

**NEW MEXICO OFFICE OF  
SUPERINTENDENT OF INSURANCE**

**REVIEW OF PROCEDURES OVER  
PREMIUM TAX COLLECTION PROCESSES**

**APRIL 1, 2010 THROUGH APRIL 30, 2015**

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
TABLE OF CONTENTS  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

<b>LETTER TO SUPERINTENDENT OF INSURANCE</b>	<b>1</b>
<b>SUMMARIZATION OF PROCEDURES</b>	<b>2</b>
<b>OBJECTIVES</b>	<b>2</b>
<b>LEGAL INTERPRETATIONS/DISCUSSION</b>	<b>4</b>
<b>SUMMARY OF ANALYSES</b>	<b>8</b>
<b>BAIL BONDSMEN PROCEDURES</b>	<b>15</b>
<b>SCHEDULE OF FINDINGS AND RECOMMENDATIONS</b>	<b>17</b>
<b>APPENDIX A – FLOW CHARTS OF WALKTHROUGHS</b>	<b>26</b>
<b>FINANCIAL AUDIT BUREAU – PERSONNEL AND GENERAL DUTIES</b>	<b>26</b>
<b>PREMIUM TAX FILING AND PAYMENT RECEIPTS – FAB RECEIPT,     RECORDING AND REVIEW PROCESS</b>	<b>27</b>
<b>APPENDIX B – NM OSI ORGANIZATION CHART</b>	<b>28</b>



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Office of Superintendent of Insurance  
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Santa Fe, New Mexico

We performed research and a review of procedures over premium tax collection processes with the Financial Audit Bureau (FAB) of the New Mexico Office of Superintendent of Insurance (NM OSI). The attached Summarization of Procedures and Schedule of Findings and Recommendations provide the results of these procedures.

The consulting procedures under this engagement do not constitute an examination, investigation, or an audit made in accordance with U.S. generally accepted auditing standards, the objective of which would be the expression of an opinion on the items outlined in the attached supplement or on the financial statements of the Company taken as a whole. Our responsibility under this engagement was not to detect fraud. Accordingly, we do not express such an opinion or give any other form of assurance. We performed our engagement under the AICPA Statement on General Standards for Consulting Services.

This report is intended solely for the information and use of management of NM OSI and is not intended to be and should not be used by anyone other than these specified parties. The NM OSI requested special legislative appropriation to accomplish the review of these procedures.

We wish to take this opportunity to express our sincere appreciation for all the courtesies and cooperation extended to us by the management and staff and thank you for the opportunity to be of service.

*CliftonLarsonAllen LLP*

**CliftonLarsonAllen LLP**

Albuquerque, New Mexico  
June 30, 2016

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
SUMMARIZATION OF PROCEDURES  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Objectives**

The New Mexico Office of Superintendent of Insurance ( NM OSI) became its own governmental entity on July 1, 2013. Prior to this date, it was a bureau within the NM Public and Regulation Commission. NM OSI was subsequently appropriated funding for this engagement, subject to oversight by the Office of the State Auditor, to help them identify improvements surrounding the premium tax revenue collection process. The Financial Audit Bureau (FAB) is the Bureau within NM OSI that is responsible for monitoring this activity for applicable entities that perform insurance business in the State of New Mexico.

We have performed the procedures enumerated below, which were agreed to by the Financial Audit Bureau (FAB) of the NM OSI, solely to assist NM OSI to identify recommendations and process improvements relating to the application of New Mexico Statutes regarding premium taxes for the period of April 1, 2010 through April 30, 2015. NM OSI's management is responsible for the procedures outlined below. A separate contract was executed between the NM OSI and the Sutin Thayer and Brown, APC law firm (the Sutin Firm) to help provide us with legal interpretations and understanding of select New Mexico statutes that relate to premium taxes.

Required Procedure:

- a. Research New Mexico statutes relating to insurance premium taxes and fees including, but not limited to, Sections:

52-6-13 NMSA 1978 – Premium Tax Workers' Compensation Group Self-Insured's;  
59A-5-29 NMSA 1978 – Authorization of Insurers and General Requirements Annual Statement;  
59A-5-29.1 NMSA 1978 – Authorization of Insurers and General Requirements Quarterly Statements;  
59A-6-1 NMSA 1978 – Fees and Taxes Fee Schedule;  
59A-6-2 NMSA 1978 – Premium Tax; health insurance premium surtax  
59A-6-3 NMSA 1978 – Insurer Must Pay Tax on Withdrawal from State;  
59A-6-4 NMSA 1978 – Penalty for Failure to Report or Pay Tax or Fees;  
59A-6-5 NMSA 1978 – Distribution of Division Collections;  
59A-15-4 NMSA 1978 – Unauthorized Insurers; Insurance Independently Procured Duty to Report and Pay Tax;  
59A-16C-14 NMSA 1978 – Insurance Fraud Act, Insurance Fraud Fund Created;  
59A-40-5 NMSA 1978 – Mexican Casualty Insurers Fees Taxes and Reports;  
59A-44-24 NMSA 1978- Taxation of Fraternal Benefit Societies;  
59A-54-10 NMSA 1978 – Medical Insurance Pool (MIP) Assessments;  
59A-55-6 NMSA 1978 - Taxation of Risk Retention Groups;  
59A-55-15 NMSA 1978 – Penalties;  
59A-55-21 NMSA 1978 – Purchasing Group Taxation; and  
59A-55-23 NMSA 1978- Penalties.

**Response:** We performed the necessary research and worked with the outside counsel contracted by NM OSI, the Sutin Firm, to gather an understanding of these statutes to use as guidance for our procedures.

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
SUMMARIZATION OF PROCEDURES  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Objectives (Continued)**

- b. Work with Financial Accounting Bureau (FAB) staff to review a sample of reports and collections for the period of April 1, 2010 through April 30, 2015 to determine if FAB is collecting insurance premium taxes and fees accurately, equitably, and in accordance with the aforementioned statutes as related to:
  - i. The taxation of insurers to include regular premium tax as well as surtax;
  - ii. The timeliness of when credits are applied or “dropped”;
  - iii. The statutory allowance or disallowance of credits or refunds for “negative premiums”;
  - iv. The application of New Mexico Health Alliance and New Mexico Medical Insurance Pool Credits;
  - v. The computation of estimated premium tax based on last year’s premium tax due;
  - vi. The distribution of refunds as it applies to premium tax.

**Response:** We obtained the population of providers that submitted premium tax filings and/or payments during the period under scope. We noted a finding pertaining to the completeness of the population. Please refer to *Finding 2 – Population Completeness* under the schedule of findings and recommendations. Please refer to the *Premium Tax Procedures* section of this report for more detailed information about the analyses we performed on these samples.

- c. Determine if FAB established procedures and processes ensure accurate and efficient collection of insurance premium taxes and fees in the following areas:
  - i. The procedures by which the mail is handled and logged by FAB;
  - ii. The procedures by which the premium tax filings and the payments thereof are receipted by FAB;
  - iii. The procedures by which the aforementioned fees are receipted by FAB;
  - iv. The processes by which the premium tax files, filings and payments per company are tracked, reviewed and audited by FAB once payments have been receipted;
  - v. The processes by which FAB tracks and drops premium tax credits;
  - vi. The processes in which FAB issues, tracks and receipts premium tax and fee penalties;
  - vii. The process by which FAB issues penalties.

**Response:** We performed walk-throughs of the identified procedures to help with our assessment. Refer to the flowcharts in the Appendix for more details about our walk-throughs. We noted an exception pertaining to FAB’s cash handling procedures. Refer to *Finding 6 – Untimely Deposits*.

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
EXECUTIVE SUMMARY  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Legal Interpretations/Discussion**

We performed the necessary research and worked with the outside counsel contracted by NM OSI, the Sutin Firm, to gather an understanding of these statutes to use as guidance for our procedures. Key interpretations based on our research of the aforementioned statutes are identified below. Our interpretations were reviewed by attorneys from the Sutin Firm and their legal interpretations have been included in the summarized definitions below. This guidance was relied upon during our procedures and used as a basis for our conclusions and/or findings. Unless otherwise noted, the summarized statutes are from our interpretations.

