms and conditions of the federal award.

Availability of Other Information

Treasury's Financial Management Service maintains a Cash Management Improvement Act web page (<http://www.fms.treas.gov/cmia/>). Information about the Department of Health and Human Services Payment Management System and the Department of the Treasury' Automated Standard Application for Payments is available at <https://pms.psc.gov/> and <http://fms.treas.gov/asap/index.html>, respectively.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).
2. For grants and cooperative agreements to states, determine whether states have complied with the terms and conditions of the Treasury-State Agreement or subpart B procedures.
3. For grants and cooperative agreements to non-federal entities other than states, determine whether payment methods minimized the time elapsing between transfer of federal funds from the U.S. Treasury or the pass-through entity and the disbursement by the non-federal entity and any interest earned on advances was properly remitted.
4. For grants and cooperative agreements to non-federal entities that are paid on a reimbursement basis, supporting documentation shows that the costs for which reimbursement was requested were paid prior to the date of the reimbursement request.
5. Determine whether non-federal entities that receive reimbursement payments under cost-reimbursement contracts under the FAR and cost-reimbursement subcontracts under these contracts requested payments in compliance with 48 CFR section 52.216-7(b).

6. Determine whether non-federal entities complied with applicable program requirements for loans, loan guarantees, interest subsidies, and insurance.
7. Determine whether pass-through entities implemented procedures to ensure that payments to subrecipients minimized the time elapsing between transfer of federal funds from the pass-through entity to the subrecipient and the disbursement of such funds for program purposes by the subrecipient, as required by applicable cash management requirements in the federal award to the recipient.

Suggested Audit Procedures – Internal Control

1. Perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for cash management and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR section 200.514(c) 4), including reporting a significant deficiency or material weakness in accordance with 2 CFR section 200.516, assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

Note: The following procedures are intended to be applied to each program determined to be major. However, due to the nature of cash management and the system of cash management in place in a particular entity, it may be appropriate and more efficient to perform these procedures for all programs collectively rather than separately for each program.

Grants and cooperative agreements to states

1. For programs tested as major, verify which of those programs are covered by the Treasury-State Agreement in accordance with the materiality thresholds in 31 CFR section 205.5, Table A.
2. For those programs identified in procedure 1, determine the funding techniques used for those programs. For those funding techniques that require clearance patterns to schedule the transfer of federal funds to the state, review documentation supporting the clearance pattern and verify that the clearance pattern conforms to the requirements for developing and maintaining clearance patterns as specified in the Treasury-State Agreement (31 CFR sections 205.12, 205.20, and 205.22).

3. Select a sample of federal cash draws and verify that the timing of the federal cash draws was in compliance with the applicable funding techniques specified in the Treasury-State Agreement or Subpart B procedures, whichever is applicable (31 CFR sections 205.11 and 205.33).
4. Review the calculation of the interest obligation owed to or by the federal government, reported on the annual report submitted by the state to ascertain that the calculation was in accordance with Treasury regulations and the terms of the Treasury-State Agreement. Trace amounts used in the calculation to supporting documentation.

Grants and cooperative agreements to non-federal entities other than states

5. Review trial balances related to federal funds for unearned revenue. If unearned revenue balances are identified, consider if such balances are consistent with the requirement to minimize the time between drawing and disbursing federal funds.
6. Select a sample of advance payments and verify that the non-federal entity minimized the time elapsing between the transfer of funds from the U.S. Treasury or pass-through entity and disbursement by the non-federal entity.
7. When non-federal entities are funded under the reimbursement method, select a sample of transfers of funds from the U.S. Treasury or pass-through entity and trace to supporting documentation and ascertain if the entity paid for the costs for which reimbursement was requested prior to the date of the reimbursement request (2 CFR section 200.305(b)(3)).
8. When a program receives program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, or interest earned on such funds; perform tests to ascertain if these funds were disbursed before requesting additional federal cash draws (2 CFR section 200.305(b)(5)).
9. Review records to determine if interest in excess of \$500 per year was earned on federal cash draws. If so, determine if it was remitted annually to the Department of Health and Human Services, Payment Management System (2 CFR section 200.305(9)).

Cost-reimbursement contracts under the Federal Acquisition Regulation

10. Perform tests to ascertain if the non-federal entity requesting reimbursement (a) disbursed funds prior to the date of the request, or (b) meets the conditions allowing for the request for costs incurred, but not necessarily paid for, i.e., ordinarily within 30 days of the request (48 CFR section 52.216-7(b)).

Loans, Loan Guarantees, Interest Subsidies, and Insurance

11. Perform tests to ascertain if the non-federal entity complied with applicable program requirements.

All Pass-Through Entities

12. For those programs where a pass-through entity passes federal funds through to subrecipients, select a representative sample of subrecipient payments and ascertain if the pass-through entity implemented procedures to ensure that the time elapsing between the transfer of federal funds to the subrecipient and the disbursement of such funds for program purposes by the subrecipient was minimized (2 CFR section 200.305(b)(1)).

ELIGIBILITY

Compliance Requirements

The specific requirements for eligibility are unique to each federal program and are found in the statutes, regulations, and the terms and conditions of the federal award pertaining to the program.. This compliance requirement specifies the criteria for determining the individuals, groups of individuals (including area of service delivery), or subrecipients that can participate in the program and the amounts for which they qualify.

Source of Governing Requirements

The requirements for eligibility are contained in program legislation, federal awarding agency regulations, and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).
2. Determine whether required eligibility determinations were made (including obtaining any required documentation/verification), that individual program participants or groups of participants (including area of service delivery) were determined to be eligible, and that only eligible individuals or groups of individuals participated in the program.
3. Determine whether subawards were made only to eligible subrecipients.
4. Determine whether amounts provided to or on behalf of eligible participants or groups of participants were calculated in accordance with program requirements.

Suggested Audit Procedures – Internal Control

1. Perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control over compliance to support a low assessed level of control risk for eligibility and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR section 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR section 200.516, assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

1. *Eligibility for Individuals*

- a. For some federal programs with a large number of people receiving benefits, the non-federal entity may use a computer system for processing individual eligibility determinations and delivery of benefits. Often these computer systems are complex and will be separate from the non-federal entity's regular financial accounting system. Typical functions that a computer system used for determining eligibility may perform are:

- Perform calculations to assist in determining who is eligible and the amount of benefits
- Pay benefits (e.g., write checks)
- Maintain eligibility records, including information about each individual and benefits paid to or on behalf of the individual (regular payments, refunds, and adjustments)
- Track the period of time during which an individual is eligible to receive benefits, i.e., from the beginning date of eligibility through the date when those benefits stop, generally at the end of a predetermined period, unless there is a redetermination of eligibility
- Perform matches with other computer databases to verify eligibility (e.g., matches to verify earnings or identify individuals who are deceased)
- Control who is authorized to approve benefits for eligible individuals (e.g., an employee may be approving benefits on-line and this process may be controlled by passwords or other access controls)
- Produce exception reports indicating likely errors that need follow-up (e.g., when benefits exceed a certain amount, would not be appropriate for a particular classification of individuals, or are paid more frequently than normal)

Because of the diversity of computer systems, both hardware and software, it is not practical for this Supplement to provide suggested audit procedures to address each system. However, generally accepted auditing standards provide guidance for the auditor when computer processing relates to accounting information that can materially affect the financial statements being audited. Similarly, when eligibility is material to a major program, and a computer system is integral to eligibility compliance, the auditor should follow this guidance and consider the non-federal entity's computer processing. The auditor should perform audit procedures relative to the computer system for eligibility as necessary to support the opinion on compliance for the major program. Due to the nature and controls

of computer systems, the auditor may choose to perform these tests of the computer systems as part of testing the internal controls for eligibility.

b. *Split Eligibility Determination Functions*

(1) *Background* – Some non-federal entities pay the federal benefits to the eligible participants but arrange with another entity to perform part or all of the eligibility determination. For example, a state arranges with local government social services agencies to perform the “intake function” (e.g., the meeting with the social services client to determine income and categorical eligibility), while the state maintains the computer systems supporting the eligibility determination process and actually pays the benefits to the participants. In such cases, the state is fully responsible for federal compliance for the eligibility determination, as the benefits are paid by the state. Moreover, the state shows the benefits paid as federal awards expended on the state’s Schedule of Expenditures of Federal Awards. Therefore, the auditor of the state is responsible for meeting the internal control and compliance audit objectives for eligibility. This may require the auditor of the state to perform, coordinate, or arrange for additional procedures to ensure compliant eligibility determinations when another entity performs part of the eligibility determination functions. The responsibility of the auditor of the state for auditing eligibility does not relieve the auditor of the other entity (e.g., local government) from responsibility for meeting those internal control and compliance audit objectives for eligibility that apply to the other entity’s responsibilities. An exception occurs when the auditor of the other entity confirms with the auditor of the state that certain procedures are not necessary.

(2) Ensure that eligibility testing includes all benefit payments regardless of whether another entity, by arrangement, performs part of the eligibility determination functions.

c. Perform procedures to ascertain if the non-federal entity’s records/database includes all individuals receiving benefits during the audit period (e.g., that the population of individuals receiving benefits is complete).

d. Select a sample of individuals receiving benefits and perform tests to ascertain if

(1) The required eligibility determinations and redeterminations, (including obtaining any required documentation/verifications) were performed and the individual was determined to be eligible in accordance with the compliance requirements of the program. (Note that some programs have both initial and continuing eligibility requirements and the auditor should design and perform appropriate tests for both. Also, some programs require periodic redeterminations of eligibility, which should also be tested.)

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- (2) Benefits paid to or on behalf of the individuals were calculated correctly and in compliance with the requirements of the program.
 - (3) Benefits were discontinued when the period of eligibility expired.
 - e. In some programs, the non-federal entity is required to use a quality control process to obtain assurances about eligibility. Review the quality control process and perform tests to ascertain if it is operating to effectively meet the objectives of the process and in compliance with applicable program requirements.
 - 2. *Eligibility for Group of Individuals or Area of Service Delivery*
 - a. In some cases, the non-federal entity may be required to perform procedures to determine whether a population or area of service delivery is eligible. Test information used in determining eligibility and ascertain if the population or area of service delivery was eligible.
 - b. Perform tests to ascertain if:
 - (1) The population or area served was eligible.
 - (2) The benefits paid to or on behalf of the individuals or area of service delivery were calculated correctly.
 - 3. *Eligibility for Subrecipients*
 - a. If the determination of eligibility is based upon an approved application or plan, obtain a copy of this document and identify the applicable eligibility requirements.
 - b. Select a sample of the awards to subrecipients and perform procedures to verify that the subrecipients were eligible and amounts awarded were within funding limits.

EQUIPMENT AND REAL PROPERTY MANAGEMENT

Compliance Requirements

Equipment Management -- Grants and Cooperative Agreements

Equipment means tangible personal property, including information technology systems, having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-federal entity for financial statement purposes or \$5,000 (2 CFR section 200.33). Title to equipment acquired by a non-federal entity under grants and cooperative agreements vests in the non-federal entity subject to certain obligations and conditions (2 CFR section 200.313(a)).

States

A state must use, manage, and dispose of equipment acquired under a federal award in accordance with state laws and procedures (2 CFR section 200.313(b)).

Non-Federal Entities Other than States

Non-federal entities other than states must follow 2 CFR sections 200.313(c) through (e) which require that:

1. Equipment, including replacement equipment, be used in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the federal award or, when appropriate, under other federal awards; however, the non-federal entity must not encumber the equipment without prior approval of the federal awarding agency (2 CFR sections 200.313(c) and (e)).
2. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the federal award identification number), who holds title, the acquisition date, cost of the property, percentage of federal participation in the project costs for the federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sales price of the property (2 CFR section 200.313(d)(1)).
3. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years (2 CFR section 200.313(d)(2)).
4. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated (2 CFR section 200.313(d)(3)).
5. Adequate maintenance procedures must be developed to keep the property in good condition (2 CFR section 200.313(d)(4)).

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6. If the non-federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return (2 CFR section 200.313(d)(5)).
 7. When original or replacement equipment acquired under a federal award is no longer needed for a federal program (whether the original project or program or other activities currently or previously supported by the federal government), the non-federal entity must request disposition instructions from the federal awarding agency if required by the terms and conditions of the award. Items of equipment with a current per-unit fair market value of \$5,000 or less may be retained, sold, or otherwise disposed of with no further obligation to the federal awarding agency. If the federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair market value in excess of \$5,000 may be retained or sold. The federal awarding agency is entitled to the federal interest in the equipment, which is the amount calculated by multiplying the current market value or sale proceeds by the federal agency's participation in total project costs (2 CFR section 200.313(e) and 200.41).

The COFAR's Frequently Asked Questions includes the following, which addresses the relationship between the requirement for property records to show the percentage of federal participation in the project costs and the calculation of the federal interest.

.313-2 Changes to Equipment Inventory Systems.

Section 200.313(d)(1) of the guidance specifies the attributes that must be maintained in property records of the non-federal entity. For non-federal entities that have followed Circular A-110, there are two changes: "percentage of Federal participation in the project costs" (Uniform Guidance) versus "information from which one can calculate the percentage of Federal participation in the cost of the equipment" (A-110.34(f)(1)(vi), and "the location, use and condition of the property" (Uniform Guidance) versus "location and condition of the equipment and the date the information was reported" (A-110.34(f)(1)(vii). Are non-federal entities expected to change the attributes of their property records and ultimately be required to implement costly changes to their existing equipment inventory systems?

No. The requirements for property records have not substantively changed in the Uniform Guidance. The requirements for property records are meant to ensure that the non-federal entity maintains an equipment inventory system that demonstrates the federal entity has an effective system of controls to account for and track equipment that has been acquired with federal funds. Non-federal entities are not expected to change their equipment inventory systems or the data elements contained in those systems, if they are in compliance with the current requirements in Circular A-110. In the examples in question:

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- The percentage of federal participation in the cost of equipment in Circular A-110 was identical to the percentage of federal participation in the cost of the original project or program. One could infer that from the amount of compensation a recipient was required under 2 CFR 215.34(g) to make to a federal agency at the time of disposition—i.e., “compensation shall be computed by applying the percentage of federal participation in the cost of the original project or program to the current fair market value of the equipment.” The A-110 requirement in 2 CFR 215.34 for the recipient’s records to have information from which one could calculate the percentage of federal participation in the cost of the equipment then required two numbers, the percentage of federal participation in the original project or program and information from which one could derive the current fair market value. The Uniform Guidance makes that more explicitly clear through the definition of federal interest in 2 CFR 200.41; and
 - “the location, use and condition of the property” is referring to an indicator in the property records that the specific equipment item is active and linked with the appropriate federal award, identical to the requirement in Circular A-110.

Note: Intangible property that is acquired under a federal award, rather than developed or produced under the award, is subject to the requirements of 2 CFR section 200.313(e) regarding disposition (2 CFR section 200.315(a)).

Real Property Management – Grants and Cooperative Agreements

Title to real property acquired or improved by non-federal entities under grants and cooperative agreements vests in the non-federal entity subject to the obligations and conditions specified in 2 CFR section 200.311 (2 CFR section 200.311(a)). Real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the non-federal entity must not dispose of or encumber title to or other interests in the real property (2 CFR section 200.311(b)).

When real property is no longer needed for the originally authorized purpose, the non-federal entity must obtain disposition instructions from the federal awarding agency or the pass-through entity, as applicable. When real property is sold, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return. If sold, non-federal entities must compensate the federal awarding agency for the portion of the net sales proceeds that represents the federal agency’s interest in the real property, which is the amount calculated by multiplying the current market value or sale proceeds by the federal agency’s participation in total project costs. If the property is retained, the non-federal entity must compensate the federal awarding agency for the federal portion of the current fair market value of the property. Disposition instructions may also provide for transfer of title to the federal awarding agency or a designated third party, in which case the non-federal entity is entitled to the non-federal interest in the property, which is calculated by multiplying the current market value or sale proceeds by the non-federal entity’s share in total project costs (2 CFR section 200.311(c)(3)).

Equipment and Real Property Management – Cost-Reimbursement Contracts under the Federal Acquisition Regulation

Equipment and real property management requirements for cost-reimbursement contracts are specified in the FAR clause at 48 CFR section 52.245-1. Federal government property as defined in the FAR includes both equipment and real property. Title to federal government property acquired by a non-federal entity normally vests in the federal government, unless otherwise noted in the contract terms and conditions. The FAR requires:

1. A system of internal controls to manage (control, use, preserve, protect, repair, and maintain) federal government property and a process to enable the prompt recognition, investigation, disclosure and reporting of loss of federal government property.
2. Federal government property must be used for performing the contract for which it was acquired unless otherwise provided for in the contract or approved by the federal awarding agency.
3. Property records must be maintained and include the name, part number and description, and other elements as necessary and required in accordance with the terms and conditions of the contract, quantity received, unit acquisition cost, unique-item identifier, accountable contract number, location, disposition, and posting reference and date of transaction.
4. A physical inventory must be periodically performed, recorded, and disclosed. Except as provided for in the contract, the non-federal entity must not dispose of inventory until authorized by the federal awarding agency. The non-federal entity may purchase the property at the unit acquisition cost if desired or make reasonable efforts to return unused property to the appropriate supplier at fair market value.

Source of Governing Requirements

The requirements for equipment and real property are contained in 2 CFR section 200.313 (equipment), 2 CFR section 200.311 (real property), 48 CFR section 52.245-1 (equipment and real property), program legislation, federal awarding agency regulations, and the terms and conditions of the federal award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).
2. Determine whether the non-federal entity maintains proper records for equipment and adequately safeguards and maintains equipment.

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3. Determine whether disposition or encumbrance of any equipment or real property acquired or improved under federal awards is in accordance with federal requirements and that the federal awarding agency was properly compensated for its portion of any property sold or converted to non-federal use.

Suggested Audit Procedures – Internal Control

1. Perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for equipment and real property management and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR section 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR section 200.516, assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

States – Grants and Cooperative Agreements Only

1. Select a sample of equipment transactions acquired under federal awards and test for compliance with the state's policies and procedures for management and disposition of equipment.

Non-Federal Entities Other than States and States with Cost-Reimbursement Contracts under the FAR

2. Inventory Management of Equipment Acquired Under Federal Awards
 - a. Identify equipment acquired and trace selected purchases to the property records. Verify that the property records contain the required information.
 - b. Verify that the required physical inventory of equipment was performed. Test whether any differences between the physical inventory and equipment records were resolved.
 - c. Select a sample from all equipment acquired under federal awards from the property records and physically inspect the equipment and determine whether the equipment is appropriately safeguarded and maintained.

3. Disposition of Equipment Acquired Under Federal Awards

- a. Identify equipment dispositions for the audit period and perform procedures to verify that the dispositions of equipment acquired under federal awards were properly reflected in the property records.
- b. For dispositions of equipment acquired under grants and cooperative agreements with a current per-unit fair market value of \$5,000 or more, verify whether the federal awarding agency was reimbursed for the federal portion of the current market value or sales proceeds.
- c. For dispositions of equipment acquired under cost-reimbursement contracts, verify that the non-federal entity followed federal awarding agency disposition instructions.

4. Disposition of Real Property Acquired Under Federal Awards

- a. Identify real property dispositions for the audit period and determine whether such real property was acquired or improved under federal awards.
- b. For dispositions of real property acquired or improved under federal awards, perform procedures to verify that the non-federal entity followed the instructions of the federal awarding agency or pass-through entity, which normally require reimbursement to the federal awarding agency for the federal portion of net sales proceeds or fair market value at the time of disposition, as applicable.

MATCHING, LEVEL OF EFFORT, EARMARKING

Compliance Requirements

The specific requirements for matching, level of effort, and earmarking are unique to each federal program and are found in the statutes, regulations, and the terms and conditions of awards pertaining to the program.

However, for matching, 2 CFR section 200.306 provides detailed criteria for acceptable costs and contributions. The following is a list of the basic criteria for acceptable matching:

- Are verifiable from the non-federal entity's records;
- Are not included as contributions for any other federal award;
- Are necessary and reasonable for accomplishment of project or program objectives;
- Are allowed under 2 CFR part 200, subpart E (Cost Principles);
- Are not paid by the federal government under another award, except where the federal statute authorizing a program specifically provides that federal funds made available for such program can be applied to matching or cost sharing requirements of other federal programs;
- Are provided for in the approved budget when required by the federal awarding agency; and
- Conform to other provisions of this part, as applicable.

“Matching,” “level of effort,” and “earmarking” are defined as follows:

1. *Matching* or cost sharing includes requirements to provide contributions (usually non-federal) of a specified amount or percentage to match federal awards. Matching may be in the form of allowable costs incurred or in-kind contributions (including third-party in-kind contributions).
2. *Level of effort* includes requirements for (a) a specified level of service to be provided from period to period, (b) a specified level of expenditures from non-federal or federal sources for specified activities to be maintained from period to period, and (c) federal funds to supplement and not supplant non-federal funding of services.
3. *Earmarking* includes requirements that specify the minimum and/or maximum amount or percentage of the program's funding that must/may be used for specified activities, including funds provided to subrecipients. Earmarking may also be specified in relation to the types of participants covered.

Source of Governing Requirements

The requirements for matching are contained in 2 CFR section 200.306, program legislation, federal awarding agency regulations, and the terms and conditions of the award. The requirements for level of effort and earmarking are contained in program legislation, federal awarding agency regulations, and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).
2. *Matching* – Determine whether the minimum amount or percentage of contributions or matching funds was provided.
3. *Level of Effort* – Determine whether specified service or expenditure levels were maintained.
4. *Earmarking* – Determine whether minimum or maximum limits for specified purposes or types of participants were met.

Suggested Audit Procedures – Internal Control

1. Perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for matching, level of effort, earmarking and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR section 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR section 200.516, assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

1. Matching

- a. Perform tests to verify that the required matching contributions were met.
- b. Ascertain the sources of matching contributions and perform tests to verify that they were from an allowable source.

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- c. Test records to corroborate that the values placed on in-kind contributions (including third party in-kind contributions) are in accordance with 2 CFR sections 200.306, 200.434, and 200.414, and the terms and conditions of the award.
 - d. Test transactions used to match for compliance with the allowable costs/cost principles requirements. This test may be performed in conjunction with the testing of the requirements related to allowable costs/cost principles.

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

- a. Identify the required level of effort and perform tests to verify that the level of effort requirement was met.
- b. Perform test to verify that only allowable categories of expenditures or other effort indicators (e.g., hours, number of people served) were included in the computation and that the categories were consistent from year to year. For example, in some programs, capital expenditures may not be included in the computation.
- c. Perform procedures to verify that the amounts used in the computation were derived from the books and records from which the audited financial statements were prepared.
- d. Perform procedures to verify that non-monetary effort indicators were supported by official records.

2.2 Level of Effort – *Supplement Not Supplant*

- a. Ascertain if the non-federal entity used federal funds to provide services which they were required to make available under federal, state, or local law and were also made available by funds subject to a supplement not supplant requirement.
- b. Ascertain if the non-federal entity used federal funds to provide services which were provided with non-federal funds in the prior year.
 - (1) Identify the federally funded services.
 - (2) Perform procedures to determine whether the federal program funded services that were previously provided with non-federal funds.
 - (3) Perform procedures to ascertain if the total level of services applicable to the requirement increased in proportion to the level of federal contribution.

3. Earmarking

- a. Identify the applicable percentage or dollar requirements for earmarking.
- b. Perform procedures to verify that the amounts recorded in the financial records met the requirements (e.g., when a minimum amount is required to be spent for a specified type of service, perform procedures to verify that the financial records show that at least the minimum amount for this type of service was charged to the program; or, when the amount spent on a specified type of service may not exceed a maximum amount, perform procedures to verify that the financial records show no more than this maximum amount for the specified type of service was charged to the program).
- c. When earmarking requirements specify a minimum percentage or amount, select a sample of transactions supporting the specified amount or percentage and perform tests to verify proper classification to meet the minimum percentage or amount.
- d. When the earmarking requirements specify a maximum percentage or amount, review the financial records to identify transactions for the specified activity which were improperly classified in another account (e.g., if only 10 percent may be spent for administrative costs, review accounts for other than administrative costs to identify administrative costs which were improperly classified elsewhere and cause the maximum percentage or amount to be exceeded).
- e. When earmarking requirements prescribe the minimum number or percentage of specified types of participants that can be served, select a sample of participants that are counted toward meeting the minimum requirement and perform tests to verify that they were properly classified.
- f. When earmarking requirements prescribe the maximum number or percentage of specified types of participants that can be served, select a sample of other participants and perform tests to verify that they were not of the specified type.

PERIOD OF PERFORMANCE

Compliance Requirements

A non-federal entity may charge to the federal award only allowable costs incurred during the period of performance and any costs incurred before the federal awarding agency or pass-through entity made the federal award that were authorized by the federal awarding agency or pass-through entity (2 CFR section 200.309).

Unless the federal awarding agency or pass-through entity authorizes an extension, a non-federal entity must liquidate all obligations incurred under the federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the federal award (2 CFR section 200.343(b)). When used in connection with a non-federal entity's utilization of funds under a federal award, "obligations" means orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-federal entity during the same or a future period (2 CFR section 200.71).

Source of Governing Requirements

The requirements for the period of performance are contained in 2 CFR section 200.71 (definition of "obligations"), 2 CFR section 200.77 (definition of "period of performance"), 2 CFR section 200.309 (period of performance), 2 CFR section 200.343 (closeout), program legislation, federal awarding agency regulations; and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).
2. Determine whether the federal award was only charged for: (a) allowable costs incurred during the period of performance; or (b) costs incurred prior to the date the federal award was made that were authorized by the federal awarding agency or pass-through entity.
3. Determine whether obligations were liquidated within the required time period.

Suggested Audit Procedures – Internal Control

1. Perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for the period of performance and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR section 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR section 200.516, assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.

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3. Consider the results of the testing of internal control in assessing the remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

1. Review the award documents and regulations pertaining to the program and determine any award-specific requirements related to the period of performance.
2. For federal awards with performance period beginning dates during the audit period, test transactions for costs recorded during the beginning of the period of performance and verify that the costs were not incurred prior to the start of the period of performance unless authorized by the federal awarding agency or the pass-through entity.
3. For federal awards with performance period ending dates during the audit period, test transactions for costs recorded during the latter part and after the period of performance and verify that the costs had been incurred within the period of performance.
4. For federal awards with performance period ending dates during the audit period, test transactions for federal award costs for which the obligation had not been liquidated (payment made) as of the end of the period of performance and verify that the liquidation occurred within the allowed time period.
5. Test adjustments (e.g., manual journal entries) for federal award costs and verify that these adjustments were for transactions that occurred during the period of performance.

PROCUREMENT AND SUSPENSION AND DEBARMENT

Compliance Requirements - Procurement

1. Procurement—Grants and Cooperative Agreements

States

When procuring property and services, states must use the same policies and procedures they use for procurements from their non-federal funds (2 CFR section 200.317).

Non-Federal Entities Other than States

Non-federal entities other than states, including those operating federal programs as subrecipients of states, must follow the procurement standards set out at 2 CFR sections 200.318 through 200.326. They must use their own documented procurement procedures, which reflect applicable state and local laws and regulations, provided that the procurements conform to applicable federal statutes and the procurement requirements identified in 2 CFR part 200. A non-federal entity must:

1. Meet the general procurement standards in 2 CFR section 200.318, which include oversight of contractors' performance, maintaining written standards of conduct for employees involved in contracting, awarding contracts only to responsible contractors, and maintaining records to document history of procurements.
2. Conduct all procurement transactions in a manner providing full and open competition, in accordance with 2 CFR section 200.319.
3. Use the micro-purchase and small purchase methods only for procurements that meet the applicable criteria under 2 CFR sections 200.320(a) and (b). Under the micro-purchase method, the aggregate dollar amount does not exceed \$3,500 (\$2,000 in the case of acquisition for construction subject to the Wage Rate Requirements (Davis-Bacon Act)). Small purchase procedures are used for purchases that exceed the micro-purchase amount but do not exceed the simplified acquisition threshold. Micro-purchases may be awarded without soliciting competitive quotations if the non-federal entity considers the price to be reasonable (2 CFR section 200.320(a)). If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources (2 CFR section 200.320(b)). See discussion regarding higher thresholds for micro-purchase and small purchase methods in the NDAA 2017 and 2018 sections in this Part.
4. For acquisitions exceeding the simplified acquisition threshold, the non-federal entity must use one of the following procurement methods: the sealed bid method if the acquisition meets the criteria in 2 CFR section 200.320(c); the competitive proposals method under the conditions specified in 2 CFR section 200.320(d); or the noncompetitive proposals method (i.e., solicit a proposal from only one source) but only when one or more of four circumstances are met, in accordance with 2 CFR section 200.320(f).

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5. Perform a cost or price analysis in connection with every procurement action in excess of the simplified acquisition threshold, including contract modifications (2 CFR section 200.323(a)). The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used (2 CFR section 200.323(d)).
 6. Ensure that every purchase order or other contract includes applicable provisions required by 2 CFR section 200.326. These provisions are described in Appendix II to 2 CFR part 200, “Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.”
- 2. Procurement—Cost-Reimbursement Contracts under the Federal Acquisition Regulation**

When awarding subcontracts, non-federal entities receiving cost-reimbursement contracts under the FAR must comply with the clauses at 48 CFR section 52.244-2 (consent to subcontract), 52.244-5 (competition), 52.203-13 (code of business ethics), 52.203-16 (conflicts of interest), and 52.215-12 (cost or pricing data); and the terms and conditions of the contract. The FAR defines “subcontracts” as a contract, i.e., a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

Source of Governing Requirements – Procurement

The requirements that apply to procurement under grants and cooperative agreements are contained in 2 CFR sections 200.317 through 200.326, program legislation, federal awarding agency regulations, and the terms and conditions of the award. The requirements that apply to procurement under cost-reimbursement contracts under the FAR are contained in 48 CFR parts 03, 15, 44 and the clauses at 48 CFR sections 52.244-2, 52.244-5, 52.203-13, 52.203-16, and 52.215-12; agency FAR Supplements; and the terms and conditions of the contract.

Compliance Requirements – Suspension and Debarment

Non-federal entities are prohibited from contracting with or making subawards under covered transactions to parties that are suspended or debarred. “Covered transactions” include contracts for goods and services awarded under a non-procurement transaction (e.g., grant or cooperative agreement) that are expected to equal or exceed \$25,000 or meet certain other criteria as specified in 2 CFR section 180.220. All non-procurement transactions entered into by a pass-through entity (i.e., subawards to subrecipients), irrespective of award amount, are considered covered transactions, unless they are exempt as provided in 2 CFR section 180.215.

When a non-federal entity enters into a covered transaction with an entity at a lower tier, the non-federal entity must verify that the entity, as defined in 2 CFR section 180.995 and agency adopting regulations, is not suspended or debarred or otherwise excluded from participating in the transaction. This verification may be accomplished by (1) checking the System for Award Management (SAM) Exclusions maintained by the General Services Administration (GSA) and available at <https://www.sam.gov/SAM/> (click on Search Record, then click on Advanced

Search-Exclusions) (**Note:** The OMB guidance at 2 CFR part 180 and agency implementing regulations still refer to the SAM Exclusions as the Excluded Parties List System (EPLS)), (2) collecting a certification from the entity, or (3) adding a clause or condition to the covered transaction with that entity (2 CFR section 180.300).

Non-federal entities receiving contracts from the federal government are required to comply with the contract clause at FAR 52.209-6 before entering into a subcontract that will exceed \$30,000, other than a subcontract for a commercially available off-the-shelf item.

Source of Governing Requirements – Suspension and Debarment

The requirements for nonprocurement suspension and debarment are contained in OMB guidance in 2 CFR part 180, which implements Executive Orders 12549 and 12689, “Debarment and Suspension;” federal awarding agency regulations in Title 2 of the CFR adopting/implementing the OMB guidance in 2 CFR part 180; program legislation; and the terms and conditions of the award.

Most federal agencies have adopted or implemented 2 CFR part 180, generally by relocating their associated agency rules in Title 2 of the CFR. Appendix II to the Supplement includes the current CFR citations for all agencies adoption or implementation of the nonprocurement suspension and debarment guidance.

Government-wide requirements related to suspension and debarment and doing business with suspended or debarred subcontractors under cost reimbursement contracts under the FAR are contained in 48 CFR section 9.405-2(b) and the clause at 48 CFR section 52.209-6.

National Defense Authorization Act (NDAA) of 2017 and 2018

The following information is provided regarding timing and impact of the NDAA of 2017 and 2018. Additional guidance to the auditor is provided in Appendix VII-A – “Other Audit Advisories” of the Supplement.

NDAA of 2017

The NDAA of 2017, Section 217 (Pub. L. No. 114-328, 130 Stat. 6 (2016)) and 41 USC 1902(a)(2) contained the following provisions.

- Raise the micro-purchase threshold to \$10,000 for procurements under grants and cooperative agreements to institutions of higher education or related or affiliated nonprofit entities, independent research institutes and nonprofit research organizations.
- Allow a threshold higher than \$10,000 as determined appropriate by the head of the relevant executive agency.

The provisions of this Act are specific to institutions of higher education or related or affiliated nonprofit entities, independent research institutes and nonprofit research organizations. Official OMB guidance M-18-18 (<https://www.whitehouse.gov/wp-content/uploads/2018/06/M-18-18.pdf>) was issued on June 20, 2018, and indicated that the effective date of this Act was when

the NDAA 2017 was signed into law on December 23, 2016. It also states that the non-federal entity must document this decision in its internal procurement policies.

Note that the exception for higher micro-purchase threshold is *not available to ALL auditees* and that when implemented by eligible auditees, it would apply to procurements purchased under ALL federal grants and cooperative agreements.

Institutions of higher education, or related or affiliated nonprofit entities, independent research institutes and nonprofit research organizations also can request micro-purchase threshold higher than \$10,000, but in accordance with OMB M-18-18, it would need a formal approval from the entity's cognizant federal agency for indirect cost rates. Once approved, the non-federal entity must document this decision to use the higher threshold in its internal procurement policies.

NDAA of 2018

The NDAA of 2018, Sections 805 (41 USC 134) and 806 (41 USC 1902 (a) (1)), increased the simplified acquisition threshold to \$250,000 and the micro-purchase threshold to \$10,000, respectively. These changes effectively redefine the level for the simplified acquisition threshold (section 200.88 of the Uniform Guidance) and the micro-purchase threshold (section 200.67 of the Uniform Guidance). These changes will become effective when they are formally codified in the Federal Acquisition Regulations (FAR) (proposed 10/02/2019, 84 FR 52420).

Once codified, the higher thresholds will be available to all auditees. The non-federal entity must document this decision to use the higher thresholds in its internal procurement policies.

OMB M-18-18 allows the federal agencies to permit the use of the higher thresholds by the grant recipients and states that "agencies should apply this exception to all recipients." This action allows the maximum flexibility to grant recipients for early implementation, effectively June 20, 2018, with the approval of the federal cognizant agency for indirect costs rates. Grant recipients should document any change based on this exception in its internal procurement policies. Also see Appendix VII of this Supplement related to audit findings.

Availability of Other Information

2 CFR section 200.110(a), Effective/Applicability Date was amended on May 17, 2017, to allow non-federal entities to continue to comply with the procurement standards in OMB Circular A-110 or the A-102 common rule, as applicable, through December 25, 2017, extending the grace period from two years to three years. Implementation of the procurement standards in 2 CFR sections 200.317 through 200.326 was required for auditee fiscal years beginning on or after December 26, 2017. For example, for a non-federal entity with a June 30th year end, implementation was required for its fiscal year beginning July 1, 2018.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).