**59A-6-2 NMSA 1978 – Premium Tax:** Each eligible taxpayer, which includes insurers authorized to transact business in New Mexico and all property bondsmen, self-insurers, title companies and risk retention groups, must pay a premium tax of three and three-thousandths (3.003%) percent of gross premiums and membership and policy fees received or written by it, as reported in Schedule T, NM Business Page and supporting schedules of its annual financial statement on insurance or contracts covering premiums written within this state during the preceding calendar year, less all return premiums, including dividends paid or credited to policyholders or contract holders and premiums received for reinsurance on New Mexico risks.

An estimated payment for each calendar quarter of the premium tax and health insurance premium surtax shall be made on April 15th, July 15th, October 15th and the following January 15th. These payments shall be equal to at least one-fourth of the payment made during the previous calendar year or one-fifth of the actual payment due for the current calendar year, whichever is greater effective 2014 filing. The final adjustment for payment due for the prior year shall be made by April 15. Based on discussion with the FAB Bureau Chief, we learned this was the policy effective July 1, 2015. Prior to that date, estimated quarterly payments were statutorily 25% or 80%, whichever is greater. Discussions with the FAB Bureau Chief and Counsel from the Sutin Firm further elaborated that the calculation basis for the one-fourth of payments made during the previous calendar year is based on the line titled “Premium Tax Due after deductions” of the annual tax return, which is the total premium tax due, less deductions for the Health Alliance Credit and Medical Insurance Pool (MIP) Credit. Refer to the snapshot below, which indicates this is Line 6. The exact line number will vary depending on the form type and form year.

1. TOTALS				
2. Premium Tax Due (3.003% of Line 1, Column 5) <b>Retaliatory Tax not presently being assessed per Order of OSI. See DOI Bulletin 2009-008</b>				
3. Less Health Alliance Credit from 2015 FINAL assessment <b>MUST submit copies of cancelled check(s)</b>				
4. Less Medical Insurance Pool from Final Assessment Issued in 2015 (50% credit) <b>MUST submit copies of cancelled check(s)</b>				
5. Less Medical Insurance Pool from Final Assessment Issued in 2015 (75% credit) <b>MUST submit copies of cancelled check(s)</b>				
<b>6. Premium Tax Due after deductions</b>				
7. Less 1 <sup>st</sup> and 2 <sup>nd</sup> 2015 quarterly PREMIUM TAX paid (include credit taken)				
8. Less 3 <sup>rd</sup> and 4 <sup>th</sup> 2015 quarterly PREMIUM TAX paid (include credit taken)				
9. Less year 2014 remaining PREMIUM TAX credit not used in line 9 & 10				
10. Net Premium Tax Due (Do not combine this line with line 12 of “Surtax Due”)			#54	

Variances resulted from insurers using the wrong line to calculate their quarterly payments. However, as identified in *Finding 4 – Staffing Model Within FAB*, a lack of review process of this data entry did not identify these inaccuracies. Additionally, as identified in general assumption 8 under our procedures performed, the instructions to providers during various periods under our scope are unknown. Refer to *Finding 5 – FAB Policies and Procedures Manual*, regarding this matter.

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
EXECUTIVE SUMMARY  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Legal Interpretations/Discussion (Continued)**

**59A-6-4 NMSA 1978 Penalty for Failure to Report or Pay Tax or Fees:** Every insurer, nonprofit health care plan, health maintenance organization, prepaid dental plan or prearranged funeral plan doing business in New Mexico that fails to file when any report for taxation, regardless of whether tax is due, is liable to the state the amount thereof and a \$1,000 penalty for each month or part thereof after due. Discussion with the Sutin Firm modified this interpretation to further explain that the penalty will be assessed after OSI has made a demand for the report of tax due. It is the Sutin Firm's understanding that demand may be made by any means which notifies the taxpayer that the tax or tax report is due. In accordance with the Superintendent's legal interpretation outlined in OSI Bulletin 2015-002, penalty will also be assessed if the report was filed, but no payment was rendered.

**59A-54-10 NMSA 1978 – Medical Insurance Pool (MIP) Assessments:** NM OSI issued Bulletin No. 2015-14, issued on March 30, 2015 and made effective on that date, to further address this statute. Bulletin 2015-14 was updated with Bulletin 2015-027 on October 9, 2015 for grammatical matters, only. The Bulletin explains that MIP issues "Final Assessments to participating insurance companies for the previous calendar year in May or June of each year. Insurance companies participating in MIP are eligible to apply MIP credits on their premium tax returns, as provided under this statute. The NM OSI is required to apply a credit to final premium tax returns of members of the MIP pool as recorded on the member's final MIP assessment invoices. This concludes that using interim MIP assessment invoices is not acceptable. From Figure 3 on page 14, we calculated approximately \$90 million of underpayments because entities were not using the correct MIP credit amount from their annual MIP report. During our review of the selected files, we noted this was not an issue for filing subsequent to this Bulletin.

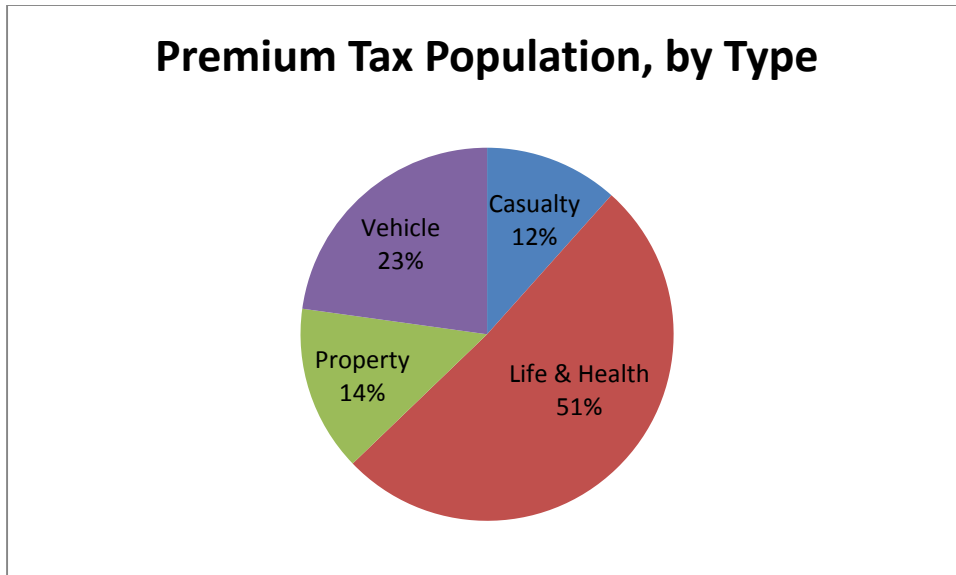
**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE**  
**TOTAL PREMIUM TAX COLLECTED (per IDEAL)**  
**APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Total Premium Tax Collected (PER IDEAL)**

All insurers authorized to transact business in New Mexico and all property bondsmen, self-insurers, title companies and risk retention groups are subject to pay premium tax on a quarterly basis. While self-insurers are recorded and entered into the premium tax software (IDEAL), they are not tracked by IDEAL.

As identified in *Finding 2 – Population Completeness* and *Finding 3 – Limitations of Current Software*, there are challenges with the completeness of the population and the current premium tax software. The total premium tax collections recorded in IDEAL for our period under scope was approximately \$1,023,000,000. Below is a chart to illustrate the various types of businesses in which premium taxes are recorded in IDEAL.

**Chart 1**





**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
TOTAL PREMIUM TAX COLLECTED (per IDEAL)  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Total Premium Tax Collected (PER IDEAL) (Continued)**

Chart 2 identifies the premium tax collections recorded in IDEAL for each respective calendar year under our scope.

**Chart 2**

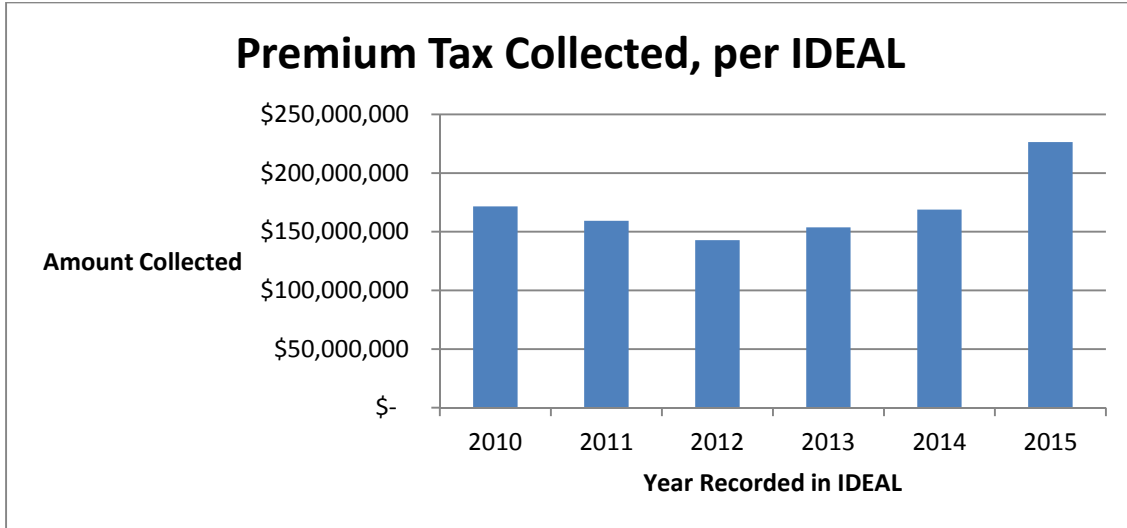
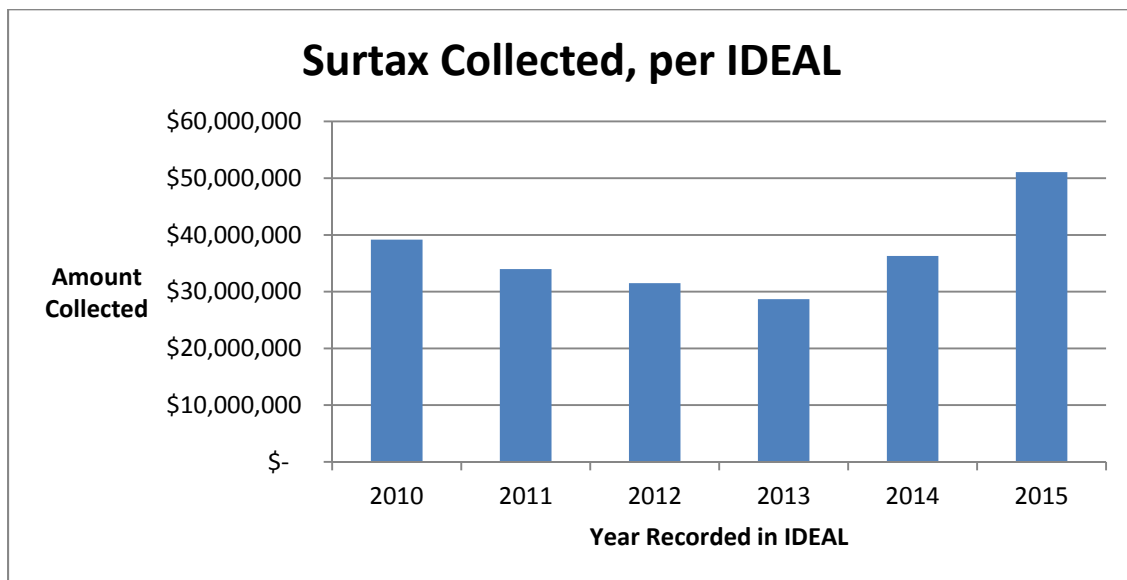


Chart 3 identifies the total amount of surtax collections recorded in IDEAL during our period under scope, which was approximately \$221,000,000.

**Chart 3**



**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE**  
**SUMMARY OF ANALYSES**  
**APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Summary of Analyses**

The results of our procedures are documented in more detail in Figures 3 through 6 of this report, however, a summary is included in Chart 4, below. The amounts in Chart 4 are a cumulative total of recalculated underpayments and use of improper tax credits for the entire period under scope. Additionally, we cannot conclusively state the premium tax credits or surtax credits are improper because of the underlying assumptions that were used as a basis for our procedures. These assumptions are explained further on pages 11 and 16.

<b>Chart 4</b>	
<b>Classification</b>	<b>Amount</b>
Recalculated underpayments from Figures 3 & 5, combined	193,977,826
Potentially Improper premium tax credits from Figures 4 & 6, combined	98,849,405
Potentially Improper surtax credits from Figure 4	1,576,053

As identified in Figure 2 on page 14, we tested 26% of the total premium tax collected (per IDEAL), but extrapolation of these results to the entire population is not reasonable because our sample selection methodology was based on the entities with the highest reported premium tax revenue. Because our sample selection process was judgmental, based on dollar amount, it would be inappropriate to extrapolate the results.

The results summarized above are not an indication of outright violations of state statutes. The NM OSI has issued many bulletins and subsequent interpretations of the state statutes that have impacted the assessment and collection of premium taxes.

Many factors are outlined in the Schedule of Findings and Recommendations that have contributed to these miscalculations. Going forward, NM OSI should implement the recommendations included with each respective finding. Additionally, we believe the next steps could include an analysis of credit application with regards to entities with multiple service lines and an analysis of the MIP credit calculation.

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
PREMIUM TAX PROCEDURES  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

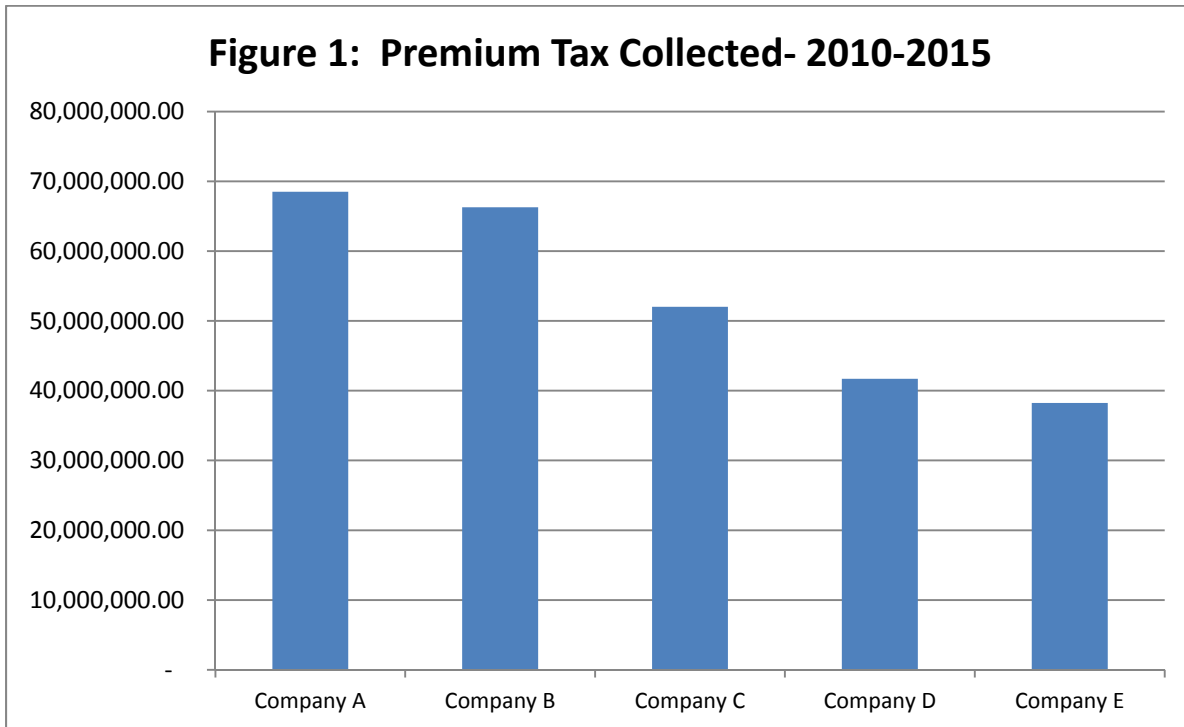
**Review of Insurance Premium Tax Files**

We worked with FAB staff to pull the selected files within our sample and reviewed all documentation within the file to perform our recalculations. We did not inform FAB staff of our sample until after we pulled the file(s) for our review. We relied on the information from the legal interpretations provided by the Sutin Firm to aide in our recalculations. As you will see in figures 4, 5, and 6, as well as *Finding 1 – Premium and Surtax Recalculated Underpayments*, we identified instances of underpayments from the selected insurers due to lack of thorough understanding by the insurer, software issues, and inadequate FAB staffing.