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2. Determine whether procurements under federal awards were made in compliance with applicable federal regulations and other procurement requirements specific to an award or subaward.
 3. For covered transactions determine whether the non-federal entity verified that entities are not suspended, debarred, or otherwise excluded.

Suggested Audit Procedures – Internal Control

1. Perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for procurement and suspension and debarment requirements and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR section 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR section 200.516, assessing the control risk at the maximum and considering whether additional compliance tests are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

(Procedure 1 applies only to states under grants and cooperative agreements.)

1. Test a sample of procurements to ascertain if the state's laws and procedures were followed and that the policies and procedures used were the same as for non-federal funds (2 CFR section 200.317).

(Procedures 2 – 5 apply to non-federal entities other than states.)

2. Obtain the entity's procurement policies and verify that the policies comply with the compliance requirements highlighted above.
3. Verify that the entity has written standards of conduct that cover conflicts of interest and govern the performance of its employees engaged in the selection, award, and administration of contracts (2 CFR section 200.318(c) and 48 CFR sections 52.203-13 and 52.303-16).
4. Ascertain if the entity has a policy to use statutorily or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals. If yes, verify that these limitations were not applied to federally funded procurements except where applicable federal statutes expressly mandate or encourage geographic preference (2 CFR section 200.319(b)).

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5. Select a sample of procurements and perform the following procedures:
- a. Examine contract files and verify that they document the history of the procurement, including the rationale for the method of procurement, selection of contract type, basis for contractor selection, and the basis for the contract price (2 CFR section 200.318(i) and 48 CFR part 44 and section 52.244-2).
 - b. For grants and cooperative agreements, verify that the procurement method used was appropriate based on the dollar amount and conditions specified in 2 CFR section 200.320. Current micro-purchase and simplified acquisition thresholds can be found in the FAR (48 CFR subpart 2.1, “Definitions”).
 - c. Verify that procurements provide full and open competition (2 CFR section 200.319 and 48 CFR section 52.244-5).
 - d. Examine documentation in support of the rationale to limit competition in those cases where competition was limited and ascertain if the limitation was justified (2 CFR sections 200.319 and 200.320(f) and 48 CFR section 52.244-5).
 - e. Ascertain if cost or price analysis was performed in connection with all procurement actions exceeding the simplified acquisition threshold, including contract modifications, and that this analysis supported the procurement action (2 CFR section 200.323 and 48 CFR section 15.404-3).

Note: A cost or price analysis is required for each procurement action, including each contract modification, when the total amount of the contract and related modifications is greater than the simplified acquisition threshold.

- f. Verify consent to subcontract was obtained when required by the terms and conditions of a cost reimbursement contract under the FAR (48 CFR section 52.244-2).

Note: If the non-federal entity has an approved purchasing system, consent to subcontract may not be required unless specifically identified by contract terms or conditions. The auditor should verify that the approval of the purchasing system is effective for the audit period being reviewed.

- g. Refer to Appendix VII for guidance on reporting audit test results during the implementation periods for the National Defense Authorization Acts of 2017 and 2018.

(Procedures 6 and 7 apply to all non-federal entities.)

6. Review the non-federal entity's procedures for verifying that an entity with which it plans to enter into a covered transaction is not debarred, suspended, or otherwise excluded (2 CFR sections 200.212 and 200.318(h); 2 CFR section 180.300; 48 CFR section 52.209-6).
7. Select a sample of procurements and subawards and test whether the non-federal entity followed its procedures before entering into a covered transaction.

PROGRAM INCOME

Compliance Requirements

Program income is gross income earned by a non-federal entity that is directly generated by a supported activity or earned as a result of the federal award during the period of performance (unless there is a requirement for disposition of program income after the end of the period of performance as provided in 2 CFR section 200.307(f)).

Program income (2 CFR section 200.80) includes, but is not limited to income from:

- Fees for services performed,
- The use or rental of real or personal property acquired under federal awards,
- The sale of commodities or items fabricated under federal awards,
- License fees and royalties on patents and copyrights, except as provided below, and
- Principal and interest on loans made with federal award funds.

Program income does *not* include:

- Interest earned on advances of federal funds.
- Except as otherwise provided in federal statutes, regulations or the terms and conditions of the federal award, rebates, credits, discounts and interest earned on any of them.
- Taxes, special assessments, levies, fines, and other such revenues raised by a non-federal entity, unless the federal award or federal awarding agency regulations specifically identify the revenues as program income (2 CFR section 200.307(c)).
- The proceeds from the sale of equipment or real property acquired in whole or in part under the federal award (2 CFR section 200.307(d)).
- Royalties or income earned by an institution of higher education or a nonprofit organization on inventions conceived or first actually reduced to practice in the performance of work under a funding agreement with a federal agency that is shared with the inventor (2 CFR section 200.307(g); 37 CFR sections 401.2 and 401.14(k); 35 USC 201(i), and 35 USC 202(c)(7)(B)).

If authorized by federal regulations or the federal award, costs incidental to the generation of program income may be deducted from gross income to determine program income, provided those costs have not been charged to the federal award (2 CFR section 200.307(b)).

Program income may be used in any of the following three methods, consistent with 2 CFR section 200.307(e):

1. *Deduction*

Program income is deducted from total allowable costs in order to determine the net allowable costs, rather than to increase the funds committed to the project. This method must be used if the federal awarding agency has given no prior approval for how program income is to be used and its regulations and the terms and conditions of the federal award are silent on this matter. Where this method is used, program income must be applied to current costs unless the federal awarding agency authorizes otherwise (2 CFR section 200.307(e)(1)).

2. *Addition*

With prior approval of the federal awarding agency, program income may be added to the federal award by the federal agency and the non-federal entity. This method must be used for federal awards to institutions of higher education and nonprofit research institutions if the federal awarding agency does not specify in its regulations or the terms and conditions of the federal award how program income is to be used (2 CFR section 200.307(e)(2)).

3. *Cost Sharing or Matching*

With prior approval of the federal awarding agency, program income may be used to meet the cost sharing or matching requirement of the federal award. The amount of the federal award remains the same (2 CFR section 200.307(e)(3)).

Unless federal awarding agency regulations or the terms and conditions of the federal award specify otherwise, non-federal entities have no obligation to the federal government regarding program income earned after the end of the period of performance (2 CFR section 200.307(f)).

Source of Governing Requirements

The requirements that apply to program income are contained in 2 CFR section 200.80 (definition of “program income”), 2 CFR section 200.307 (program income), program legislation, federal awarding agency regulations, and the terms and conditions of the federal award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).
2. Determine whether program income is correctly determined, recorded, and used in accordance with applicable governing requirements.

Suggested Audit Procedures – Internal Control

1. Perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for program income and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR section 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR section 200.516, assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

1. *Identify Program Income*
 - a. Review the statutes, regulations, and terms and conditions of the federal award applicable to the program and ascertain if program income was anticipated. If so, ascertain the requirements for determining or assessing the amount of program income (e.g., a scale for determining user fees, prohibition of assessing fees against certain groups of individuals), and the requirements for recording and using program income.
 - b. Inquire of management and review accounting records to ascertain if program income was received.
2. *Determining or Assessing Program Income* – Perform tests to verify that program income was properly determined or calculated in accordance with stated criteria, and that amounts collected were classified as program income only if collected from allowable sources.
3. *Recording of Program Income* – Perform tests to verify that all program income was properly recorded in the accounting records.
4. *Use of Program Income* – Perform tests to ascertain if program income was used in accordance with 2 CFR section 200.307(e) and the program requirements set by the federal awarding agency in its regulations and the terms and conditions of the award.

REPORTING

Compliance Requirements

For purposes of programs included in this Supplement, the designation “Not Applicable” in relation to “Financial Reporting,” “Performance Reporting,” and “Special Reporting” means that the auditor is not expected to audit anything in these categories, whether or not award terms and conditions may require such reporting.

Financial Reporting

Recipients must use the standard financial reporting forms or such other forms as may be authorized by OMB (approval is indicated by an OMB paperwork control number on the form) when reporting to the federal awarding agency. Each recipient must report program outlays and program income on a cash or accrual basis, as prescribed by the federal awarding agency. If the federal awarding agency requires reporting of accrual information and the recipient’s accounting records are not normally maintained on the accrual basis, the recipient is not required to convert its accounting system to an accrual basis but may develop such accrual information through analysis of available documentation. The federal awarding agency may accept identical information from the recipient in machine-readable format, computer printouts, or electronic outputs in lieu of closed formats or on paper.

Similarly, a pass-through entity must not require a subrecipient to establish an accrual accounting system and must allow the subrecipient to develop accrual data for its reports on the basis of an analysis of available documentation.

The financial reporting requirements for subrecipients are as specified by the pass-through entity. In many cases, these will be the same as or similar to those for recipients.

The standard financial reporting forms for grants and cooperative agreements are as follows:

- *Request for Advance or Reimbursement (SF-270) (OMB No. 0348-0004)).* Recipients are required to use the SF-270 to request reimbursement payments under non-construction programs, and may be required to use it to request advance payments.
- *Outlay Report and Request for Reimbursement for Construction Programs (SF-271) (OMB No. 0348-0002)).* Recipients use the SF-271 to request funds for construction projects unless they are paid in advance or the SF-270 is used.
- *Federal Financial Report (FFR) (SF-425/SF-425A) (OMB No. 0348-0061)).* Recipients use the FFR as a standardized format to report expenditures under federal awards, as well as, when applicable, cash status (Lines 10.a, 10.b, and 10c). References to this report include its applicability as both an expenditure and a cash status report unless otherwise indicated.

Electronic versions of the standard forms are located on agency’s home page.

Financial reporting requirements for cost reimbursement contracts subject to the FAR are contained in the terms and conditions of the contract.

Performance and Special Reporting

Non-federal entities may be required to submit performance reports at least annually but not more frequently than quarterly, except in unusual circumstances, using a form or format authorized by OMB (2 CFR section 200.328(b)(1)). They also may be required to submit special reports as required by the terms and conditions of the federal award.

Compliance testing of performance and special reporting are only required for data that are quantifiable and meet the following criteria:

1. Have a direct and material effect on the program.
2. Are capable of evaluation against objective criteria stated in the statutes, regulations, contract or grant agreements pertaining to the program.

Source of Governing Requirements

Reporting requirements are contained in the following:

1. Financial reporting, 2 CFR section 200.327.
2. Monitoring and reporting program performance, 2 CFR section 200.328.
3. Program legislation.
4. Federal awarding agency regulations.
5. The terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).
2. Determine whether required reports for federal awards include all activity of the reporting period, are supported by applicable accounting or performance records, and are fairly presented in accordance with governing requirements.

Suggested Audit Procedures – Internal Control

1. Perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for reporting and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR section 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR section 200.516, assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

SUBRECIPIENT MONITORING

Note: Transfers of federal awards to another component of the same auditee under 2 CFR part 200, subpart F, do not constitute a subrecipient or contractor relationship.

Compliance Requirements

A pass-through entity (PTE) must:

- *Identify the Award and Applicable Requirements* – Clearly identify to the subrecipient: (1) the award as a subaward at the time of subaward (or subsequent subaward modification) by providing the information described in 2 CFR section 200.331(a)(1); (2) all requirements imposed by the PTE on the subrecipient so that the federal award is used in accordance with federal statutes, regulations, and the terms and conditions of the award (2 CFR section 200.331(a)(2)); and (3) any additional requirements that the PTE imposes on the subrecipient in order for the PTE to meet its own responsibility for the federal award (e.g., financial, performance, and special reports) (2 CFR section 200.331(a)(3)).
- *Evaluate Risk* – Evaluate each subrecipient’s risk of noncompliance for purposes of determining the appropriate subrecipient monitoring related to the subaward (2 CFR section 200.331(b)). This evaluation of risk may include consideration of such factors as the following:
 1. The subrecipient’s prior experience with the same or similar subawards;
 2. The results of previous audits including whether or not the subrecipient receives single audit in accordance with 2 CFR part 200, subpart F, and the extent to which the same or similar subaward has been audited as a major program;
 3. Whether the subrecipient has new personnel or new or substantially changed systems; and
 4. The extent and results of federal awarding agency monitoring (e.g., if the subrecipient also receives federal awards directly from a federal awarding agency).
- *Monitor* – Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, complies with the terms and conditions of the subaward, and achieves performance goals (2 CFR sections 200.331(d) through (f)). In addition to procedures identified as necessary based upon the evaluation of subrecipient risk or specifically required by the terms and conditions of the award, subaward monitoring must include the following:
 1. Reviewing financial and programmatic (performance and special reports) required by the PTE.

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2. Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the federal award provided to the subrecipient from the PTE detected through audits, on-site reviews, and other means.
 3. Issuing a management decision for audit findings pertaining to the federal award provided to the subrecipient from the PTE as required by 2 CFR section 200.521.
- *Ensure Accountability of For-Profit Subrecipients* – Some federal awards may be passed through to for-profit entities. For-profit subrecipients are accountable to the PTE for the use of the federal funds provided. Because 2 CFR part 200 does not make subpart F applicable to for-profit subrecipients, the PTE is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients for the subaward. The agreement with the for-profit subrecipient must describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the agreement, and post-award audits (2 CFR section 200.501(h)).

Source of Governing Requirements

The requirements for subrecipient monitoring for the subaward are contained in 31 USC 7502(f)(2) (Single Audit Act Amendments of 1996 (Pub. L. No. 104-156)), 2 CFR sections 200.330, .331, and .501(h); federal awarding agency regulations; and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).
2. Determine whether the PTE identified the subaward and applicable requirements at the time of the subaward (or subsequent subaward modification) in the terms and conditions of the subaward and other award documents sufficient for the PTE to comply with federal statutes, regulations, and the terms and conditions of the federal award.
3. Determine whether the PTE monitored subrecipient activities to provide reasonable assurance that the subrecipient administered the subaward in compliance with the terms and conditions of the subaward.

Suggested Audit Procedures – Internal Control

1. Perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.

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2. Plan the testing of internal control to support a low assessed level of control risk for subrecipient monitoring and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR section 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR section 200.516, assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
 3. Consider the results of the testing of internal control in assessing the remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

1. Review the PTE's subrecipient monitoring policies and procedures to gain an understanding of the PTE's process to identify subawards, evaluate risk of noncompliance, and perform monitoring procedures based upon identified risks.
2. Review subaward documents including the terms and conditions of the subaward to ascertain if, at the time of subaward (or subsequent subaward modification), the PTE made the subrecipient aware of the award information required by 2 CFR section 200.331(a) sufficient for the PTE to comply with federal statutes, regulations, and the terms and conditions of the award.
3. Review the PTE's documentation of monitoring the subaward and consider if the PTE's monitoring provided reasonable assurance that the subrecipient used the subaward for authorized purposes in compliance with federal statutes, regulations, and the terms and conditions of the subaward.
4. Ascertain if the PTE verified that subrecipients expected to be audited as required by 2 CFR part 200, subpart F, met this requirement (2 CFR section 200.331(f)). This verification may be performed as part of the required monitoring under 2 CFR section 200.331(d)(2) to ensure that the subrecipient takes timely and appropriate action on deficiencies detected through audits.

SPECIAL TESTS AND PROVISIONS

Compliance Requirements

The specific requirements for Special Tests and Provisions are unique to each federal program and are found in the statutes, regulations, and the provisions of contract or grant agreements pertaining to the program.

Internal Control

The following audit objective and suggested audit procedures should be considered in tests of special tests and provisions in addition to those provided.

Audit Objectives

Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).

Suggested Audit Procedures

1. Perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for special tests and provisions and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in 2 CFR section 200.514(c)(4), including reporting a significant deficiency or material weakness in accordance with 2 CFR section 200.516, assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the remaining risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Approved and Directed by:

Monte Gore

Monte Gore
Colfax County Manager

DATED: June 13, 2024



Colfax County Travel Policy

July 1, 2024

Updated – July 1, 2023

Updated – July 12, 2022

Updated - July 12, 2021

GENERAL PURPOSE: The purpose of this policy is to establish standards for the travel and per- diem acquired by Colfax County.

DEFINITIONS:

- A. "Designated post of duty" means the address of a public officer's or employee's assignment, such as County Seat, designated workplace, office, etc. Designated post of duty does not include a place of residence.
- B. "Travel" means for per diem purposes, being on official business away from home and at least 35 miles from the designated post of duty of the public officer or employee.
- C. "Home" means, (1) for per diem purposes, the area within a 35-mile radius of the place of legal residence; (2) for mileage purposes, the place of legal residence.
- D. "County" means Colfax County.
- E. "Private Transportation" means an automobile owned by an individual for private use.
- F. "Public Transportation" means an automobile owned by Colfax County that is insurance coverage. Any network of transportation for use by the public running on set routes, usually at set times and changing set fares.
- G. "Official County Business" means business directly associated with County Government and duties directly related to the primary functions of the requestor's responsibilities in the County Government.
- H. "Partial Day" means travel which does not require overnight lodging, but extends beyond a normal workday, OR the last day of travel where overnight lodging is no longer required.
- I. "Normal Workday" for partial day per diem purposes, mean eight (8) hours within a nine (9) hour period for all public officers and employees, both salaried and non-salaried, regardless of the of the employees' regular work schedule.

PER DIEM:

Colfax County only pays per diem for meals.

PER DIEM MEALS:

NMSA 1978 Section 10-8-4, Subsection K states that meals will be paid at an amount not to exceed:

In-state travel meal expense - fifty-nine dollars (\$59.00) per day
Out-of-state travel meal expense - fifty-nine dollars (\$59.00) per day

All elected officials, department heads, and county employees are encouraged to complete a travel request form.

MILEAGE:

Mileage will be reimbursed at the following rate as specified in Section 10-8-4 Subsection D. Fifty-six cents (\$.56) per mile for each mile traveled in a privately owned vehicle.

Eighty-eight cents (\$.88) for each mile traveled in a privately owned airplane.