Due to the Superintendent’s legal interpretation of penalty assessment, specified in Bulletin 2015-002, whereby penalties cannot be assessed until notice of underpayment has been given to the insurer, we are unable to assess the amount of penalties that could be collected by NM OSI FAB.

Our sample was selected based on the five entities that submitted the highest dollar amount of premium taxes during our period under scope, based on the information in IDEAL. These entities are insurance providers which comprise 51% of the total premium tax revenue population (Chart 1, page 7.) The testing period begins with 2010 -Quarter 1 Filing and ends with 2015 - Quarter 4 Filing.

Figure 1 below shows the sample selected and the total amount of premium taxes collected by OSI by the respective insurer during our period under scope. These amounts do not include credits applied to premium taxes owed.



**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
PREMIUM TAX PROCEDURES  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Review of Insurance Premium Tax Files (Continued)**

Figure 2 below shows the representation of our sample compared to the total amount of premium tax revenue received for population of insurers provided to us during the period under scope.

**Figure 2**

<b>Insurer</b>	<b>Grand Total</b>
Company A	68,507,633
Company B	66,281,765
Company C	52,024,664
Company D	41,701,425
Company E	38,230,606
Sub total of top 5	266,746,093
Grand total of all from IDEAL Database	1,022,951,538
% sampled	26%

We reviewed the files of the selected sample of companies and recalculated the quarterly and final premium and surtax remittances. Our recalculation is based on interpretation of the statutes identified in Objective procedure (a) on page 3, in addition to walkthroughs performed in Objectives procedure (c) on page 4. We made general assumptions when recalculating premium tax and surtax as detailed under the General Assumptions section beginning on page 11.

**Definitions of Credit Types**

There are three types of credits that may be available for an insurance company to apply towards its premium tax payment:

1. Health Alliance Credit: The New Mexico Health Alliance consists of independent health insurers who are issued annual assessment invoices with identified credit amounts available to the insurer.
2. Medical Insurance Pool (MIP) Credit: The MIP was created to provide access to health insurance coverage to residents of New Mexico who are denied health insurance and considered uninsurable. Insurers that are part of the MIP are issued annual assessment invoices with identified credit amounts available to the insurer.
3. Credits from overpayments: A credit can also be generated from statutorily mandated premium tax overpayment (e.g.: cash payment exceeded tax amount owed.)

In the following sections, unless otherwise noted, the term “credits” refers to credits generated from statutorily mandated premium tax overpayments.

**General Assumptions**

Because our period under scope spans to a time before the current FAB staff were employed and OSI was unable to provide filing instructions provided to companies or general FAB procedures for the 2010-2014 filing years (Refer to *Finding 5 – FAB Policies and Procedures Manual*), we applied general assumptions to our procedures. Additionally, because much of this work is dependent on the rolling

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
PREMIUM TAX PROCEDURES  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Review of Insurance Premium Tax Files (Continued)**

forward of calculations, unless we start with the initial year an insurer started reporting, we assumed the beginning balance is a correct starting point. These assumptions have been agreed to by FAB and NM OSI management and some discussions with the NM OSI's contracted legal counsel also helped formulate certain assumptions even though the beginning balances have not been verified as accurate.

1. We will rely on 2009 ending credit balance per IDEAL software system as the beginning credit balance.
  - a. In addition, to reliance on 2009 ending credit balance we will make the assumption the credit was created based on the 2009 final filing form due date (4/15/2010). Per the three year credit expiration, any remaining credit balance will expire by 4/15/2013, if it is not used.
2. We will only apply a credit or credit transfer if balance is available in addition to the insurance company's request of a credit, which is identified on the quarterly and final filing form.
3. Credits are solely earned/created based on overpayments of actual cash paid. Credit may not be earned based on overpayment directly related from credits applied during quarterly and final payments. Our recalculation of credits during the final assessment will subtract any available credits applied during the quarterly filings as requested by the insurer.
4. We will apply available credits based on FIFO (first in-first out) method. The earliest credit will be applied first before being dropped per the 3 year credit statute.
5. The application of MIP (Medical Insurance Pool) Credits will be calculated as stated on 2015 final filing instructions based on Prior Year Final MIP and HA (Health Alliance) assessment.
6. We will apply the MIP calculation as detailed in point 5.
7. Penalty payments will be tracked based on an underpayment made during quarterly and final filings. In addition to late filing or failure to file a quarterly or final filing.
  - a. We cannot ultimately conclude on the amount of penalties that should have been assessed due to Bulletin 2015-002 of when the penalty should be applied. It has been determined that the \$1,000 penalty will start, after the insurer has been notified of the underpayment and need for a penalty. Once the insurer has been notified, the calculation of a penalty is \$1,000 per month until the insurer remedies the situation.
  - b. If an insurer failed to file, this is an automatic penalty of \$1,000 which will be assessed without requiring notification to the insurer, in accordance with the NM Statute.
8. In determining the 25% of prior year taxes paid for quarterly filings, our recalculation will be 25% of taxes paid minus MIP credits and Health Alliance credits (line titled "Premium Tax Due After Deductions).
9. If the estimated payment in line titled "Premium tax due after deductions" calculates to a negative number, we will treat this number as zero. These calculations have not been verified by NM OSI.

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
PREMIUM TAX PROCEDURES  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Review of Insurance Premium Tax Files (Continued)**

**Results**

The underlying source data used to perform our recalculations was obtained from the respective companies' files, as maintained by FAB. We provided our workbooks that include all recalculations to the FAB Bureau Chief.

Figure 3 on page 14 identifies the approximate over (under) payments for the respective insurers. We did not have a materiality threshold for these procedures, so the results include all recalculations.

Below are the explanations for the variances identified in the respective rows in Figure 3 on page 14:

1. Our recalculation identified an underpayment because the insurer was using the incorrect basis when estimating its quarterly tax payments (refer to general assumption #8). Additionally, limitations with the ability of the current software to appropriately track credits contributed to these underpayments. Insurers were applying credits that did not actually exist to their quarterly tax filings.
2. Our recalculation identified an underpayment because the insurer was using the incorrect basis when estimating its quarterly surtax payments (refer to general assumption #8). Additionally, limitations with the ability of the current software to appropriately track credits contributed to these underpayments. Insurers were applying credits that did not actually exist to their quarterly tax filings.
3. Annually, insurers that participate in the Medical Insurance Pool (MIP) receive a credit based on their respective allocation. This allocation is determined by the MIP Board and the final assessment invoice is provided to the insurers to then apply that credit to their annual filing and premium tax payment. In these instances, the amount applied did not agree to the amount reported on the annual MIP report for the respective insurer. We used the MIP calculation detailed in the 2015 filing instructions and Bulletins 2015-04/027
4. As a result of credit recycling, inappropriate credits were being created by IDEAL and being applied to the filings. Recycling is the term used when annual credits are created based on the previously applied quarterly credits, as opposed to cash payments. Based on Section 59A-6-5 NMSA 1978 with additional legal interpretation from the Sutin Firm regarding the surtax statutes, credits are only created when a cash payment is made. This matter is still under discussion between NM OSI and the Sutin Firm.
5. The MIP board provides interim calculations to insurers. In these instances, it appears the insurer applied the credit from the interim report rather than the final and sometimes in addition to the final, annual assessment invoice provided by the MIP Board.
6. We identified instances of overpayment as a direct result of inconsistent application of the amount to use as the basis for making quarterly estimates. For example, in prior years, instructions were not clearly explained to insurers about whether the tax basis was before the Health Alliance and MIP credits, or after taking into consideration these credits. As noted in *Finding 5 – FAB Policies and Procedures Manual*, FAB was not able to provide us with a manual to document the instructions for prior years.

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
PREMIUM TAX PROCEDURES  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Review of Insurance Premium Tax Files (Continued)**

In some instances, our recalculations using the updated basis resulted in an overpayment of quarterly filing. We took this information into consideration when performing our analysis on the credit balances, so the overall effect simply reduces the credit calculation variance to IDEAL identified in Figure 4 on page 12.

<b>Figure 3 - Review of Company Files</b>	<b>Company A</b>	<b>Company B</b>	<b>Company C</b>	<b>Company D</b>	<b>Company E</b>	<b>Total</b>
<b>Issues with inappropriate credit tracking</b>						
(1) Quarterly premium tax underpayments	(14,900,000)	(30,700,000)	(12,500,000)	(2,600,000)	(a) (15,000,000)	<b>(75,700,000)</b>
(2) Quarterly surtax underpayments	(328,000)	(6,600,000)	(1,000,000)	(134,000)	(8,100,000)	<b>(16,162,000)</b>
<b>Issues with MIP/credit recycling</b>						
(3) Premium tax underpayments	(7,800,000)	(11,900,000)	(339,000)	(3,600,000)	(3,700,000)	<b>(27,339,000)</b>
(4) Surtax underpayments	(231,000)	(10,500,000)		(3,600,000)		<b>(14,331,000)</b>
(5) Overstated MIP credits on final filing	(3,900,000)	(70,600,000)	(7,100,000)		(8,500,000)	<b>(90,100,000)</b>
(6) <b>Overpayments *</b>	1,400,000	11,303,000	11,300,000	1,375,000	4,300,052	<b>29,678,052</b>
Total approximate over/(under) payment to OSI **	(25,759,000)	(118,997,000)	(9,639,000)	(8,559,000)	(30,999,948)	<b>(193,953,948)</b>
		(c)	(b)		(d)	

**Notes**

Note 1: Amounts are approximate calculations

\* Instances where our recalculation identified an overpayment would simply reduce the calculated credit.

\*\* Penalty cannot be estimated due to legal interpretation of penalty creation. Penalties are to be assessed at \$1,000 per month, once the insurer has been informed of the underpayment and need for a penalty.

(a) In one instance out of the six included in this total underpayment, we saw documentation that FAB staff contacted the insurer on 11/12/10 explaining the underpayment. However, no subsequent payment was issued and no penalties were assessed.

(b) FAB staff did identify some underpayments for the 2014 and 2015 annual filings and we observed documentation of FAB contacting the insurers and obtaining subsequent payment. These subsequent payments were taken into consideration, and included above, for our ultimate calculations.

(c) Company B had numerous amendments during our period under scope which impacted filings during the period outside our scope. While we reviewed these amendments, we did not compare to the original filings before 2010. Additionally, we noted many instances where additional credits were included in the amendments, we did not apply any additional credits if current payment applied was sufficient for that filing. FAB staff were trying to obtain additional documentation from the insurer to support the amendments, but additional documentation was not provided to FAB staff, and thus unavailable for our review.

(d) We saw documentation of FAB staff contacting the insurer and issuing notices of underpayment in some of these instances of underpayments.

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
PREMIUM TAX PROCEDURES  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Review of Insurance Premium Tax Files (Continued)**

Figure 4 identifies the variances we noted from our recalculations of the credit balances compared to the credit balances in the IDEAL software. We believe the variances are attributed to the fact that IDEAL does not appropriately track and “drop” credits that have been used (see *Finding 3 – Limitations of Current Software (IDEAL)*), so many balances in IDEAL are doubled what we recalculated them to be. This does not allow FAB to accurately deny a credit that an insurer is trying to apply if the credit balance is not actually available.

Please note, at the time this test work was complete, the calendar year 2015 filings were not completed for our review.

Figure 4 - Review of IDEAL Tax Type	2010		2011		2012		2013		2014		Total over (under)	
	Premium Tax	Surtax	Premium Tax	Surtax	Premium Tax	Surtax	Premium Tax	Surtax	Premium Tax	Surtax	Premium Tax	Surtax
<b>Company A</b>												
Recalculation	3,941,459	426,407	-	-	64,206	-	(0)	-	(0)	37	4,005,665	426,444
Per IDEAL	7,019,685	426,407	5,375,208	231,324	5,351,995	97,193	6,192,832	-	571,626	-	24,511,347	754,924
Credit over (under) stated	3,078,226	1	5,375,208	231,324	5,287,789	97,193	6,192,832	-	571,626	(37)	20,505,682	328,480
<b>Company B</b>												
Recalculation	16,162,262	534,543	7,592,923	312,773	-	-	-	-	-	-	23,755,185	847,316
Per IDEAL	25,678,714	524,281	25,574,063	781,267	20,898,982	789,341	9,592,412	-	4,901,956	-	86,646,127	2,094,889
Credit over (under) stated	9,516,452	(10,262)	17,981,140	468,494	20,898,982	789,341	9,592,412	-	4,901,956	-	62,890,942	1,247,573
<b>Company C</b>												
Recalculation	1,848,322	-	-	-	-	-	-	-	-	-	1,848,322	-
Per IDEAL	1,848,322	-	339,039	-	-	-	-	-	-	-	2,187,361	-
Credit over (under) stated	-	-	339,039	-	-	-	-	-	-	-	339,039	-
<b>Company D</b>												
Recalculation	-	-	-	-	57,756	-	-	-	-	-	57,756	-
Per IDEAL	-	-	718,543	-	970,052	-	878,254	-	-	-	2,566,849	-
Credit over (under) stated	-	-	718,543	-	912,296	-	878,254	-	-	-	2,509,093	-
<b>Company E</b>												
Recalculation	940,802	-	3,316,613	-	-	-	634,913	-	634,913	-	5,527,241	-
Per IDEAL	1,148,311	-	10,411,525	-	5,925,493	-	322,421	-	322,421	-	18,130,171	-
Credit over (under) stated	207,509	-	7,094,912	-	5,925,493	-	(312,492)	-	(312,492)	-	12,602,930	-
<b>Total</b>	<b>12,802,187</b>	<b>(10,261)</b>	<b>31,508,842</b>	<b>699,818</b>	<b>33,024,560</b>	<b>886,534</b>	<b>16,351,006</b>	<b>-</b>	<b>5,161,090</b>	<b>(37)</b>	<b>98,847,686</b>	<b>1,576,053</b>



**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
PREMIUM TAX PROCEDURES  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Bail Bondsmen Procedures**

The scope of our work also included a review of bail bondsmen files for calculation and remittance of premium taxes. We were informed that bail bondsmen activity is not tracked by IDEAL (refer to *Finding 2 – Population Completeness*). We selected a haphazard sample of three bail bondsmen files.

We reviewed the selected sample of insurance company files and recalculated the quarterly and final premium remittances. Our recalculation is based on interpretation of the statutes identified in procedure (a) above, in addition to walkthroughs performed in procedure (c) above. Below are the assumptions we relied upon for this portion of procedures.

**General Assumptions**

These assumptions have been agreed to by FAB and NM OSI management and some discussions with the NM OSI's contracted legal counsel also helped formulate certain assumptions even though the beginning balances have not been verified as accurate.

1. We will rely on 2009 ending credit balance per IDEAL software system as the beginning credit balance.
  - a. In addition, to reliance on 2009 ending credit balance we will make the assumption the credit was created based on the 2009 final filing form due date (4/15/2010). Per the three year credit expiration, any remaining credit balance will expire by 4/15/2013, if it is not used.
2. Because filing instructions provided to bail bondsmen in prior years were not made available to us, we tested against the present procedures.
3. The bail bondsmen self-report the information included on the filing forms and did not include any additional support. We did not see any documentation of communication between FAB staff and the respective bail bondsmen requesting additional support.