Mileage accrued shall be reimbursed at the rate set forth as followed:

1. Rand-McNally (<http://maps.randmcnally.com/mileage-calculator.do>) road atlas for distances inside and outside of New Mexico; or
2. Mileage will be determined by designated post of duty in accordance with NMAC 2.42.2.11. If official business is transacted while commuting from home to post of duty or from post of duty to home, mileage shall not be paid for the number of miles between the post of duty and home; or
3. In determining mileage, you may also use address to address only to and from official county business when on business travel.

When at all possible, use of a county vehicle is encouraged when traveling for county business.

If personal vehicles are used, carpools are encouraged in safe and comfortable numbers for county business.

Mileage reimbursements must be requested on a Travel Request/Reimbursement Form.

County Commission will have authority to approve "actual only" reimbursement due to budget constraints or if the County Commission declares the County to be

in a hardship status, Department heads will be notified and put in place for the Commission to fulfill their fiduciary responsibility.

Elected Officials and county employees may not be eligible for mileage reimbursement if a county vehicle is made available for use during travel. Exceptions to this must have elected official or department head approval prior to travel.

Mileage can be reimbursed at 80% prior to travel and 20% after return or 100% in full after an employee returns.

Rental cars should be acquired at government rates or lower.

COUNTY DAY TRAVEL:

Travel Requests/Reimbursement Forms for day travel WITHIN the County are NOT required but are required for day travel outside the county. Day travel within the County must have prior approval.

County employees must request and obtain approval from the Department Head for any day travel outside the boundaries of Colfax County. A copy of the approved Travel Request/Reimbursement Form must accompany any reimbursements along with back up documentation of purpose of travel.

According to NMAC 2.42.2.8:

County day travel will be on partial day meal rates:

1. for less than 2 hours of travel beyond normal workday, none
2. for 2 hours, but less than 6 hours beyond normal workday, \$20.00
3. for 6 hours, but less than 12 hours beyond normal workday, \$42.00
4. for 12 hours or more beyond the normal workday, \$59.00
5. "Normal workday" means 8 hours within a nine-hour period for all public officers and employees of both salaried and non-salaried, regardless of the officers' or employees' regular work schedule.
6. "Occasionally and irregularly" means not on a regular basis and infrequently as determined by the agency. For example, an employee is not entitled to meal rates under this subparagraph if the employee either travels once a week or travels every fourth Thursday of the month. However, the

employee is entitled to meal rates under this subparagraph if the employee either travels once a month with irregular destinations and at irregular times and travels four times in one month and then does not travel again the next two months, so long as this is not a regular pattern.

If an employee is required and/or authorized to attend an official function, school, class, seminar, or meeting, outside the county and it is necessary to pay for a meal during this function, the employee may pay with their own money or apply for reimbursement for the actual cost of the meal plus an allowed tip (20% gratuity). An itemized receipt of the guest check must accompany the request for reimbursement. All meal receipts for meetings must include the purpose of the meeting and back up documentation ie, meeting agenda.

Elected officials and county employees must request and obtain approval for any day travel outside the boundaries of Colfax County. Requests for out of county travel must be submitted to the County Manager's office on an approved Travel Request/Reimbursement Form.

The county shall comply with the requirements of the New Mexico Per Diem and Mileage Act, NMSA 1978, Section 10-8-1 et seq., and the regulations set forth by the New Mexico Department of Finance and Administration (DFA) for all travel and reimbursements using County funds, including grant funds. This policy includes the DFA issued Notice of Travel Rule Updates FY24-002. If any of these policies is in conflict with any provision of state law or regulations, then the provisions of state law or regulation shall control. The County Manager's office, in consultation with the County Attorney, is authorized to interpret any provision of these policies that is vague or unclear under the circumstances presented, and may provide written interpretation of the provision, which shall be implemented consistently by all departments and offices.

Standard Per Diem Rates:

A. Overnight travel: Regardless of the number of hours traveled, travel for elected officials and employees where overnight lodging is required shall be reimbursed as published on the DFA website on May 1st for the preceding year. All out-of-

state overnight travel is paid as published on the DFA website on May 1st for the preceding year.

B. Return from overnight travel: On the last day of travel, when overnight lodging is no longer required, partial day reimbursement shall be made. To calculate the number of hours in the partial day, begin with the time the traveler initially departed. Divide the number of hours traveled by 24. The hours remaining constitute the partial day that shall be reimbursed as published on the DFA website on May 1st of the preceding year.

D. Standard per diem reimbursement may not be used when an individual attends a meeting where any meal is provided by the meeting organizer/sponsor/vendor.

E. Standard per diem reimbursement may not be used when an individual submits a receipt for actual lodging expenses.

REIMBURSEMENT OF ACTUAL EXPENSES IN LIEU OF PER DIEM RATES:

~~A. A. Actual per diem expenses paid to County elected officials, employees, public officials and nonemployees (NMSA Section 10-8-1 to 10-8-7, and DFA Rule 2.42.2) that are greater than the standard per diem rate may be reimbursed, provided the following conditions are met:~~Applicability: Upon written request of a public officer or an employee, department heads may grant written approval for a public officer or employee of that department or local public body to be reimbursed actual expenses in lieu of the per diem rate where overnight travel is required.

i. Copies of paid receipts are required for all per diem expenses incurred, including meals. Such expenses shall be paid with the approval of the department head based on a determination that expenses are economically practical and incurred in the discharge of authorized County business within the limits as stated in this policy. All hotel charges in excess of \$215 per night must receive prior approval of the County Manager.

ii. Payment for all meals shall be limited to the amount as published on the DFA website on May 1st of the preceding year for in-state and out-of-state travel as the maximum amount within a twenty-four-hour period, regardless of amounts spent or receipts submitted. These limits do not include gratuities paid as they are reimbursable under other expenses.

Gratuities reimbursed may not exceed 20% of the cost of the meal. (Note: This amount cannot include any alcoholic beverages.)

iii. When standard per diem is requested as advance travel pay, and, upon return with receipts, it is evident that expense incurred were greater than the standard per diem amount and are considered economically practical, the actual expenses can be claimed with the approval of the County Manager or his/her designee if all original receipts are attached.

iv. When actual per diem has been requested and approved, under no circumstances can the per diem be changed back to standard per diem.

v. A request for reimbursement for a trip may not mix standard per diem and actual expenses. If reimbursement for actual expenses is requested for any part of a trip, then actual expenses will be reimbursed for the entire trip within the limits set out in these policies.

vi. Lodging will be paid at the single occupancy rate, with the exception of when two persons on County business share one room. The person receiving the per diem for the lodging will be paid the double occupancy rate. The County will not pay the double occupancy rate for family or friends who room with the person receiving per diem.

~~B. vii. The County will not pay for any extra day that does not pertain to County business.~~ Overnight travel: For overnight travel for public officers and employees where overnight lodging is required, the public officer or employee will be reimbursed as follows:

- ~~1. Actual reimbursement for lodging: A public officer or an employee may elect to be reimbursed actual expenses for lodging not exceeding the single occupancy room charge (including tax) in lieu of the per diem rate of \$166.00 for in-state lodging, \$231.00 for in-state special area lodging, and \$166.00 for out-of-state lodging. Whenever possible, public officers and employees should stay in hotels which offer government rates. Departments, public officers or employees who incur lodging expenses in excess of \$215 per night must obtain the signature of the County Commission Chairman on the travel voucher prior to requesting reimbursement and on the encumbering document at the time of encumbering the expenditure, but not to exceed \$300 for out of state.~~

~~2. Actual reimbursement for meals: Actual expenses for meals are limited by Section 10-8-4(K)(2) NMSA 1978 (1995 Repl. Pam.) to a maximum of \$59.00 for in-state travel and \$59.00 for out-of-state travel.~~

~~3. Reimbursement for other expense: Gratuities will be reimbursed for actual expenses in accordance to NMAC 2.42.2.12. Specifically, gratuity is reimbursed on actual expenses and not to be included in per diem. Gratuities for meal service will be capped at 20% per meal ticket. If gratuity exceeds 20%, the employee will be reimbursed by the county for only 20% of the meal or services.~~

B. Reimbursement for per diem, mileage, expenses, academy training, conferences, seminars and all other travel will be to the destination most economical to the taxpayers of Colfax County.

Receipts required: The elected official or employee must submit **ITEMIZED** receipts for the actual meal and lodging expenses incurred including room service charges. Under circumstances where the loss of a receipt would create a hardship, an affidavit-signed statement form from the official or employee attesting to the expenses may be substituted for actual meal receipts only. If affidavits-such signed statement become an excessive practice, reimbursement will no longer be authorized. The affidavit-statement must accompany the travel expense report and include the signature of the elected official, department head or County Manager.

Under no circumstances will total lodging reimbursements exceed two hundred and two dollars (\$215) per day for in-state travel or three hundred dollars (\$300) per day for out-of-state travel.

Under no circumstances will total meal reimbursements exceed fifty-nine dollars (\$59) per day for in-state travel or fifty-nine dollars (\$59) per day for out-of-state travel.

Requests for reimbursement checks will only be processed during normal pay runs. All requests for reimbursement by check must be accompanied by a Travel

Request/Reimbursement Form and approved by County Manager to verify budget availability.

TRAVEL ADVANCE:

All county employees may apply for up to 80% of anticipated travel expenses in advance of travel at least 2 weeks prior to the scheduled travel date. Requests for advanced travel expenses after that time frame may not be honored. All requests for 20% reimbursement of travel expenses must be turned in within 30 days of your trip or the expense report will be denied.

Documentation must be included with travel advances when requesting an advance.

UNAUTHORIZED CHARGES:

Disallowed expenses include (but not limited to) the list below: Movie charges. Internet charges (unless prior approval was granted on travel request) Alcohol charges.

Any personal charge

Spousal or family charges

NOTE: Unauthorized charges may be subject to discipline process.

MISCELLANEOUS

Safe arrival calls home will be limited to one call, not to exceed five minutes.

Under no circumstances are alcoholic beverages to be charged or reimbursed to the employee.

Room charge and lounge charges MUST have an itemized receipt. Affidavits will not be allowed in place of a receipt. If these charges are not accompanied by an itemized receipt, the employee will be required to reimburse the county for the full amount.

Internet charges are for business purposes ONLY and must be signed by the department head as approved on the actual travel request form.

Any questions or clarifications should be addressed through the Colfax County Finance Department.

COUNTY VEHICLE MAINTANCE:

Any county employees who schedule and utilize county vehicles must conduct pre-trip and post trip process, complete vehicle log with mileage information as well as fuel information and travel purpose. Any irregularities pertaining to the county vehicle should be reported immediately to the County Manager's office. County vehicles should be maintained inside and out, all trash should be cleared and gas tank be filled before returning back to work post.

This policy supersedes any preceding policies and/or resolutions.

PASSED AND ADOPTED this ~~11th~~ ____ day of June 2024 in an open meeting of the Colfax County Commission in Raton, ~~NM~~ New Mexico.

Colfax County Board of Commissioners ~~Colfax County~~, New Mexico

Si Trujillo, Chairman

Mary Lou Kern, Vice Chair

Bret E. Wier, Member

ATTEST:


Rayetta M. Trujillo, Clerk of the Board



State of New Mexico
Department of Finance & Administration
 180 Bataan Memorial Building
 Santa Fe, New Mexico 87501
 Phone: (505) 827-4985
 Fax: (505) 827-4984
 www.nmdfa.state.nm.us

Michelle Lujan Grisham
 GOVERNOR

Wayne Propst
 Cabinet Secretary

DATE: April 24, 2024
 TO: State Agency CFOs & Local Public Bodies
 FROM: Mark Melhoff, Acting Controller 
 SUBJECT: FCD Memo FY24-004 – Fiscal Year 25 Per Diem Rates

The Department of Finance & Administration (DFA) has published the Fiscal Year 25 per diem rates as required by 10-8-4 (B) & (C), NMSA 1978. The calculation of the updated rates has taken into consideration the standard rates established by the United States general services administration. These rates go into effect July 1, 2024. The rate chart can be found on the DFA website by following the link below.

<https://www.nmdfa.state.nm.us/financial-control/resource-information/memos-and-notices/>

Feel free to contact me directly with questions.

State of New Mexico Per Diem Rates

As Published by DFA on May 1, 2024. FY25 rates are effective July 1, 2024.

Per Diem Rate for Overnight Travel	FY21	FY22	FY23	FY24	FY25
In-State	85.00	151.00	155.00	157.00	166.00
In-State - County of Santa Fe (Special Area)	135.00	194.00	202.00	210.00	231.00
Out-of-State	115.00	151.00	155.00	157.00	166.00
International Travel (in US Dollars)	-	-	-	-	290.00

International Travel must be approved by oversight governing body

Meal Rates for Actual Reimbursements	FY21	FY22	FY23	FY24	FY25
In-State	30.00	55.00	59.00	59.00	59.00
Out-of-State	45.00	55.00	59.00	59.00	59.00
International Travel (in US Dollars)	-	-	-	-	103.00

Note: Meals are only reimbursable when using approved actual rates (per 24-hour period)

Note 2: Overnight lodging is limited to \$215 per night when using actuals. Amounts that exceed this limit must be preapproved by the Agency Head or Chairperson of the Governing Board.

Note 3: International travel must be approved by the oversight governing body.

Partial Day/Return from Travel/Same Day	FY21	FY22	FY23	FY24	FY25
less than 2 hours	-	-	-	-	-
2 hours but less than 6	12.00	18.00	20.00	20.00	20.00
6 hours but less than 12	20.00	40.00	42.00	42.00	42.00
12 hours but less than 24	30.00	55.00	59.00	59.00	59.00

The Travel & Per Diem Act allows for actual reimbursement when per diem rates are insufficient.

STATE OF NEW MEXICO

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made between the COUNTY OF COLFAX, hereinafter referred to as "Colfax County" and M.R.S. Monitoring and Recovery Services, hereinafter referred to as "Contractor".

IT IS AGREED AS FOLLOWS:

1. Scope of Work

A. The Contractor will be responsible for providing a Community Custody Program for Colfax County which will include both pre-trial services and post-conviction services utilizing the below mentioned procedures:

1. The Magistrate and District Court Judges in Colfax County have identified. M.R.S. Monitoring and Recovery Services (Contractor) as the District's acknowledged Community Custody Program for purpose of allowing credit for time served by Defendants placed on the Electronic Monitor, SCRAM Unit or GPS Unit. Following the arrest and at the time of the Arraignment, the Magistrate Judge and/or the District Court Judge will have the ability to refer Defendants for an assessment to the Community Custody Program. The Assessment will be for the purpose of assessing the risk that the Defendant presents to the community and ultimately provide the Court with recommendations for possible release and further recommendations as to what type of conditions of release should be included in the release order.
2. Once it is determined that the defendant should be placed on an Electronic Monitor, SCRAM Unit or GPS Unit as part of their specialized conditions of release, the program staff will; 1) make arrangements to go the proposed home site and place the monitor in the home, 2) make sure the equipment is working properly, 3) arrange a schedule with the Defendant that has been approved by the Court of record, 4) monitor compliance with the house arrest and 5) report violations immediately to the Court of Jurisdiction, through the District Attorney's Office. The mechanism to notify the Court will be through an affidavit prepared by M.R.S. Monitoring and Recovery Services staff and delivered to the District Attorney's Office immediately following confirmation of the violation and make a recommendation regarding further action with that particular case.
3. M.R.S. Monitoring and Recovery Services community custody staff will monitor the case until a final disposition is resolved in the case and a final order of the Court is filed.

Post Conviction (Sentencing Stage)

1. In cases that the Judge has determined that the Electronic Monitor, SCRAM Unit or GPS Unit is an appropriate option to a jail sentence, the Judge will order the defendant to be released and placed on the Electronic Monitor, SCRAM Unit or GPS Unit as part of their Court Order.

2. Once the Judge has ordered the Defendant into the Program as part of their final disposition, the program staff will; 1) make arrangements to go the proposed home site and place the monitor in the home, 2) make sure the equipment is working properly, 3) arrange a schedule with the Defendant that has been approved by the Court, 4) monitor compliance with the house arrest and 5) report violations immediately to the Court of Jurisdiction, through the District Attorney's Office. The mechanism to notify the Court will be through an affidavit prepared by M.R.S. Monitoring and Recovery Services staff and delivered to the District Attorney's Office immediately following confirmation of the violation. The affidavit will advise the Court as to the specifics of the violation and make a recommendation regarding further action with that particular case. The ankle bracelet will be placed on the inmate at the Colfax County Adult Detention Center at the time of the release.
 3. M.R.S. Monitoring and Recovery Services community custody staff will monitor the case until the mandatory time on the monitor is completed. The staff will then advise the Court and Colfax County, in writing, that the Defendant has satisfactory completed his/her mandated time while in custody on the Electronic Monitor, SCRAM Unit or GPS Unit.
- B.** Contractor shall be responsible for adhering to policies and procedures as per the participant contract agreement and conditions of program, attached to this contractual agreement as Exhibit A. Colfax County will have final approval of the specifics of these Policies and Procedures, which may be amended from time to time.
- C.** Contractor will be responsible for accepting and reviewing referrals for Assessment services and possible referral to Community Custody program from the District and Magistrate Courts in Colfax County.
- D.** Contractor will be responsible for immediately following legal procedures when violations occur. Primarily the court and District Attorney shall be notified through Affidavit of Non-Compliance where in turn either a warrant is served or probation violation hearing.
- E.** Contractor in conjunction with the Jail Administrator will develop policies and procedures protocols for responding to violations of the community custody program.
- F.** Contractor will assess and collect documentation from every Defendant referred to the Contractor by the Courts to determine the Defendant's position on the Colfax County Sliding Fee Scale attached as Exhibit B. Contractor will notify the Court of the Defendant's financial responsibility under the Colfax County Sliding Fee Scale. Contractor will arrange for all payments that the Defendant is ordered, by the Court to pay, be deposited with M.R.S. It will be the Contractor's

responsibility to document said payments and reflect those payments received from each Defendants on the monthly billing request submitted to Colfax County. These payments will reduce the monthly payment request to Colfax County. In the event that the Defendant fails to make said payments, Contractor will, in a timely manner, present the Court with a proposed Order to Show Cause to enforce payment.

2. Compensation

A. Colfax County will compensate M.R.S. in the below mentioned manner:

OM 500 GPS Ankle Bracelets

- | | |
|---------------------------------|----------------|
| 1. Daily Monitoring Rate | \$14.00 |
| 2. Installation (1x Fee) | \$75.00 |

SCRAM Continuous Alcohol Monitoring (CAM)

- | | |
|---------------------------------|----------------|
| 1. Daily Monitoring Rate | \$14.00 |
| 2. Installation (1x Fee) | \$75.00 |

SOBER - Link Handheld Breathalyzer

- | | |
|---------------------------------|----------------|
| 1. Daily Monitoring Rate | \$14.00 |
| 2. Installation (1x Fee) | \$75.00 |

Remote Alcohol Breathalyzer

- | | |
|---------------------------------|----------------|
| 1. Daily Monitoring Rate | \$14.00 |
| 2. Installation (1x Fee) | \$75.00 |

SCRAM Base Station

- | | |
|-------------------------------------|----------------|
| 1. Daily Monitoring Rate | \$5.00 |
| 2. Installation Fee (1x Fee) | \$25.00 |

B. The Contractor should bill Colfax County at 444 E. Hereford Ave, Colfax, New Mexico on or before the 5th day of every month.

C. The Contractor shall be responsible for paying New Mexico Gross Receipts tax.

D. Notwithstanding any provision in the Agreement to the contrary, the terms of this Agreement are contingent upon the County receiving the appropriations necessary for the performance of this agreement. If sufficient appropriations and authorizations are not made to the County, the Agreement may be terminated. Such event shall not constitute an event of default. All payment

obligations of the County and all its interest this Agreement will cease upon such termination.

- E. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If Colfax County finds that the services are not acceptable, within fifteen days after the date of receipt of written notice from Contractor that payment is requested, it shall provide Contractor a letter of exception explaining the defect or objection to the services and outlining steps Contractor may take to provide remedial action. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, Colfax County shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. Term

This Agreement runs from July 1, 2024 through June 30, 2025, unless terminated pursuant to Paragraph 4. Work hours shall be determined by the Contractor to provide the contracted services as soon as possible.

4. Renewal

County shall have the right, but not the obligation, to renew this Contract under the same terms and conditions including compensation, as exist for the current term for a total number of two (2) more renewals by providing the contractor with notice of renewal prior to the end of the current term or any subsequent term.

5. Termination

This Agreement may be terminated without cause by either of the parties upon written notice delivered to the other party at least 30 days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform the date of termination. Notwithstanding the foregoing, this Contract may be terminated by the County for its convenience and without cause upon thirty (30) days prior written notice to Contractor. Furthermore, should the Contractor or its agent be convicted on any alcohol, drug related or violence related charges including but not limited to DUI, domestic violence issues or contributing to delinquency of a minor, this may be grounds for immediate termination. Immediately upon receipt by either Colfax County or Contractor of notice of termination of this Agreement, Contractor shall: 1) not incur any further obligations for services or any other expenditure of funds under this Agreement without written approval of Colfax County; 2) comply with all directives issued by Colfax County in the notice of termination as to the performance of work under this Agreement; and 3) take such action as Colfax County shall direct for the protection, preservation, retention or transfer of all property titled to Colfax County and records generated under this Agreement.

6. Status of Contractor

The "Contractor" and Contractor's agents and employees are independent contractors performing professional services and are not employees of the state. The

"Contractor" and Contractor's agents and employees shall not as a result of this agreement accrue leave, retirement, insurance, bonding, use of state vehicles, or any benefits afforded to state employees.

7. Assignment

The "Contractor" shall not subcontract any portion of the services to be performed under this agreement without the prior approval of the "Colfax County."

8. Subcontracting

The "Contractor" shall not subcontract any portion of the services to be performed under this agreement without the prior approval of the "Colfax County."

9. Records and Audit

The "Contractor" shall maintain detailed records that indicate the nature of the date, time and type of services rendered. These records shall be provided by the "contractor" for inspection of the Colfax County and the State Auditor upon written request of the Colfax County. Colfax County has the right to audit billing both before and after payment. Payment under this agreement is not a waiver of the right of Colfax County to recover excessive or illegal payments. The Contractor will report Defendants' participation in all contracted services on a monthly basis to the Jail Administrator.

10. Release and Agency

Upon final payment of the amount due under Agreement, the "Contractor" releases the Colfax County, its employees, and the State of New Mexico from all liability, claims, and obligations arising under this agreement that were reasonably discoverable prior to final payment. The "Contractor" agrees not to purport to bind the State of New Mexico including County to any obligations not assumed in this Agreement by the State of New Mexico unless the "Contractor" has expressed authority to do so, and then only within strict limits of that authority.

11. Product of Services, Copyright

All materials developed or acquired by the "Contractor" under this Agreement shall remain the property of the Contractor.

12. Conflict of Interest

The "Contractor" warrants that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services required under this Agreement. The Contractor shall comply with all statutory provisions that require disclosure to the Secretary of State of amounts received under the state contracts when and if such provisions become applicable.

13. Prohibition against Dual Compensation

The charges for services rendered under this Agreement are reimbursable or subject to compensation only to the extent that such services related exclusively and directly to the purpose of this Agreement, supplemental or additional payment for such services is not received by the Contractor from any other source.

14. Amendment

This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties to this Agreement.

15. Scope of Agreement

This Agreement incorporates all the agreements, covenants, and understands between the parties concerning the subject matter of the agreement, and all such covenants, agreement or understandings are merged into this written agreement. No prior agreement or understanding; verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied by this Agreement.

16. Equal Employment Opportunity

The Contractor, in the performance of this Agreement, shall not discriminate against any employee, Defendant or other person on the basis of race, color, religion, national origin, sex, age or disability.

17. Confidentiality

Any information given to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Magistrate Court Judge and/or District Court Judge or record. This shall not include the Defendant's attendance at all contracted services, which will be reported to the Jail Administrator.

18. Applicable Law

The applicable laws, statutes, rules and regulations of the State of New Mexico shall govern this Agreement and the proper venue shall be Colfax County. The Procurement Code imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statute imposes felony penalties for illegal bribes, gratuities and kickbacks.

19. Notice

Colfax County
County Manager's Office
230 North 3rd St., 3rd Floor
PO Box 1498

Raton, NM 87740
(575) 445-9661

M.R.S MONITORING ND RECOVERY SERVICES

Amy Romero
1226 south 2nd Street
Raton, NM 87740

20. State Certification

The Contractor verifies that it has qualified staff as per New Mexico Department of Corrections guidelines.

21. Liability

The Contractor verifies that it is insured against liabilities that can arise out of this contract in the amount of not less than \$1 Million dollars or acceptable coverage amount for the County which will be decided by the County. the Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Sub-Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by Contractor. Without affecting any other rights or remedies, Contractor hereby release and relieve the County and waive their entire right to recover damages against the County, for loss of or damage arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. Contractor agrees to have their insurance carriers waive any right to subrogation that such companies may have against the County, as the case may be, so long as the insurance is not invalidated thereby. The parties acknowledge that the Worker's compensation statutes do not create a right of subrogation and Contractor expressly waives such subrogation right against the County subject to the New Mexico laws including Seaboard Fire & Marine Ins. Co. v. Kurth, 1980-NMCA-112, 96 N.M. 631.

22. Effective Date is July 1, 2024.

This Agreement is not effective until signed by all parties and is retroactively effective on the date specified in Paragraph 3 of this Agreement to cure procedural mistakes.

23. INVALID TERM OR CONDITION.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

24. ENFORCEMENT OF AGREEMENT.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

25. Authority

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

(Signature page to follow)

IN WITNESS WHEREOF, the parties have caused this agreement to be executed this 25th day of June, 2024.

SI TRUJILLO, CHAIRMAN

MARY LOU KERN, VICE CHAIR

BRET WIER, MEMBER

ATTEST:

RAYETTA M. TRUJILLO, CLERK

AMY C. ROMERO
M.R.S MONITORING ND RECOVERY SERVICES

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and compensating taxes.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN COLFAX COUNTY
AND ABE BALSAMO & CO.**

This Agreement is made and entered into by and between **COLFAX COUNTY, NEW MEXICO**, hereinafter referred to as “Colfax County or Client” and **ABE BALSAMO & CO.**, hereinafter referred to as the “Contractor or Service Provider,” and is effective as of the date executed by the Colfax County Commission.

WHEREAS The parties having reached agreement for Contractor to provide the County with (MAT) medical and detox services in the Vigil Maldonado Detention Center; and

WHEREAS The Service Provider is willing to provide these services, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree to the following:

1. THE SERVICE PROVIDER SHALL PROVIDE MAT MEDICAL AND DETOX SERVICES IN THE VIGIL MALDONADO DETENTION CENTER (VMDC), AS FOLLOWS:

- Provision of protocols (Peer-Reviewed, Industry Standard Operating Procedures) for the treatment of opioid use disorder and other substance use disorders as appropriate and consistent with standard medical practice for MAT;
- Standard medical practice and prescribing to establish a standard for MAT services;
- Education of medical staff within the facility, with respect to Standard Operating Procedures and Safety Protocols for MAT Programs;
- Medical monitoring, with the assistance of on-site medical staff, of patients for the safe management of withdrawal, administration of medication, and other medical issues related to substance use disorders; and
- Referral for counseling and case management services as needed to support patients in recovery.

2. THE CLIENT SHALL PROVIDE/NEGOTIATE A REFERRAL NETWORK FOR THE VIGIL MALDONADO DETENTION CENTER:

- Staff in VDMC must arrange follow up for all patients that are on MAT protocols so that they are not lost to follow up after discharge from the facility.

3. THE CLIENT WILL DO STANDARD MEDICATION RECONCILIATION (CONFIRM CURRENT MEDICATIONS WITH OUTSIDE PROVIDERS OR PHARMACIES) ON ALL PATIENTS UPON INTAKE.

- Standard MAT medications to include Suboxone, Subutex, Naloxone (Narcan), Naltrexone, Chlordiazepoxide (Librium) and potentially other meds as needed/appropriate; and
- The Client should strive towards obtaining a Pharmacy license that allows for medications to be held on-site.

4. COMPENSATION.

- A.** The County shall pay the Contractor a total of \$14,500 (fourteen thousand five hundred dollars) per year plus standard GRT for the provision of MAT medical, detox, and training services. This amount shall be paid in monthly equal installments beginning on the date of the contract award and ending on June 30, 2025, or until either Krossroads (or similar entity) is able to provide this service. The Contractor shall be responsible for filing any and all New Mexico gross receipts taxes.
- B.** This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. Contractor is responsible for notifying Colfax County when the services provided under this Agreement reach the total compensation. In no event will Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.
- C.** Appropriations: Notwithstanding any provision in the Agreement to the contrary, the terms of this Agreement are contingent upon the Contractor receiving the appropriations necessary for the performance of this agreement. If sufficient appropriations and authorizations are not made to the Contractor, the Agreement may be terminated. Such event shall not constitute an event of default. All payment obligations of the Contractor and all its interest this Agreement will cease upon such termination.
- D.** Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If Colfax County finds that the services are not acceptable, within fifteen days after the date of receipt of written notice from Contractor that payment is requested, it shall provide Contractor a letter of exception explaining the defect or objection to the services and outlining steps Contractor may take to provide remedial action. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, Colfax County shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

5. TERMINATION BY EITHER PARTY.

- A. This contract may be terminated by either party upon fifteen (15) days prior written notice to the other party in the event of substantial failure by the other party to fulfill its obligations under this Contract through no fault of the terminating party.
- B. In the event of such termination, Contractor's compensation shall be prorated to the date of termination and Contractor shall be paid in full for services performed and verified to the date of such termination. In the event of such termination, Except as otherwise allowed or provided under this Agreement, Colfax County's sole liability upon such termination shall be to pay for acceptable work performed prior to Contractor's receipt of the notice of termination, if Colfax County is the terminating party, or Contractor's sending of the notice of termination, if Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to Contractor if Contractor becomes unable to perform the services contracted for, as determined by Colfax County or if, during the term of this Agreement, Contractor or agents is indicted for fraud, embezzlement or other crime due to misuse of public funds or due to the Appropriations paragraph herein.

THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

6. TERMINATION BY THE COUNTY.

- A. Notwithstanding the foregoing, this Contract may be terminated by the County for its convenience and without cause upon fifteen (15) days prior written notice to Contractor. Furthermore, should the Contractor be convicted on any alcohol, drug related or violence related charges including but not limited to DUI, domestic violence issues or contributing to delinquency of a minor, this may be grounds for immediate termination.
- B. Immediately upon receipt by either Colfax County or Contractor of notice of termination of this Agreement, Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of Colfax County; 2) comply with all directives issued by Colfax County in the notice of termination as to the performance of work under this Agreement; and 3) take such action as Colfax County shall direct for the protection, preservation, retention or transfer of all property titled to Colfax County and records generated under this Agreement.

7. ASSIGNMENT.

This Contract shall not be assignable except at written consent of the parties hereto, and if so assigned, shall extend to and be binding upon the successors and assigns of the parties hereto.

8. HOLD HARMLESS.

Contractor further agrees to indemnify and hold County and its commissioners, other elected officials, employees, agents, attorneys, successors and assigns harmless from any and all claims, suits, causes of action, damages, costs and expenses, including, but not by way of limitation, expenses of litigation, witness fees, court costs and attorney fees, incurred, arising, or in any way resulting from Contractor's activities or actions or with respect to his actions or omissions whether such activities, actions or omissions shall be within or outside of the scope of duties. The parties hereto believe that neither NMSA 1978, Section 56-7-1 nor 56-7-2, concerning indemnity, apply to this agreement, provided, however, if a court of competent jurisdiction determines that the provisions of either statute shall apply to this agreement, this obligation to indemnify will be limited and construed so as not to extend to liabilities of any kind that are beyond the scope of indemnity permitted by such statute that is held to apply. This indemnity shall survive the termination of the contract for any reason.

9. RECORDS AND FINANCIAL AUDIT.

Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature, and cost of services rendered during Contractor's term and effect and retain them for a period of seven (7) years from the date of final payment under this Contract. The records shall be subject to inspection by Colfax County, the Department of Finance and Administration and the State Auditor.

10. STATUS OF INDEPENDENT CONTRACTOR.

Contractor and its agents and/or employees are independent contractor's performing professional services for Colfax County and are not employees of Colfax County. Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of Colfax County as a result of this Agreement. Contractor acknowledges that all sums received hereunder are reportable by Contractor tax purposes, including without limitation, self-employment, and business income tax. Contractor agrees not to purport to bind Colfax County unless Contractor has express written authority to do so, and then only within the strict limits of that authority. The Contractor shall be responsible for filing any and all New Mexico gross receipts taxes.

11. SUBCONTRACTING.

Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of Colfax County.

12. RELEASE.

Final payment of the amounts due under this Agreement shall operate as a release of Colfax County, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

13. CONFLICT OF INTEREST; GOVERNMENTAL CONDUCT ACT.

Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10.

14. AMENDMENT.

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

If Colfax County proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth herein, or to agree to the reduced funding.

15. MERGER.

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

16. EQUAL OPPORTUNITY COMPLIANCE.

Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement.

17. APPLICABLE LAW.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be in the state district court located within Colfax County.

18. INSURANCE.

Contractor shall maintain and keep in force Insurance Policies in amounts and with coverage not less than \$1 million dollars or acceptable coverage amount for the County which will be decided by the County.

19. WORKER'S COMPENSATION.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by Contractor.

20. WAIVER OF SUBROGATION.

Without affecting any other rights or remedies, Contractor hereby release and relieve the County and waive their entire right to recover damages against the County, for loss of or damage arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. Contractor agrees to have their insurance carriers waive any right to subrogation that such companies may have against the County, as the case may be, so long as the insurance is not invalidated thereby.

The parties acknowledge that the Worker's compensation statutes do not create a right of subrogation and Contractor expressly waives such subrogation right against the County subject to the New Mexico laws including *Seaboard Fire & Marine Ins. Co. v. Kurth*, 1980-NMCA-112, 96 N.M. 631.

21. INVALID TERM OR CONDITION.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

22. ENFORCEMENT OF AGREEMENT.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless expressed and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

23. NOTICES.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

Contractor,
ABE BALSMO & CO.,
45 Juan Martinez Rd

Arroyo Seco, NM 87514

Colfax County
County Manager's Office
230 North 3rd St., 3rd Floor
PO Box 1498
Raton, NM 87740
(575) 445-9661

24. AUTHORITY

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract

IN WITNESS WHEREOF, the parties have executed this Agreement on the 25th day of June, 2024.

ATTEST:

COLFAX COUNTY BOARD OF
COMMISSIONERS

Rayetta Trujillo, Clerk of the Board

Si Trujillo, CHAIRMAN

Mary Lou Kern, VICE-CHAIRMAN

Bret Wier, MEMBER

TAOS MED INC.

By: _____
Abe Balsamo, President

**COLFAX COUNTY, NEW MEXICO
PROFESSIONAL SERVICES CONTRACT
PURSUANT TO RFP 2022-05**

THIS AGREEMENT is made and entered into by and between **COLFAX COUNTY, NEW MEXICO**, hereinafter referred to as "Colfax County," and **Abe Balsamo & Co.**, hereinafter referred to as the "Contractor," and is effective as of the date executed by the Colfax County Commission.

WHEREAS, the parties having reached agreement for Contractor to provide the County with medical and mental health care for the inmates of Vigil Maldonado Detention Center (VMDC);

WHEREAS, Contractor having represented it is aware of the requirements of performing the services in a detention center (jail) environment with an estimated population of 80;

NOW, THEREFORE, in consideration of the foregoing, of the mutual promises herein contained, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

REPRESENTATIONS

Contractor represents that he is a qualified physician assistant duly licensed to practice medicine in pursuant to this Agreement, in the state of New Mexico. Contractor also represents that he is not currently subject to any professional disciplinary proceeding of any state or federal authorities or to any disciplinary action of any facility or other facility in any jurisdiction.