Recommendations and findings will be reported if variances are identified among credits, penalties, or failure to comply with Premium tax statutes.

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
PREMIUM TAX PROCEDURES  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Results**

Figure 5 identifies the approximate over/(under) payment of premium tax payments for the respective bail bondsmen. The identified under payments are a result of insurer's using the wrong basis for their calculations of quarterly tax payments, based on review of the underlying documentation in the respective files.

<b>Figure 5 - Review of Files</b>		Bailbondsmen 1	Bailbondsmen 2	Bailbondsmen 3	Total
Approximate Underpayments		(4,900)	(120)	(18,858)	(23,878)
			(a)		
(a)	We reviewed a letter to OSI from Bailbondsmen 2, that 2011 Final along with the 1st quarter of 2012 were not filed. We did not identify any documentation within the bail bondsmen file to detail that OSI would allow the non-filing. We deem the file does not have sufficient support and penalties of (\$2,000) should have been assessed in result of the failure to file.				

Figure 6 identifies the variance with credit tracking in IDEAL for the respective bail bondsmen. Please note, at the time this procedure was complete, the calendar year 2015 filings were not completed for our review.

<b>Figure 6 - Review in IDEAL</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>Total</b>
<b>Bailbondsmen 1</b>							
Recalculation	9,921	9,921	2,350	6,841	-	-	
Per IDEAL	9,930	8,869	2,351	6,841	2,751	-	
over (under) credit balance	9	(1,052)	1	-	2,751	-	<b>1,709</b>
<b>Bailbondsmen 2</b>							<b>-</b>
Recalculation			-	-	-		-
Per IDEAL			-	-	-		-
over (under) credit balance	-	-	-	-	-	-	-
<b>Bailbondsmen 3</b>							<b>-</b>
Recalculation	13	13	13	-	-		
Per IDEAL	13	12	12	12	-		
over (under) credit balance	-	(1)	(1)	12	-	-	<b>10</b>
<b>Total over(under)</b>	<b>9</b>	<b>(1,053)</b>	<b>-</b>	<b>12</b>	<b>2,751</b>	<b>-</b>	<b>1,719</b>

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
SCHEDULE OF FINDINGS AND RECOMMENDATIONS  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

We have separated the matters below between findings and recommendations. A finding, for purposes of this report, is defined as an issue that created noncompliance or did not identify errors in a timely manner. These findings do not hold a specific level of classification nor do they indicate noncompliance with state statute, rather address the fact that a stronger control environment or implementation of standard best practices could help identify errors more timely and ensure compliance with state statutes.

A recommendation is an area of improvement we identified throughout our observations and test work, but that did not result in a direct instance of noncompliance.

**Finding 1 – Premium and Sur Tax Recalculated Underpayments**

**Condition:** We identified potential underpayments of premium tax and sur tax receipts during our period under scope, as reflected in figures 3, 4, 5, and 6.

**Criteria:** In accordance with the statutes identified on page 2, entities that conduct business in the State of New Mexico are required to submit premium taxes and sur taxes, in some instances, to the NM OSI.

**Cause:** We believe many factors contributed to these potential underpayments:

- i. Limitations of the current premium tax software (IDEAL) don't allow adequate tracking and premium tax activity. Refer to Finding 3.
- ii. Lack of adequate staffing within FAB to perform an adequate review of all filings submitted to the Bureau. This review should include a recalculation of the insurer's filing form and related documentation to ensure timely communication with the insurer when questions arise. Refer to Finding 4.
- iii. Lack of adequate supporting documentation submitted by the insurers to substantiate deductions on premium tax filings or amended premium tax filings. During our file review, we noted amended filings that included deductions that were not included on the original filings, however, documentation to support the credits was not provided by the insurer. While FAB staff has tried to obtain the necessary documentation, some insurers have not provided adequate documentation. Our recalculations did not include credits that could not be substantiated.
- iv. Lack of adequate procedures documented by FAB pertaining to the processing of premium taxes for our period under scope. Refer to Finding 5.
- v. Lack of consistent application for the calculation of the quarterly tax payments. Entities were not consistent in the calculations and NM OSI did not provide instruction, at the time of the miscalculations, to correct the estimated payment amount.
- vi. Refund issuance tracking in IDEAL could also modify these amounts as mentioned in *Finding 3 – Limitations of Current Software (IDEAL)*.
- vii. The Statute mandates that surtax is based upon "hospital and medical expense incurred contracts". There is not currently a page in the companies' annual financial statement that reports amounts of "hospital and medical expense Incurred Contracts". As a result, the companies "self-report" these premiums and FAB staff is unable to verify that the amounts reported and paid by the insurers are accurate.

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
SCHEDULE OF FINDINGS AND RECOMMENDATIONS  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Finding 1 – Premium and Sur Tax Recalculated Underpayments (Continued)**

**Effect:** A summary of the recalculations figures 3-6 is included below. The summarized results are not indication of outright violations of state statutes. The NM OSI has issued many bulletins and subsequent interpretations of the state statutes that have impacted the assessment and collection of premium tax revenue. Because FAB was unable to provide us with procedures for the entire period under scope, we are unable to conclude that all of these recalculations are actual underpayments. Additionally, if the insurers provide adequate supporting documentation, as requested by FAB, the resulting recalculations could differ.

Classification	Amount
Recalculated underpayments from Figures 3 & 5, combined	193,977,826
Potentially Improper premium tax credits from Figures 4 & 6, combined	98,849,405
Potentially Improper surtax credits from Figure 4	1,576,053

**Recommendation:** We recommend management of FAB and NM OSI educate insurers about providing adequate supporting documentation when requests are made by FAB. Additionally, recommendations from Findings 3, 4, and 5 should help NM OSI’s collections of premium tax revenue.

**Management’s Response:** OSI Management is unable to concur with Finding 1. NM OSI is concerned that Finding 1 is based upon “approximate calculations” of “potential underpayments” caused by, and based upon, “limited” and/or “incomplete” information in the current IDEAL system (computer software tracking), in available/reviewed records, in FAB documentation, and in licensed insurance carrier documentation.

OSI Management’s Response, as set forth herein, is also limited and restricted due to confidentiality requirements applicable to potential and pending administrative enforcement actions as required under Article 2, Article 4 and Article 16C of the Insurance Code.

Subject to the foregoing limitations, OSI Management will consider the following responsive actions:

1. Assessment of the current functionality of the IDEAL system (computer software) to support OSI in administering and enforcing the provisions of the Insurance Code related to the assessment and collection of premium taxes and surtaxes.
2. Review and assessment of FAB policies, procedures and controls to identify opportunities for improvement and risk mitigation to assure proper administration and enforcement of the provisions of the Insurance Code related to the calculation, assessment and collection of premium taxes and surtaxes. OSI’s review will include appropriate referrals of potential Insurance Code violations to examination, investigation and legal bureaus to assure compliance with the Insurance Code as allowed and required under Article 4 of the Insurance Code. OSI’s review will also include a review of forms, communications and informational materials to advise licensees of compliance obligations, deadlines, and penalties.
3. Review and assessment of the adequacy and competency of current FAB staff and the current FAB organizational structure in administering and enforcing the provisions of the Insurance Code related to the calculation, assessment and collection of premium taxes and surtaxes.

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
SCHEDULE OF FINDINGS AND RECOMMENDATIONS  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Finding 1 – Premium and Sur Tax Recalculated Underpayments (Continued)**

4. OSI proposes to use a short term solution to build spreadsheets for data from insurers' tax filing forms so that insurers and related data can be tracked and electronically searched for filing compliance. The long term solution to this issue is the implementation of NAIC's SBS software in 2017 - 2018 for total uniformity across the Agency, consistent with national standards.
5. OSI management has requested that the OSI legal team draft rules and regulations that track with statutory provisions that are consistent with advice sought from outside tax counsel regarding enforcement interpretation of existing statutes. These new regulations will assist OSI staff and companies by clarifying what OSI requires for substantive supporting documentation to accompany their tax filings.
6. FAB will also be directed to draft and implement a Standard Operating Procedure Manual for employees to maintain autonomy and consistency with staff interpretations and consistent with outside tax counsel's opinions regarding the practicalities of tax collection enforcement under OSI's existing statutes.
7. FAB staff will implement training schedules for all staff on the Standard Operating Procedures to ensure consistency, comprehension and better communication with filers.