NOW THEREFORE, IT IS AGREED BETWEEN THE PARTIES:

A. SCOPE OF WORK.

The Licensed Medical and Mental Health Professional shall be primarily responsible for, without limitation to the following services on site or via tele med:

1. Assess all individuals screened by VMDC staff to have a medical or mental health concern, for the detection, diagnosis, and continuum of treatment of medical or mental illness;
2. Conduct assessments for inmates and document all medical or mental health needs;
3. Conduct crises intervention and or referral of acute psychiatric episodes;
4. Provide stabilization of psychiatric deterioration of inmates while in VMDC;
5. Assist in the referral and admission of inmates whose psychiatric needs exceed the treatment capability of VMDC to licensed mental health facilities;
6. Assist in the referral and admission of inmates whose medical needs exceed the treatment capability of VMDC to licensed medical facilities;
7. Maintain documentation on all assessments and progress;

8. Ensure inmates referred for mental health treatment receive a comprehensive assessment within thirty (30) days of the referral request date;
9. Provide telephonic consultations to VMDC staff when necessary;
10. Utilize a Management Plan to provide a coordinated approach to managing chronically ill or difficult to manage inmates;
11. Provide case management services providing inmates with assistance to external providers and resources;
12. Provide on-call services when medical staff is not in facility; and
13. Provide tele med services when off-site and as needed.

B. PERFORMANCE MEASURES.

Contractor shall:

1. Provide a monthly report with the number of individuals assessed at the VMDC at the time of arrest;
2. Provide detention center medical and mental health training for the VMDC staff by licensed and certified mental health staff, who are qualified health care providers within the meaning of the New Mexico Medical Malpractice Act, NMSA 1978, Sections 41-5-1 through 41-5-29;
3. Provide the Scope of Services described above by persons who are qualified healthcare providers within the meaning of the New Mexico Medical Malpractice Act, NMSA 1978, Sections 41-5-1 through 41-5-29;
4. Provide a professional level of transparency for the treatment of medical and mental health at VMDC while maintaining confidentiality; and
5. Document all treatment provided to Colfax County Detainees and provide copies of all such documentation to Colfax County. All on-site medical records, documents and information of detainees shall be the property of Colfax County. Contractor shall retain all off-site medical records medical records, documents and information concerning treatment of Colfax County detainees for not less than seven (7) years and shall provide access to such records to Colfax County upon request.

C. COMPENSATION.

1. Colfax County shall pay the Contractor on a monthly as billed basis. The total amount payable to the Contractor under this Agreement including gross receipts tax and expenses, shall not exceed the annual total of \$241,304.17. This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. Contractor is responsible for notifying Colfax County when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount

without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided;

2. Payment is subject to: 1) availability of funds pursuant to the Colfax County Commission Approval set forth below; 2) to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work and 3) to approval by the Colfax County Commission. All invoices MUST BE received by Colfax County no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID; and

3. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If Colfax County finds that the services are not acceptable, within thirty (30) days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services and outlining steps the Contractor may take to provide remedial action. Upon certification by Colfax County that the services have been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, Colfax County shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

D. TERM.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY COLFAX COUNTY COMMISSION. This Agreement is for a one (1) year term and shall terminate on **June 30, 2025**, unless terminated pursuant to this Agreement. In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four (4) years, except as set forth in Section 13-1-150 NMSA 1978.

E. TERMINATION.

1. Termination.

This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least sixty (60) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, Colfax County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if Colfax County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party: provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre- termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination.

Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by Colfax County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or

other crime due to misuse of public funds or due to the Appropriations paragraph herein. **THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT**

2. Termination Management.

Immediately upon receipt by either Colfax County or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of Colfax County; 2) comply with all directives issued by Colfax County in the notice of termination as to the performance of work under this Agreement; and 3) take such action as Colfax County shall direct for the protection, preservation, retention or transfer of all property titled to Colfax County and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of Colfax County upon termination and shall be submitted to Colfax County as soon as practicable.

F. COLFAX COUNTY COMMISSION APPROVAL.

This Contract is presented to the Colfax County Commission for approval. The approval and performance by Colfax County are based on the availability of funds from the approved budget for that specific fiscal year.

G. STATUS OF CONTRACTOR.

The Contractor and its agents and employees are independent contractors performing professional services for Colfax County and are not employees of Colfax County. The Contractor and its agents and employees shall not accrue leave, retirement insurance, bonding use of state vehicles, or any other benefits afforded to employees of Colfax County as a result of this Agreement. The Contractor acknowledges that all sum received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind Colfax County unless the Contractor has express written authority to do so, and then only within the strict limits of that authority. The Contractor shall be responsible for filing any and all New Mexico gross receipts taxes.

H. ASSIGNMENT.

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of Colfax County.

I. SUBCONTRACTING.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of Colfax County.

J. RELEASE.

Final payment of the amounts due under this Agreement shall operate as a release of Colfax County, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

K. PRODUCT OF SERVICE -- COPYRIGHT.

All materials developed or acquired by the Contractor under this Agreement shall become the property of Colfax County no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

L. CONFLICT OF INTEREST; GOVERNMENTAL CONDUCT ACT.

1. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

2. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all Applicable provisions of the Governmental Conduct Act, Chapter 10 Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

- a) in accordance with Section 10-16-4.3 NMSA 1978 the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any Colfax County employee if such employee was or is employed by Colfax County and participating directly or indirectly in Colfax County's contracting process.
- b) this Agreement complies with Section 10-16-7(A) NMSA 1978 because:
 - (i) the Contractor is not a public officer or employee of Colfax County;
 - (ii) the Contractor is not a member of the family of a public officer or employee of Colfax County;
 - (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or
 - (iv) if the Contractor is a public officer or employee of Colfax County, a member of the family of a public officer or employee of Colfax County, or a business in which a public officer or employee of Colfax County or the family of a public officer or employee of Colfax County has a substantial interest, and public notice was given as required by Section 10-16-7(A) NMSA 1978 and this Agreement was awarded pursuant to a competitive process in accordance with Section 10-16-8(A) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of Colfax County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer

or employee of Colfax County whose official act, while in County employment, directly resulted in Colfax County's making this Agreement.

- c) this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code.
- d) in accordance with Section 10-16-13 NMSA 1978, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement.
- e) in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of Colfax County.
- f) Contractor's representations and warranties in this Agreement are material representations of fact upon which Colfax County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to Colfax County if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in this Agreement were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in this Agreement were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to Colfax County and notwithstanding anything in the Agreement to the contrary, Colfax County may immediately terminate the Agreement.
- g) All terms defined in the Governmental Conduct Act have the same meaning in this Agreement.

M. AMENDMENT.

1. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

2. If Colfax County proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth herein, or to agree to the reduced funding.

N. MERGER.

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

O. PENALTIES FOR VIOLATION OF LAW.

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

P. EQUAL OPPORTUNITY COMPLIANCE.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

Q. APPLICABLE LAW.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be Colfax County. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

R. WORKERS COMPENSATION.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by Colfax County.

S. RECORDS AND FINANCIAL AUDIT.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of five (5) years from the date of final payment under this Agreement. The records shall be subject to inspection by Colfax County, the Department of Finance and Administration, the State Auditor and provide copies to Colfax County when requested to do so. Colfax County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of Colfax County to recover excessive or illegal payments.

T. INDEMNIFICATION.

The Contractor shall defend, indemnify and hold harmless Colfax County from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers,

employees, or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of Colfax County.

U. INSURANCE.

The Contractor shall maintain and keep in force Insurance Policies in amounts and with coverage not less than that provided in the policies provided to Colfax County as part of their proposal or not less than \$1 million dollars or acceptable coverage amount for the County which will be decided by the County.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Contractor.

Without affecting any other rights or remedies, the Contractor hereby release and relieve the County and waive their entire right to recover damages against the County, for loss of or damage arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Contractor agrees to have their insurance carriers waive any right to subrogation that such companies may have against the County, as the case may be, so long as the insurance is not invalidated thereby.

The parties acknowledge that the Worker's compensation statutes do not create a right of subrogation and the Contractor expressly waives such subrogation right against the County subject to the New Mexico laws including Seaboard Fire & Marine Ins. Co. v. Kurth, 1980-NMCA-112, 96 N.M. 631.

V. INVALID TERM OR CONDITION.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

W. ENFORCEMENT OF AGREEMENT.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless expressed and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

X. NOTICES.

Any notice required to be given to either party by this Agreement shall be in writing

and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To: Colfax County
County Manager's Office
230 North 3rd St., 3rd Floor
PO Box 1498
Raton, NM 87740

To the Contractor:

Abe Balsamo & Co.
45 Juan Martinez Road
Arroyo Seco, NM 87514

Y. AUTHORITY.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed this 25th day of June, 2024.

ATTEST:

COLFAX COUNTY BOARD OF
COMMISSIONERS

Rayetta Trujillo, Clerk of the Board

Si Trujillo, CHAIRMAN

Mary Lou Kern, VICE-CHAIRMAN

Bret Wier, MEMBER

ABE BALSAMO & CO.

By: _____
Abe Balsamo, President

The records of the Taxation and Revenue Department reflect that the Contractor is registered

with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and compensating taxes.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN COLFAX COUNTY AND THE CITIZENS
FOR THE DEVELOPMENTALLY DISABLED**

This agreement made and entered into in duplicate originals June 25, 2024, by and between COLFAX COUNTY, NEW MEXICO, hereinafter called "County" whose address is P.O. Box 1498, Raton, NM 87740 and CITIZENS FOR THE DEVELOPMENTALLY DISABLED, INC., a New Mexico non-profit corporation, hereafter known as "CDD Inc.", whose address is P.O. Box 1589, Raton, New Mexico 87740, WITNESSTH that:

WHEREAS the CDD Inc. is the Sponsor for the Foster Grandparent/Senior Companion Programs in Colfax County, New Mexico as defined in 45 CFR Parts 2551.12(r) and 2552.12(u), pursuant to 42 U.S.C. 4950 *et seq.*;

WHEREAS project funds may not be used to reimburse mileage for client-related travel, e.g., shopping, medical appointments, etc., and liability insurance is a Senior Companion personal expense and is not reimbursable to the volunteer through project funds; and

WHEREAS the County and the CDD Inc. desire to enter into an agreement whereby the Foster Grandparent/Senior Companion Programs will provide transportation services to Colfax County residents and help provide care to sick and indigent persons in Colfax County.

NOW, THEREFORE, the parties do hereby covenant and agree as follows:

1. In consideration for County's agreement to budget and provide funding to the Foster Grandparent/Senior Companion Programs of the CDD Inc. in the amount of \$40,000.00, plus the lease of a 2004 Chevrolet passenger van for use of client and volunteer related travel. The CDD Inc. through its Foster Grandparent/Senior Companion Programs agrees to provide services to the residents of Colfax County, as more particularly stated in paragraph 2 below.
2. The CDD Inc. through its Foster Grandparent/Senior Companion Programs shall provide client-related travel, e.g., shopping, medical appointments, and other program related matters.
3. The CDD Inc. through its Foster Grandparent/Senior Companion Programs shall provide County all records, invoices, purchase orders, and other documentation County or the Department of Finance and Administration may require, and CDD Inc. and Foster Grandparent/Senior Companion Programs shall comply with all generally accepted accounting practices consistently applied in keeping records of and accounting for all disbursements made to it by County. Program reports to Commission at two (2) Regular Commission Meetings a year. All such financial records shall be made available to County or the Department of Finance and Administration upon request, and all such records shall be maintained by the CDD Inc. and Foster Grandparent/Senior Companion

Programs for six (6) years following the termination of this agreement.

4. County does hereby agree to pay to the CDD Inc. for its Foster Grandparent/Senior Companion Programs the sum of \$40,000.00, which monies shall be disbursed to the CDD Inc./Foster Grandparent/Senior Companion Programs upon receipt by the County of purchase orders, invoices or other appropriate documentation evidencing compliance with all Department of Finance and Administration requirements for disbursement of said funds. This amount is a maximum and not a guarantee that the work assigned to be performed by CDD Inc. under this Agreement shall equal the amount stated herein. CDD Inc. is responsible for notifying Colfax County when the services provided under this Agreement reach the total compensation. In no event will CDD Inc. be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.
5. Appropriations: Notwithstanding any provision in the Agreement to the contrary, the terms of this Agreement are contingent upon the County receiving the appropriations necessary for the performance of this agreement. If sufficient appropriations and authorizations are not made to the County, the Agreement may be terminated. Such event shall not constitute an event of default. All payment obligations of the County and all its interest this Agreement will cease upon such termination.
6. CDD Inc. must submit a detailed statement accounting for all services performed and expenses incurred. If Colfax County finds that the services are not acceptable, within fifteen days after the date of receipt of written notice from CDD Inc. that payment is requested, it shall provide CDD Inc. a letter of exception explaining the defect or objection to the services and outlining steps CDD Inc. may take to provide remedial action. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, Colfax County shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

7. TERMS AND TERMINATION BY EITHER PARTY.

- A. This agreement shall become effective July 1, 2024, or upon execution by all parties, whichever is later, and shall terminate on June 30, 2025. This contract may be terminated by either party upon fifteen (15) days prior written notice to the other party in the event of substantial failure by the other party to fulfill its obligations under this Contract through no fault of the terminating party.
- B. In the event of such termination, CDD Inc.'s compensation shall be prorated to the date of termination and CDD Inc. shall be paid in full for services performed and verified to the date of such termination. In the event of such termination, Except as otherwise allowed or provided under this Agreement, Colfax County's sole liability upon such termination shall be to pay for acceptable work performed prior to CDD Inc.'s receipt of the notice of termination, if Colfax County is the terminating party, or CDD Inc.'s sending of the notice of termination, if CDD

Inc. is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. CDD Inc. shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to CDD Inc. if CDD Inc. becomes unable to perform the services contracted for, as determined by Colfax County or if, during the term of this Agreement, CDD Inc. or agents is indicted for fraud, embezzlement or other crime due to misuse of public funds or due to the Appropriations paragraph herein.

THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY CDD INC.'S DEFAULT/BREACH OF THIS AGREEMENT.

8. TERMINATION BY THE COUNTY

- A.** Notwithstanding the foregoing, this Contract may be terminated by the County for its convenience and without cause upon fifteen (15) days prior written notice to CDD Inc. Furthermore, should the CDD Inc. or its agents or employees be convicted on any alcohol, drug related or violence related charges including but not limited to DUI, domestic violence issues or contributing to delinquency of a minor, this may be grounds for immediate termination.
- B.** Immediately upon receipt by either Colfax County or CDD Inc. of notice of termination of this Agreement, CDD Inc. shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of Colfax County; 2) comply with all directives issued by Colfax County in the notice of termination as to the performance of work under this Agreement; and 3) take such action as Colfax County shall direct for the protection, preservation, retention or transfer of all property titled to Colfax County and records generated under this Agreement.

9. ASSIGNMENT.

This Contract shall not be assignable except at written consent of the parties hereto, and if so assigned, shall extend to and be binding upon the successors and assigns of the parties hereto.

10. HOLD HARMLESS.

CDD Inc. further agrees to indemnify and hold County and its commissioners, other elected officials, employees, agents, attorneys, successors and assigns harmless from any and all claims, suits, causes of action, damages, costs and expenses, including, but not by way of limitation, expenses of litigation, witness fees, court costs and attorney fees, incurred, arising, or in any way resulting from CDD Inc.'s activities or actions or with respect to his actions or omissions whether such activities, actions or omissions shall be within or outside of the scope of duties. The parties hereto believe that neither NMSA 1978, Section 56-7-1 nor 56-7-2, concerning indemnity, apply to this agreement, provided, however, if a court of competent jurisdiction determines that the provisions of either statute shall apply to this agreement, this obligation to indemnify will be limited and construed so as not to extend to liabilities of any kind

that are beyond the scope of indemnity permitted by such statute that is held to apply. This indemnity shall survive the termination of the contract for any reason.

11. RECORDS AND FINANCIAL AUDIT.

CDD Inc. shall maintain detailed time and expenditure records that indicate the date, time, nature, and cost of services rendered during CDD Inc.'s term and effect and retain them for a period of seven (7) years from the date of final payment under this Contract. The records shall be subject to inspection by Colfax County, the Department of Finance and Administration and the State Auditor.

12. STATUS OF INDEPENDENT CONTRACTOR.

CDD Inc. and its agents and/or employees are independent CDD Inc.'s performing professional services for Colfax County and are not employees of Colfax County. CDD Inc. and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of Colfax County as a result of this Agreement. CDD Inc. acknowledges that all sums received hereunder are reportable by CDD Inc. tax purposes, including without limitation, self-employment, and business income tax. CDD Inc. agrees not to purport to bind Colfax County unless CDD Inc. has express written authority to do so, and then only within the strict limits of that authority. CDD Inc. shall be responsible for filing any and all New Mexico gross receipts taxes.

13. SUBCONTRACTING.

CDD Inc. shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of Colfax County.

14. RELEASE.

Final payment of the amounts due under this Agreement shall operate as a release of Colfax County, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

15. CONFLICT OF INTEREST; GOVERNMENTAL CONDUCT ACT.

CDD Inc. represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

CDD Inc. further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10.

16. AMENDMENT.

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

If Colfax County proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, CDD Inc. shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth herein, or to agree to the reduced funding.

17. MERGER.

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

18. EQUAL OPPORTUNITY COMPLIANCE.

CDD Inc. agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, CDD Inc. assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement.

19. APPLICABLE LAW.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be in the state district court located within Colfax County.

20. INSURANCE.

CDD Inc. shall maintain and keep in force Insurance Policies in amounts and with coverage not less than \$1 million dollars or acceptable coverage amount for the County which will be decided by the County.

21. WORKER'S COMPENSATION

The CDD Inc. agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the CDD Inc. fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by CDD Inc.