**Finding 2 – Population Completeness**

**Condition:** During our procedures, we identified several issues that prevented us from establishing completeness of the population provided to us:

- FAB relies on entities to self-report their required filings, but does not have a process in place to identify all entities that should be reporting.
- The IDEAL software does not provide a system of tracking data activity.
- We were informed that all providers are not tracked in IDEAL. For example, bail bondsmen and workers compensation insurers are tracked manually.

**Criteria:** As a tax collecting entity, NM OSI should have established procedures to monitor entities under its purview to ensure it is collecting all applicable revenues.

**Cause:** Lack of a proactive strategy to identify all entities that fall under the purview of NM OSI.

**Effect:** Premium tax revenue may be understated because NM OSI does not know all the entities that should be submitting.

**Recommendation:** We recommend NM OSI strengthen the communication between its internal Bureaus and FAB to ensure FAB is made aware of entities conducting business in New Mexico. As identified in *Finding 5 – FAB Policies and Procedures Manual*, strong policies and procedures could help achieve this. Additionally, FAB could provide resources to educating the business community about entities that are required to file and submit premium tax revenue to the NM OSI.

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
SCHEDULE OF FINDINGS AND RECOMMENDATIONS  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Finding 2 – Population Completeness (Continued)**

**Management’s Response:** The consultant has identified and recommended that OSI improve its on-going identification of licensees who fail to file and/or fail to obtain required licenses (non-filers) and are still required to pay premium taxes, surtaxes and other fees in accordance with the Insurance Code.

Subject to the foregoing, OSI management will consider the following responsive actions:

1. Assessment of the current functionality of the IDEAL system (software) to support OSI’s administration and enforcement of all Insurance Code provisions related to the assessment and collection of premium taxes and surtaxes.
2. Identification of automated and manual opportunities to cross reference information within OSI by the Company Licensing and Producer Licensing Bureaus notifying FAB of all affected licenses, and integration of all involved bureaus’ current policies and procedures to achieve maximum identification of non-filers.
3. OSI and FAB will implement new policies requiring the running of yearly reports from the NAIC-I-Site data base (a national data base through NAIC) to obtain the total written premium in New Mexico and correlate this data with OSI’s data to uncover any deficiencies in tax reporting against reported premium amounts shown on individual premium tax returns. OSI will also produce and provide advertising to remind all insurers subject to premium tax and surtax of their filing and tax obligations.
4. OSI management team will request that its legal team draft rules and regulations that track and clarify applicable statutory provisions. These regulations should assist companies by informing them clearly regarding what supporting documentation must be provided with their premium tax and surtax filings and the consequences of failing to provide the supporting documentation. FAB will also be directed to draft and implement a Standard Operating Procedure Manual for employees to maintain autonomy and consistency with staff interpretations, and consistent with outside tax counsel’s opinions regarding the practicalities of tax collection enforcement under OSI’s existing statutes.

**Finding 3 – Limitations of Current Software (IDEAL)**

**Condition:** We believe the current software for tracking premium tax activity (IDEAL) as well as the procedures documentation available with the NM OSI’s customization is minimal, resulting in inefficiencies and inaccuracies of managing premium taxes. During our walkthroughs over FAB processes, and while using IDEAL to perform our procedures, we noted the following issues:

- Lack of adequate tracking of data entry and modifications by user and lack of ability to provide a detailed audit trail for transaction history.

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
SCHEDULE OF FINDINGS AND RECOMMENDATIONS  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Finding 3 – Limitations of Current Software (IDEAL) (Continued)**

- No automatic process for establishing and tracking penalties. Additionally, there is no automatic tracking ability for the processing of refunds and the company accounts in IDEAL do not indicate when a refund has been issued to the issuer, making it possible for FAB staff to issue a refund that exceeds the company's actual credit balance. Because refunds may only be issued following written request by the insurance company, an automatic tracking process could help for a more efficient assessment when a request is made by the insurance company.
- The inability of the system to drop credits that have exceeded their three year life if not fully exhausted or refunded.

**Criteria:** Best practices include a system of software development that can be effectively utilized for the purpose of the organization, and include documentation to help employees understand the applicable software.

**Cause:** Lack of approved funding for requested upgrades and modifications with current software developer.

**Effect:** We believe these issues contributed to the variances identified in figures 3, 4 and 5 above. Our recalculations identified underpayments from insurers during our period under scope because the current software does not have the ability to track credits earned and applied.

**Recommendation:** On March 24, 2016, FAB staff provided us with a memo that documented these issues. They had previously identified these issues, with great detail, to discuss with management of NM OSI in hopes of obtaining budget approval to work with the IDEAL contractor to make modifications to the software. This request was not approved and we are now aware that FAB is working with the NAIC in hopes of using software recommended and in use by NAIC. This should help alleviate some of these issues and the related findings we noted during our procedures.

**Management's Response:** Please refer to all of OSI Management's prior Responses, which are incorporated herein by this reference.

OSI Management sought legislative appropriations in 2016 to modernize and update OSI software licensee and tax tracking systems in accordance with the OSI information technology strategic plans and priorities.

**Finding 4 – Staffing Model Within FAB**

**Condition:** Currently, there are two permanent positions and one contracted temporary employee within FAB: the permanent positions are the Bureau Chief and an Accountant/Auditor. Please refer to Appendix B for a complete organization chart for NM OSI. Based on our observations while performing our procedures onsite, and through review of the sampled files during our procedures, we do not believe this is adequate staffing for the volume of data that flows through FAB. Currently, the Bureau Chief will perform some reviews, but the workload associated with each position does not allow the Bureau Chief to review all transactions. Due to this lack of review process, insurers have underpaid their premium taxes and/or have misapplied credits during our period under scope.

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
SCHEDULE OF FINDINGS AND RECOMMENDATIONS  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Finding 4 – Staffing Model Within FAB (Continued)**

**Criteria:** Best practices and standard segregation of duties include a process for review and oversight of all transactions and data entries. An adequate control environment is one in which all transactions are reviewed by someone other than the preparer. More adequate staffing could allow FAB the opportunity to draft a proactive audit plan to aid in identifying miscalculations sooner. If entities are informed of the miscalculations sooner, there is better likelihood that NM OSI will collect the premium taxes it is owed.

**Cause:** Lack of adequate staffing.

**Effect:** This current staffing model does not provide the opportunity for a review of all premium tax filings and payments and results in a reactive process for performing premium tax audits rather than a proactive approach.

**Recommendation:** During our progress meeting with FAB and NMOSI management on May 4, 2016, we were informed that a proposal has been drafted by FAB to submit to NM OSI management to seek approval for creating a position for an additional staff member within FAB. This new position would perform the necessary reviews and would allow the Bureau Chief more opportunities to modify current policies and procedures to ensure adherence to New Mexico Statutes and respond to complaints or questions from insurers.

**Management's Response:** Please refer to all of OSI's Management's prior Responses, which are incorporated herein by this reference.

OSI management believes that better oversight of transactions and data entries may be addressed by increased staffing and better staff training. Automated solutions, management reports, enhanced policies and procedures and assessment of FAB's current positions and organizational structure and better inaction with other related bureaus will also assist OSI in maintaining better controls when administering, regulating, and enforcing the Insurance Code provisions related to premium tax, surtax and fee collections.

Based upon direction received from the State Personnel Office (SPO) on June 10, 2016 regarding a reclassification review of FAB position #00004270, requested by OSI HR, SPO did not feel that the OSI structure supported the request and determined that FAB is properly staffed with a lower level working manager who does the work and supervises five staff members. By placing a supervisor in this section, SPO maintains OSI is taking away from the job size of the Staff Manager above it and that the request for reclassification does not make structural sense.