22. WAIVER OF SUBROGATION.

Without affecting any other rights or remedies, CDD Inc. hereby release and relieve the County and waive their entire right to recover damages against the County, for loss of or damage arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any

deductibles applicable hereto. CDD Inc. agrees to have their insurance carriers waive any right to subrogation that such companies may have against the County, as the case may be, so long as the insurance is not invalidated thereby.

The parties acknowledge that the Worker's compensation statutes do not create a right of subrogation and CDD Inc. expressly waives such subrogation right against the County subject to the New Mexico laws including *Seaboard Fire & Marine Ins. Co. v. Kurth*, 1980-NMCA-112, 96 N.M. 631.

23. INVALID TERM OR CONDITION.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

24. ENFORCEMENT OF AGREEMENT.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

25. NOTICES.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

CDD Inc.,
PO Box 1589
Raton, NM 87740

Colfax County
County Manager's Office
230 North 3rd St., 3rd Floor
PO Box 1498
Raton, NM 87740
(575) 445-9661

26. AUTHORITY.

If CDD Inc. is other than a natural person, the individual(s) signing this Agreement on behalf of CDD Inc. represents and warrants that he or she has the power and authority to bind CDD Inc., and that no further action, resolution, or approval from CDD Inc. is necessary to enter into a binding contract

IN WITNESS WHEREOF, the parties have executed this Agreement on the 25th day of June, 2024.

ATTEST:

COLFAX COUNTY BOARD OF
COMMISSIONERS

Rayetta Trujillo, Clerk of the Board

Si Trujillo, CHAIRMAN

Mary Lou Kern, VICE-CHAIRMAN

Bret Wier, MEMBER

CITIZENS FOR THE DEVELOPMENTALLY
DISABLED

By: _____
Mona Martinez, Sponsor Representative

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN COLFAX COUNTY AND
COLFAX COUNTY SENIOR CITIZENS, INC.**

This agreement made and entered Into on June 25th, 2024, by and between the BOARD OF COMMISSIONERS OF COLFAX COUNTY, NEW MEXICO, hereinafter called "County" whose address is P.O. Box 1498, Raton, New Mexico 87740 and COLFAX COUNTY SENIOR CITIZENS, INC., a New Mexico Non-Profit corporation, hereafter known as "CCSCI" whose address is 444 S. 1st St., Raton, New Mexico 87740, WITNESSTH that:

WHEREAS Colfax County Senior Citizens, Inc. provide meals and services to senior citizens in Colfax County;

WHEREAS CCSCI has entered into a Nutrition Service Incentive Program Agreement with North Central New Mexico Economic Development District Non-Metro Area Agency on Aging to provide certain services to senior citizens of Colfax County, New Mexico;

WHEREAS the aforesaid service agreement specifically defines the units of service that are to be provided pursuant to said agreement; and

WHEREAS the County and CCSCI desire to enter into an agreement whereby CCSCI will provide unduplicated units of service to said Nutrition Service Incentive Program Agreement and will provide units of recreational services to Colfax County senior residents.

NOW, THEREFORE, the parties do hereby covenant and agree as follows:

1. In consideration for the County's agreement to budget and provide funding to CCSCI in the amount of \$162,000.00, CCSCI agrees to provide services to senior residents of Colfax County, as more particularly stated in paragraph 2 below and this amount is a maximum and not a guarantee that the work assigned to be performed by CCSCI under this Agreement shall equal the amount stated herein. CCSCI is responsible for notifying Colfax County when the services provided under this Agreement reach the total compensation. In no event will CCSCI be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.

2. CCSCI and the County agree that they hereby adopt the service units defined in Service Definitions for the Non-Metro Area Agency on Aging which can be found in the Non-Metro Area Agency on Aging Direct Purchase of Services Manual, Section VI "Service Definitions". CCSCI will provide the units described in Exhibit A attached hereto and hereby incorporated herein, in consideration for the funding to be provided by the County, pursuant to this agreement;

3. CCSCI shall provide County all records, invoices, purchase orders, and other documentation the County or the Department of Finance and Administration may require, and CCSCI shall comply with all generally accepted accounting practices consistently applied in keeping records of and accounting for all disbursements made to it by the County. All such

financial records shall be made available to the County or the Department of Finance and Administration upon request, and all such records shall be maintained by CCSCI for five (5) years following the termination of this agreement;

4. The County does hereby agree to pay to CCSCI the sum of \$162,000.00, which monies shall be disbursed to CCSCI upon receipt by the County of purchase orders, invoices other appropriate documentation evidencing compliance with all Department of Finance and Administration requirements for disbursement of said funds;

5. Appropriations: Notwithstanding any provision in the Agreement to the contrary, the terms of this Agreement are contingent upon the County receiving the appropriations necessary for the performance of this agreement. If sufficient appropriations and authorizations are not made to the County, the Agreement may be terminated. Such event shall not constitute an event of default. All payment obligations of the County and all its interest this Agreement will cease upon such termination.

6. CCSCI must submit a detailed statement accounting for all services performed and expenses incurred. If Colfax County finds that the services are not acceptable, within fifteen days after the date of receipt of written notice from CCSCI that payment is requested, it shall provide CCSCI a letter of exception explaining the defect or objection to the services and outlining steps CCSCI may take to provide remedial action. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, Colfax County shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

7. TERMS AND TERMINATION BY EITHER PARTY.

A. This agreement shall become effective July 1, 2024, or upon execution by all parties, whichever is later, and shall terminate on June 30, 2025.

This contract may be terminated by either party upon fifteen (15) days prior written notice to the other party in the event of substantial failure by the other party to fulfill its obligations under this Contract through no fault of the terminating party.

B. In the event of such termination, CCSCI's compensation shall be prorated to the date of termination and CCSCI shall be paid in full for services performed and verified to the date of such termination. In the event of such termination, Except as otherwise allowed or provided under this Agreement, Colfax County's sole liability upon such termination shall be to pay for acceptable work performed prior to CCSCI's receipt of the notice of termination, if Colfax County is the terminating party, or CCSCI's sending of the notice of termination, if CCSCI is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. CCSCI shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to CCSCI if CCSCI becomes unable to perform the services contracted for, as determined by Colfax County or if, during the term of this Agreement,

CCSCI or agents is indicted for fraud, embezzlement or other crime due to misuse of public funds or due to the Appropriations paragraph herein.

THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY CCSCI'S DEFAULT/BREACH OF THIS AGREEMENT.

8. TERMINATION BY THE COUNTY.

A. Notwithstanding the foregoing, this Contract may be terminated by the County for its convenience and without cause upon fifteen (15) days prior written notice to CCSCI. Furthermore, should the CCSCI be convicted on any alcohol, drug related or violence related changes including but not limited to DUI, domestic violence issues or contributing to delinquency of a minor, this may be grounds for immediate termination.

B. Immediately upon receipt by either Colfax County or CCSCI of notice of termination of this Agreement, CCSCI shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of Colfax County; 2) comply with all directives issued by Colfax County in the notice of termination as to the performance of work under this Agreement; and 3) take such action as Colfax County shall direct for the protection, preservation, retention or transfer of all property titled to Colfax County and records generated under this Agreement.

9. ASSIGNMENT.

This Contract shall not be assignable except at written consent of the parties hereto, and if so assigned, shall extend to and be binding upon the successors and assigns of the parties hereto.

10. HOLD HARMLESS.

CCSCI further agrees to indemnify and hold County and its commissioners, other elected officials, employees, agents, attorneys, successors and assigns harmless from any and all claims, suits, causes of action, damages, costs and expenses, including, but not by way of limitation, expenses of litigation, witness fees, court costs and attorney fees, incurred, arising, or in any way resulting from CCSCI's activities or actions or with respect to his actions or omissions whether such activities, actions or omissions shall be within or outside of the scope of duties. The parties hereto believe that neither NMSA 1978, Section 56-7-1 nor 56-7-2, concerning indemnity, apply to this agreement, provided, however, if a court of competent jurisdiction determines that the provisions of either statute shall apply to this agreement, this obligation to indemnify will be limited and construed so as not to extend to liabilities of any kind that are beyond the scope of indemnity permitted by such statute that is held to apply. This indemnity shall survive the termination of the contract for any reason.

11. RECORDS AND FINANCIAL AUDIT.

CCSCI shall maintain detailed time and expenditure records that indicate the date, time, nature, and cost of services rendered during CCSCI's term and effect and retain them for a period of seven (7) years from the date of final payment under this Contract. The records shall be

subject to inspection by Colfax County, the Department of Finance and Administration and the State Auditor.

12. STATUS OF INDEPENDENT CONTRACTOR.

CCSCI and its agents and/or employees are independent CCSCI's performing professional services for Colfax County and are not employees of Colfax County. CCSCI and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of Colfax County as a result of this Agreement. CCSCI acknowledges that all sums received hereunder are reportable by CCSCI tax purposes, including without limitation, self-employment, and business income tax. CCSCI agrees not to purport to bind Colfax County unless CCSCI has express written authority to do so, and then only within the strict limits of that authority. CCSCI shall be responsible for filing any and all New Mexico gross receipts taxes.

13. SUBCONTRACTING.

CCSCI shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of Colfax County.

14. RELEASE.

Final payment of the amounts due under this Agreement shall operate as a release of Colfax County, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

15. CONFLICT OF INTEREST; GOVERNMENTAL CONDUCT ACT.

CCSCI represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

CCSCI further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10.

16. AMENDMENT.

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

If Colfax County proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, CCSCI shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth herein, or to agree to the reduced funding.

17. MERGER.

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

18. EQUAL OPPORTUNITY COMPLIANCE.

CCSCI agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, CCSCI assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement.

19. APPLICABLE LAW.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be in the state district court located within Colfax County.

20. INSURANCE.

CCSCI shall maintain and keep in force Insurance Policies in amounts and with coverage not less than \$1 million dollars or acceptable coverage amount for the County which will be decided by the County.

21. WORKER'S COMPENSATION.

The CCSCI agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the CCSCI fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by CCSCI.

22. WAIVER OF SUBROGATION.

Without affecting any other rights or remedies, CCSCI hereby release and relieve the County and waive their entire right to recover damages against the County, for loss of or damage arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. CCSCI agrees to have their insurance carriers waive any right to subrogation that such companies may have against the County, as the case may be, so long as the insurance is not invalidated thereby.

The parties acknowledge that the Worker's compensation statutes do not create a right of subrogation and CCSCI expressly waives such subrogation right against the County subject to

the New Mexico laws including Seaboard Fire & Marine Ins. Co. v. Kurth, 1980-NMCA-112, 96 N.M. 631.

23. INVALID TERM OR CONDITION.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

24. ENFORCEMENT OF AGREEMENT.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

25. NOTICES.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

CCSCI,
Monica Finkbone, Executive Director
444 S 1st Street
Raton, NM 87740

Colfax County
County Manager's Office
230 North 3rd St., 3rd Floor
PO Box 1498
Raton, NM 87740
(575) 445-9661

26. AUTHORITY.

If CCSCI is other than a natural person, the individual(s) signing this Agreement on behalf of CCSCI represents and warrants that he or she has the power and authority to bind CCSCI, and that no further action, resolution, or approval from CCSCI is necessary to enter into a binding contract.

IN WITNESS WHEREOF, the parties have executed this Agreement on the 25th day of June, 2024.

ATTEST:

COLFAX COUNTY BOARD OF
COMMISSIONERS

Rayetta Trujillo, Clerk of the Board

Si Trujillo, CHAIRMAN

Mary Lou Kern, VICE-CHAIRMAN

Bret Wier, MEMBER

COLFAX COUNTY SENIOR CITIZENS,
INC.

By: _____
Monica Finkbone, Executive Director

EXHIBIT A

SERVICE	PROJECTED UNITS (UNDUPLICATED)	PRICE	TOTAL
Congregate Meals			
Home Delivered Meals			
Transportation			
Home Services			
Recreation			
Total			

Recreation is tracked as actual hours of recreation

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN COLFAX COUNTY
AND PIEDRA LUMBRE EXCAVATIONS**

This Agreement made and entered into in duplicate originals this 25th day of June 2024, by and between the BOARD OF COMMISSIONERS OF COLFAX COUNTY, NEW MEXICO (hereinafter called COUNTY) and, PIEDRA LUMBRE EXCAVATION, INC. whose address is 36 Agua Rd, Angel Fire, NM 87710 (hereinafter called CONTRACTOR).

NOW, THEREFORE, in consideration of their mutual covenants and agreements, it is hereby mutually agreed as follows:

1. SCOPE OF WORK.

CONTRACTOR shall complete work as specified herein or as indicated in the project manual, which manual is incorporated herein and by this reference made a part of this agreement. The work is generally described as follows:

Road grading, drainage improvement and snow removal within the Taos Pines Ranch Subdivision in Colfax County, New Mexico.

MOTOR GRADER/SNOW REMOVAL EQUIPMENT MUST BE STAGED NO MORE THAN TWO MILES FROM THE PALO FLECHADO ENTRANCE TO TPR AND RESPONSE TIME MUST BE NO MORE THAN TWO HOURS AFTER CALLED FOR SNOW REMOVAL.

2. PROJECT MANAGER.

Subject to the approval from the Colfax County, the Taos Pines Ranch Subdivision Special Assessment District Advisory Committee (Advisory Committee) shall have the authority to manage the contract, including the authority to order and schedule work, adjust quantities of work to be performed, and supervise the contract. The Advisory Committee shall receive Contractor's application for payment, and shall review and recommend approval, conditional or partial approval, or disapproval of Contractor's application for payment to the County. In the event the Advisory Committee shall recommend payment or partial payment of Contractor's application for payment, the Board of Commissioners of Colfax County, New Mexico shall authorize payment for partial payment subject to the availability of funds in the Taos Pines Ranch Special Assessment District Fund. The Advisory Committee may appoint a Project Manager, who shall act as, and have the authority for the Advisory Committee.

3. CONTRACT TERM.

The term of this Agreement shall commence on July 1, 2024, and shall terminate on June 30, 2025.

4. CONTRACT PRICE.

The County shall pay Contractor for completion of the work in current funds equal to the sum of the established unit price for each separately identified item of unit price work times the estimated quantity of that item as indicated as follows:

ANNUAL PULL DITCHES, GRADE AND ROLLER PRESS	\$9,800
MOTOR GRADER HOURLY COST (MOSTLY SNOW REMOVAL)	\$120
ROLLER PRESS HOURLY COST	\$120
BACKHOE HOURLY COST	\$100
PLOW TRUCK HOURLY COST	\$55
PLOW TRUCK (1 ton with cinders) HOURLY COST	\$55
HOE RAM HOURLY COST	\$200
COST PER LINEAR FOOT OF 3-DELIVERED, SPREAD, AND ROLLER PRESSED, ASSUMING AN AVERAGE OF 6 INCHES DEEP AND 24 FEET WIDE, WITH AN ESTIMATED 2,000 TO 2,500 LINEAR FEET PER YEAR	\$25 PER FOOT

5. PAYMENT PROCEDURES.

A. Contractor shall submit applications for payment to the Advisory Committee on a monthly basis for units of work completed and accepted by the County. No Payment shall be made for stored materials;

B. Upon receipt of the Contractor's application for payment, the Advisory Committee shall make a prompt recommendation with respect to approval, conditional or partial approval, or disapproval of Contractor's application for payment to the County in writing. In the event the County shall receive a written recommendation for payment or partial payment from the Advisory Committee on or before the tenth (10th) day of the month, the County shall make such payment around the fifteenth (15th) day of each month following the authorization of the Board of Commissioners of Colfax County. Contractor must submit a detailed statement accounting for all services performed and expenses incurred if requested by the County. If Colfax County finds that the services are not acceptable, within fifteen (15) days after the date of receipt of written notice from Contractor that payment is requested, it shall provide Contractor a letter of exception explaining the defect or objection to the services and outlining steps Contractor may take to provide remedial action. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, Colfax County shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein;

C. No retainage shall be held by the County; and

D. **Appropriations:** Notwithstanding any provision in the Agreement to the contrary, the terms of this Agreement are contingent upon the County receiving the appropriations necessary for the performance of this agreement. If sufficient appropriations and authorizations are not made to the County, the Agreement may be terminated. Such event shall not constitute an event of default. All payment obligations of the County and all its interest this Agreement will cease upon such termination.

6. TERMINATION BY EITHER PARTY.

A. This contract may be terminated by either party upon fifteen (15) days prior written notice to the other party in the event of substantial failure by the other party to fulfill its obligations under this Contract through no fault of the terminating party.

B. In the event of such termination, Contractor's compensation shall be prorated to the date of termination and Contractor shall be paid in full for services performed and verified to the date of such termination. In the event of such termination, Except as otherwise allowed or provided under this Agreement, Colfax County's sole liability upon such termination shall be to pay for acceptable work performed prior to Contractor's receipt of the notice of termination, if Colfax County is the terminating party, or Contractor's sending of the notice of termination, if Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to Contractor if Contractor becomes unable to perform the services contracted for, as determined by Colfax County or if, during the term of this Agreement, Contractor or agents is indicted for fraud, embezzlement or other crime due to misuse of public funds or due to the Appropriations paragraph herein.

THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

7. TERMINATION BY THE COUNTY.

A. Notwithstanding the foregoing, this Contract may be terminated by the County for its convenience and without cause upon fifteen (15) days prior written notice to Contractor Furthermore, should the Contractor or its agents be convicted on any alcohol, drug related or violence related charges including but not limited to DUI, domestic violence issues or contributing to delinquency of a minor, this may be grounds for immediate termination.

B. Immediately upon receipt by either Colfax County or Contractor of notice of termination of this Agreement, Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of Colfax County; 2) comply with all directives issued by Colfax County in the notice of termination as to the performance of work under this Agreement; and 3) take such action as Colfax County shall direct for the protection, preservation, retention or transfer of all property titled to Colfax County and records generated under this Agreement.

8. CONTRACTOR'S REPRESENTATIONS.

Contractor makes the following representations:

A. Contractor is a licensed New Mexico Contractor, whose license number is 27931, and who is qualified and authorized to perform the work described herein or pertinent New Mexico law including Construction Industries Division's licensing requirement;

B. Contractor has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, and performance of the Work;

C. Contractor is familiar with and its satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, and performance of the work;

D. Contractor has obtained and carefully studied the project manual and shall perform all work in accordance with such manual; and

E. Contractor is aware of the general nature of work to be performed for County.

9. ASSIGNMENT.

This Contract shall not be assignable except at written consent of the parties hereto, and if so assigned, shall extend to and be binding upon the successors and assigns of the parties hereto.

10. HOLD HARMLESS.

Contractor further agrees to indemnify and hold County and its commissioners, other elected officials, employees, agents, project manager and members of the advisory board, attorneys, successors and assigns harmless from any and all claims, suits, causes of action, damages, costs and expenses, including, but not by way of limitation, expenses of litigation, witness fees, court costs and attorney fees, incurred, arising, or in any way resulting from Contractor's activities or actions or with respect to his actions or omissions whether such activities, actions or omissions shall be within or outside of the scope of duties. The parties hereto believe that neither NMSA 1978, Section 56-7-1 nor 56-7-2, concerning indemnity, apply to this agreement, provided, however, if a court of competent jurisdiction determines that the provisions of either statute shall apply to this agreement, this obligation to indemnify will be limited and construed so as not to extend to liabilities of any kind that are beyond the scope of indemnity permitted by such statute that is held to apply. This indemnity shall survive the termination of the contract for any reason.

11. RECORDS AND FINANCIAL AUDIT.

Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature, and cost of services rendered during Contractor's term and effect and retain them for a period of seven (7) years from the date of final payment under this Contract. The records shall be subject to inspection by Colfax County, the Department of Finance and Administration and the State Auditor.

12. STATUS OF INDEPENDENT CONTRACTOR.

Contractor and its agents and/or employees are independent Contractor's performing professional services for Colfax County and are not employees of Colfax County or Advisory Board. Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of Colfax County as a result of this Agreement. Contractor acknowledges that all sums received hereunder are reportable by Contractor tax purposes, including without limitation, self-employment, and business income tax. Contractor agrees not to purport to bind Colfax County unless Contractor has express written authority to do so, and then only within the strict limits of that authority. The Contractor shall be responsible for filing any and all New Mexico gross receipts taxes.

13. SUBCONTRACTING.

Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of Colfax County.

14. RELEASE.

Final payment of the amounts due under this Agreement shall operate as a release of Colfax County, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

15. CONFLICT OF INTEREST; GOVERNMENTAL CONDUCT ACT.

Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10.

16. AMENDMENT.

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

If Colfax County proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth herein, or to agree to the reduced funding.

17. MERGER.

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

18. EQUAL OPPORTUNITY COMPLIANCE.

Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement.

19. APPLICABLE LAW.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be in the state district court located within Colfax County.

20. INSURANCE.

Contractor shall maintain and keep in force Insurance Policies in amounts and with coverage not less than \$1 million dollars or acceptable coverage amount for the County which will be decided by the County.

21. WORKER'S COMPENSATION.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by Contractor.

22. WAIVER OF SUBROGATION.

Without affecting any other rights or remedies, Contractor hereby release and relieve the County and waive their entire right to recover damages against the County, for loss of or damage arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. Contractor agrees to have their insurance carriers waive any right to subrogation that such companies may have against the County, as the case may be, so long as the insurance is not invalidated thereby.

The parties acknowledge that the Worker's compensation statutes do not create a right of subrogation and Contractor expressly waives such subrogation right against the County subject to the New Mexico laws including Seaboard Fire & Marine Ins. Co. v. Kurth, 1980-NMCA-112, 96 N.M. 631.

23. INVALID TERM OR CONDITION.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

24. ENFORCEMENT OF AGREEMENT.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless expressed and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

25. NOTICES.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

Contractor,
Piedra Lumbre Excavation Inc.
36 Agua Rd
Angel Fire, NM 87710

Colfax County,
County Manager's Office
230 North 3rd St., 3rd Floor

PO Box 1498
Raton, NM 87740
(575) 445-9661

26. AUTHORITY.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract. County and Contractor each bind itself, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the contract documents

27. EFFECTIVE DATE:

The effective date of this Agreement is July 1, 2024.

IN WITNESS WHEREOF, the parties have caused this Professional Services Agreement to be acknowledged on the 25th day of June 2024.

ATTEST:

COLFAX COUNTY BOARD OF
COMMISSIONERS

Rayetta Trujillo, Clerk of the Board

Si Trujillo, CHAIRMAN

Mary Lou Kern, VICE-CHAIRMAN

Bret Wier, MEMBER

PIEDRA LUMBRE EXCAVATION INC.

By: _____
Henry Martinez

PROFESSIONAL SERVICES AGREEMENT BETWEEN COLFAX COUNTY AND THE VILLAGE OF EAGLE NEST

This agreement made and entered into on June 25, 2024 by and between the BOARD OF COMMISSIONERS OF COLFAX COUNTY, NEW MEXICO, hereinafter called "County" whose address is P.O. Box 1498, Raton, NM 87740 and the VILLAGE OF EAGLE NEST, a New Mexico municipality, hereafter known as "Eagle Nest", whose address is 151 Willow Creek Drive (PO Box 168), Eagle Nest, New Mexico 87718, WITNESSTH that;

WHEREAS Eagle Nest provides meals and services to senior citizens in Colfax County through its Senior Citizens Center; and

WHEREAS Eagle Nest has entered into a Nutrition Service Incentive Program Agreement with the North Central New Mexico Economic Development District Non-Metro Area Agency on Aging to provide certain services to Citizens of Colfax County, New Mexico; and

WHEREAS the aforesaid service agreement specifically defines the units of service that are to be provided pursuant to said agreement; and

WHEREAS the County and Eagle Nest desire to enter into an agreement whereby Eagle Nest will provide additional units of service over and above those provided pursuant to said Nutrition Service Incentive Program Agreement and will provide units of recreational services to Colfax County residents in Eagle Nest and the surrounding area;

NOW, THEREFORE, the parties do hereby covenant and agree as follows:

1. In consideration for County's agreement to budget and provide funding to the Eagle Nest in an amount not to exceed \$59,000.00, Eagle Nest agrees to provide services to the residents of Colfax County, as more particularly stated in paragraph 2 below.
2. The County and Eagle Nest agree that they hereby adopt the service units defined in Service Definitions for Non-Metro Area Agency on Aging for the purpose of providing additional services by Eagle Nest to residents of Colfax County. Eagle Nest will provide those additional units described in consideration for the funding to be provided by the County, pursuant to this agreement.
3. Eagle Nest shall provide County all records, invoices, purchase orders, and other documentation County or the Department of Finance and Administration may require, and Eagle Nest shall comply with all generally accepted accounting practices consistently applied in keeping records of and accounting for all disbursements made to it by County. All such financial records shall be made available to County or the Department of Finance and Administration upon request, and all such records shall be maintained by

Eagle Nest in accordance with applicable law for the retention of public records following the termination of this agreement.

4. County does hereby agree to pay to Eagle Nest a sum not to exceed \$59,000.00, which monies shall be disbursed to Eagle Nest upon receipt by the County of invoices or other appropriate documentation evidencing services rendered and compliance with all Department of Finance and Administration requirements for disbursement of said funds.

In accordance with the New Mexico Constitution, including Article IX, Sections 11 and 12, if the performance of any of the County's obligations under this Agreement, whether conditional or unconditional, require the expenditure of funds other than in the current fiscal year for the County, then the County's obligations to perform are contingent upon sufficient appropriations being made by the County of Board of Commissioners subject to approval by the Department of Finance.

5. In the event of a lawsuit against the parties arising out of the transfers set forth in this Agreement, or arising out of this Agreement, the parties will: Provide mutual assistance and defense to each other, to include, but not be limited to, making personnel and documentary evidence available for interview or inspection, providing security or unit video, providing technical support, providing access to physical facilities, providing testimony, and otherwise providing any reasonable assistance requested by the other party to this Agreement necessary to defend against any asserted claims relating to this Agreement. The Eagle Nest will be responsible for defending all claims against the County and its personnel operating under this Agreement subject to immunities and privileges provided to the parties.
6. Eagle Nest and its agents and employees are independent and separate municipality and its employees performing professional services for County and are not employees of the County of Colfax. Eagle Nest, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of County vehicles, or any other benefits afforded to employees of the County of Colfax. Neither shall County be liable to Eagle Nest, nor its agents, for any injury to person or property incurred in the course of performance of this Agreement unless such injury shall have directly and proximately resulted from grossly negligent or reckless conduct on the part of County or its agents acting within the scope of their employment and official duties.
7. Eagle Nest shall indemnify and hold harmless County, its officers and employees, against liability, claims, damages, losses, or expenses arising out of bodily injury to persons or damage to property caused by, or resulting from, Eagle Nest's and/or its employees own negligent act(s) or omission(s) while Eagle Nest and/or its employees performs or fails to perform its obligations and duties under this Agreement.
8. Eagle Nest shall not assign or transfer any interest in this Agreement, nor assign any claims for money due or to become due under this Agreement, without the prior written approval of County.

9. Eagle Nest shall not subcontract any portion of the services to be performed under this Agreement without prior written approval of County.
10. Eagle Nest shall maintain detailed time records which indicate the date, time, and nature of services rendered. These records shall be subject to inspection by the County of Colfax Finance Department, Personnel Department, and the New Mexico Auditor. County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of County to recover any excessive or illegal payment.
11. Eagle Nest, upon final payment of the amount due under this Agreement, releases the County, its officers and employees, from all liabilities, claims, and obligations whatsoever arising from or under this Agreement. Eagle Nest agrees not to purport to bind the County of Colfax to any obligations not assumed herein by the County of Colfax, unless Eagle Nest has express written authority to do so, and then only within the strict limits of that authority.
12. Any information given to or developed by Eagle Nest in the performance of this Agreement shall be kept confidential and shall not be made available by Eagle Nest to any individuals or organizations without the prior written approval of County.
13. This Agreement shall not be altered, changed, or amended except by instrument in writing, executed by the parties hereto.
14. This Agreement incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter set forth, and all such covenants, agreements, and understandings have merged into this written Agreement. No prior agreement or understanding, verbal or otherwise, shall be valid or enforceable unless embodied in this Agreement. No subsequent agreement or understanding, verbal or otherwise, shall be valid or enforceable unless incorporated by way of amendment as described in the AMENDMENT paragraph above.
15. Eagle Nest shall maintain and keep in force Insurance Policies in amounts and with coverage not less than \$1 million dollars or acceptable coverage amount for the County which will be decided by the County and Eagle Nest shall provide certification of insurance for workers' compensation, commercial liability, including automotive/ vehicle liability, and professional errors and omissions liability.
16. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

17. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this agreement is invalid or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
18. The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be in the state district court located within Colfax County.
19. Notice given pursuant to this contract shall be given by mailing by certified mail return receipt requested or delivering written notice to the parties at the following addresses, unless notice of a change of address shall have been previously expressed in writing to the other party;

COUNTY: Office of Colfax County Manager
P.O. Box 1498
Raton, New Mexico 87740

EAGLE NEST:
Jeff Carr, Mayor
74 N Tomboy Dr
Eagle Nest, NM 87718

This agreement shall become effective July 1, 2024 and shall terminate on June 30, 2025.

Either party to this agreement may terminate it without cause by giving notice to the other party ninety (90) days prior to the desired termination date. Termination shall not relieve either party from fulfilling all obligations and duties hereunder up to the termination date.

IN WITNESS WHEREOF, the parties have executed this Agreement on the 25th day of June, 2024.

COLFAX COUNTY BOARD OF COMMISSIONERS

ATTEST:

Rayetta Trujillo, Clerk of the Board

Si Trujillo, CHAIRMAN

Mary Lou Kern, VICE-CHAIRMAN

Bret Wier, MEMBER

VILLAGE OF EAGLE NEST

By: _____
Jeff Carr, Mayor

COLFAX COUNTY, NEW MEXICO

PROFESSIONAL SERVICES CONTRACT

THIS AGREEMENT is made and entered into by and between the COUNTY OF COLFAX, hereinafter referred to as the "County," and Molzen-Corbin & Associates, Inc., hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the approval of Colfax County Commission.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work

Provide preliminary studies, analysis, surveys, planning, engineering, design and construction phase services for various projects for the County. Individual work authorization, hereinafter referred to as the "Task Order", will be developed for specific projects with the scope of work mutually agreed upon and the approved by the County.

2. Compensation

- A. Colfax County shall pay to the Contractor in full payment for services satisfactorily performed on a lump sum or on an hourly basis conforming to the Schedule of Wage Rates listed in Exhibit I Standard Billing Rates and as agreed to in the Task Order. New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by Colfax County to the Contractor. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed the amount approved in the Task Order. This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying Colfax County when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.

- B. Payment is subject to availability of funds pursuant to the Colfax County Commission Approval set forth below and to any negotiations between the parties from year to year pursuant to Paragraph I, Scope of Work, and to approval by Colfax County Commission. All invoices MUST BE received by Colfax County no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.
- C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If Colfax County finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services and outlining steps the Contractor may take to provide remedial action. Upon certification by Colfax County that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, Colfax County shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. Term

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY COLFAX COUNTY COMMISSION. This Agreement shall terminate on June 30, 2025, unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall not exceed four years, except as set forth in Section 13- 1-150 NMSA 1978.

4. Termination

A. Termination

This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least sixty (60) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, Colfax County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if Colfax County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party: provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults

under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by Colfax County or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of public funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B. Termination Management

Immediately upon receipt by either Colfax County or the Contractor of notice of termination of this Agreement, the Contractor shall:

- A. Not incur any further obligations for salaries, services, or any other expenditure of funds under this Agreement without written approval of Colfax County.
- B. Comply with all directives issued by Colfax County in the notice of termination as to the performance of work under this Agreement; and
- C. Take such action as Colfax County shall direct for the protection, preservation, retention, or transfer of all property titled to Colfax County and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of Colfax County upon termination and shall be submitted to Colfax County as soon as practicable.

5. Colfax County Commission Approval

The Contract is to be presented to the Colfax County Commission for approval. The approval is based on and subject to the availability of funds from the approved budget for the specific fiscal year in which the task is to be performed.

6. Status of Contractor

The Contractor and its agents and employees are independent contractors performing professional services for Colfax County and are not employees of Colfax County. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of Colfax County as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and

business income tax. The Contractor agrees not to purport to bind Colfax County unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of Colfax County.

8. Subcontracting

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of Colfax County.

9. Release

Final payment of the amounts due under this Agreement shall operate as a release of Colfax County, its officers, and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

10. Product of Service – Copyright

All materials developed or acquired by the Contractor under this Agreement shall become the property of Colfax County no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

11. Conflict of interest; Governmental Conduct Act

- A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.
- B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:
 - 1) In accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any Colfax County employee while such employee was or is employed by Colfax County and participating directly or indirectly in Colfax County's contracting process.

- 2) This Agreement complies with Section 10-16-7(A) NMSA 1978 because (i) the Contractor is not a public officer or employee of Colfax County; (ii) the Contractor is not a member of the family of a public officer or employee of Colfax County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(A) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;
 - 3) in accordance with Section 10-16-8(A) NMSA 1978,
 - I. the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and
 - II. the Contractor is not and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in Colfax County's making this Agreement.
 - 4) this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code.
 - 5) in accordance with Section 10-16-13 NMSA 1978, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement, or any procurement related to this Agreement; and
 - 6) in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of Colfax County.
- C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which Colfax County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to Colfax County if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the

effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to Colfax County and notwithstanding anything in the Agreement to the contrary, Colfax County may immediately terminate the Agreement.

- D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(8).

12. Amendment

- A. This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto and all other required signatories.
- B. If Colfax County proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

13. Merger

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

14. Penalties for violation of law

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kickbacks.

15. Equal opportunity Compliance

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or

participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

16. Applicable Law

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement. The Contractor shall maintain and keep in force Insurance Policies in amounts and with coverage not less than that provided in the policies provided to Colfax County as part of their proposal or not less than \$1 million dollars or acceptable coverage amount for the County which will be decided by the County.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Contractor.

Without affecting any other rights or remedies, the Contractor hereby release and relieve the County and waive their entire right to recover damages against the County, for loss of or damage arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Contractor agrees to have their insurance carriers waive any right to subrogation that such companies may have against the County, as the case may be, so long as the insurance is not invalidated thereby.

17. Workers Compensation

The Contractor agrees to comply with state laws and rules applicable to workers Compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by Colfax County.

18. Records and Financial Audit

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of five (5) years from the date of final payment under this Agreement. The records shall be subject to inspection by Colfax County, the Department of Finance and Administration, the State Auditor and the Contractor shall provide copies to Colfax County when requested to do so. Colfax County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of Colfax County to recover excessive or illegal payments.

19. Indemnification

The Contractor shall indemnify and hold harmless Colfax County from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the intentional act, the negligent act or failure to act of the Contractor, its officers, employees, or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify Colfax County and its legal counsel.

Rimon, P.C.
Y. Jun Roh
420 W. Main Street Ste 101B
Boise, Idaho 83702

20. Invalid Term or Condition

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

21. Enforcement of Agreement

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its

rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

22. Notices

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To:

Colfax County Managers Office

Attention: Danielle Avila

PO Box 1498

Raton, NM 87740

To the Contractor:

Molzen-Cobin and Associates, Inc.

Mike Provine

2701 Miles Road, SE

Albuquerque, NM 87106

23. Authority

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed this 25th day of June 2024.

SI TRUJILLO, CHAIRMAN

MARY LOU KERN, VICE CHAIR

BRET WIER, MEMBER

ATTEST:

RAYETTA M. TRUJILLO, CLERK

Molzen-Corbin & Associates, Inc.

Date

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and compensating taxes.

ID Number: 0I-30S771-00S