The OSI Organizational Listing (OL), reports 119 filled positions as of June 16, 2016. The four vacant positions in the Financial Audit Bureau (FAB) currently are:

- #00004268 – Accountant & Auditor – A – is pending SPO approval to re-advertise, as soon as HR receives approval, HR will enter the requisition in NEOGOV to request it be posted for recruitment;
- #00004285 – Financial Specialist – O – HR is currently working on finishing up the requisition in NEOGOV to request that that this position be posted for recruitment;



**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
SCHEDULE OF FINDINGS AND RECOMMENDATIONS  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Finding 4 – Staffing Model Within FAB (Continued)**

- #00004271 – Accountant & Auditor – B – is pending SPO approval to re-advertise, as soon as HR receives approval, HR will enter the requisition in NEOGOV to request it be posted for recruitment; and,
- #00004270 – Accountant & Auditor – O – HR will enter requisition in NEOGOV to request posting for recruitment.

**Finding 5 – FAB Policies and Procedures Manual**

**Condition:** FAB was not able to provide us with a procedures manual pertaining to premium tax filings because currently, there is not a full set of policies or procedures that pertains to the handling of premium tax filings within FAB that would allow employees a point of reference when questions arise. While there are Bulletins and various emails or memos that provide instructions about certain components of premium taxes, these are not compiled in a procedures manual.

**Criteria:** Best practices suggest that written procedures, instructions, and assignments of duties will prevent or reduce misunderstandings, errors, inefficient or wasted effort, duplicated or omitted procedures, and other situations that can result in inaccurate or untimely accounting records. A well-devised manual can also help to ensure that all similar transactions are treated consistently, that accounting principles used are proper, and that records are produced in the form desired by management. A good accounting manual should aid in the training of new employees and possibly allow for delegation to other employees of some accounting functions management performs.

**Cause:** Lack of adequate staffing to allow for the time to compile information into an understandable manual.

**Effect:** Potential underpayments of premium tax revenue to NM OSI during our period under scope.

**Recommendation:** We recommend that management, along with the Superintendent, establish a standard accounting and operating procedures manual outlining policies to be followed. The preparation and maintenance of written standard procedures is very useful to do the following:

- Establish consistent FAB practices.
- Fix premium tax responsibilities which can be achieved once there is adequate staffing within the FAB. Responsibilities amongst staff should provide for an additional level.
- Reduce the likelihood of coding errors and assist in the preparation of timely and accurate financial records.
- Aid in review by management for adherence to FAB and NM OSI policies.
- Aid in exchange of management ideas.
- Provide the FAB and NM OSI with a source of information that will not be lost if key personnel leave.
- Aid in the training of new employees, especially in the event of an untimely resignation of key accounting staff

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
SCHEDULE OF FINDINGS AND RECOMMENDATIONS  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

**Finding 5 – FAB Policies and Procedures Manual (Continued)**

**Management's Response:** Please refer to all of OSI Management's prior Responses, which are incorporated herein by this reference.

OSI management agrees that the drafting of FAB Policies and Procedures should occur as quickly as possible, and address how best to record and document institutional knowledge gained by long term employees and the transmission of that knowledge in training new employees.

**Finding 6 – Untimely Deposits**

**Condition:** During our walkthrough of cash handling procedures, we noted that not all checks were deposited by the next business day, as required by our New Mexico Statutes. In some cases, an incomplete filing is submitted to FAB. FAB considers a filing to be incomplete if the form is not filled out according to the instructions. When this happens, FAB would store the check in a cabinet until they are able to obtain all necessary documentation from the insurer.

**Criteria:** In accordance with the Manual of Model Accounting Practices (MAP) FIN 2.1 Timely Depositing of Cash, deposits are to be made to the authorized bank account no later than the next business day after receipt.

**Cause:** Lack of adequate procedures to address incomplete filings from third-parties.

**Effect:** Noncompliance with New Mexico State statute.

**Recommendation:** Since bringing this to FAB's attention, we observed they now store checks in a combination safe for one day, then return to the insurer if they are not able to obtain the necessary filing documentation to make the deposit by the next business day. These modified procedures help bring FAB into compliance with New Mexico Statutes and the Manual of Model Accounting Practices outlined by the New Mexico Department of Finance and Administration. We recommend the Bureau continue with these modified processes and ensure all necessary personnel are trained on this requirement.

**Management's Response:** Please refer to all of Management's prior Responses, which are incorporated herein by this reference.

OSI Management will take all necessary measures to ensure compliance with applicable state law with respect to the timeliness of deposits.

**Recommendation 1 – File Notations**

**Condition:** During our review of certain files, we noted there were markings that appear to have been created by a FAB employee during his/her review of the file. However, there were no initials or dates next to the markings, so we were unable to ascertain the nature of the documentation.

**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
SCHEDULE OF FINDINGS AND RECOMMENDATIONS  
APRIL 1, 2010 THROUGH APRIL 30, 2015**

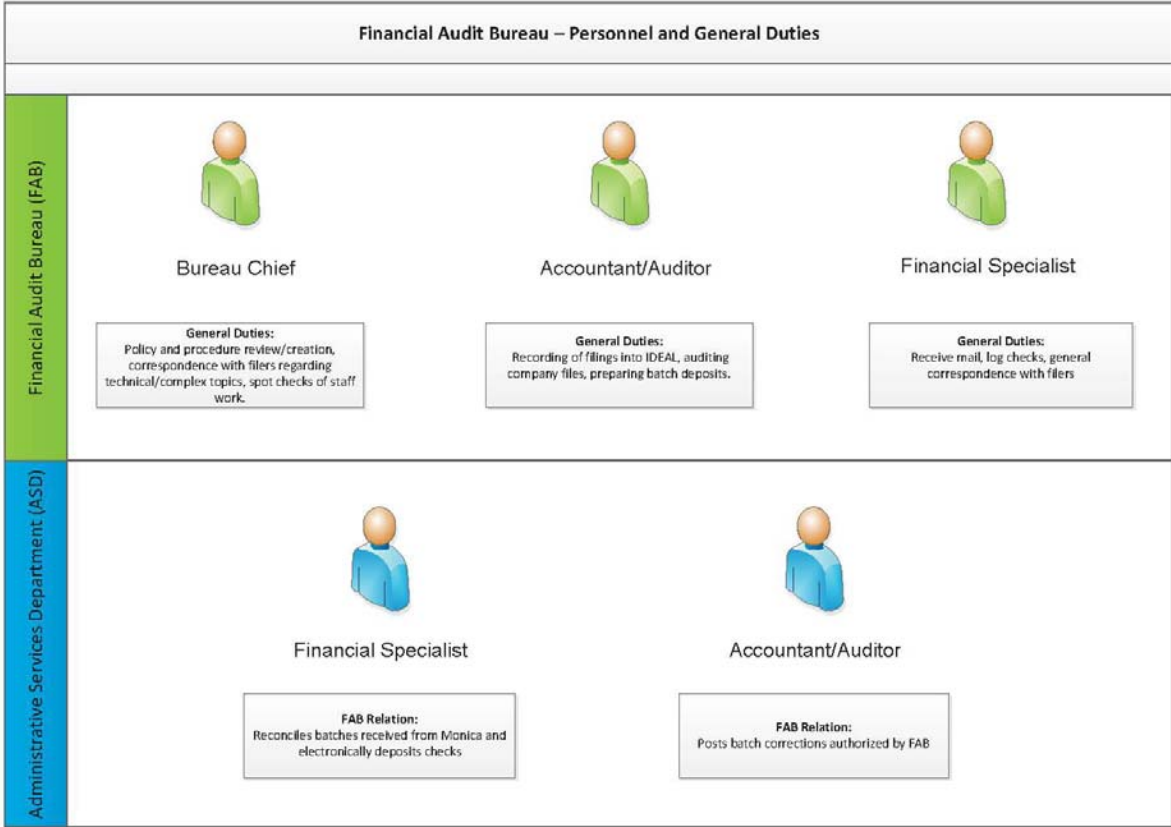
**Recommendation 1 – File Notations (Continued)**

**Recommendation:** We recommend the FAB implement a process whereby review marks and notations are documented to help with recall of select information.

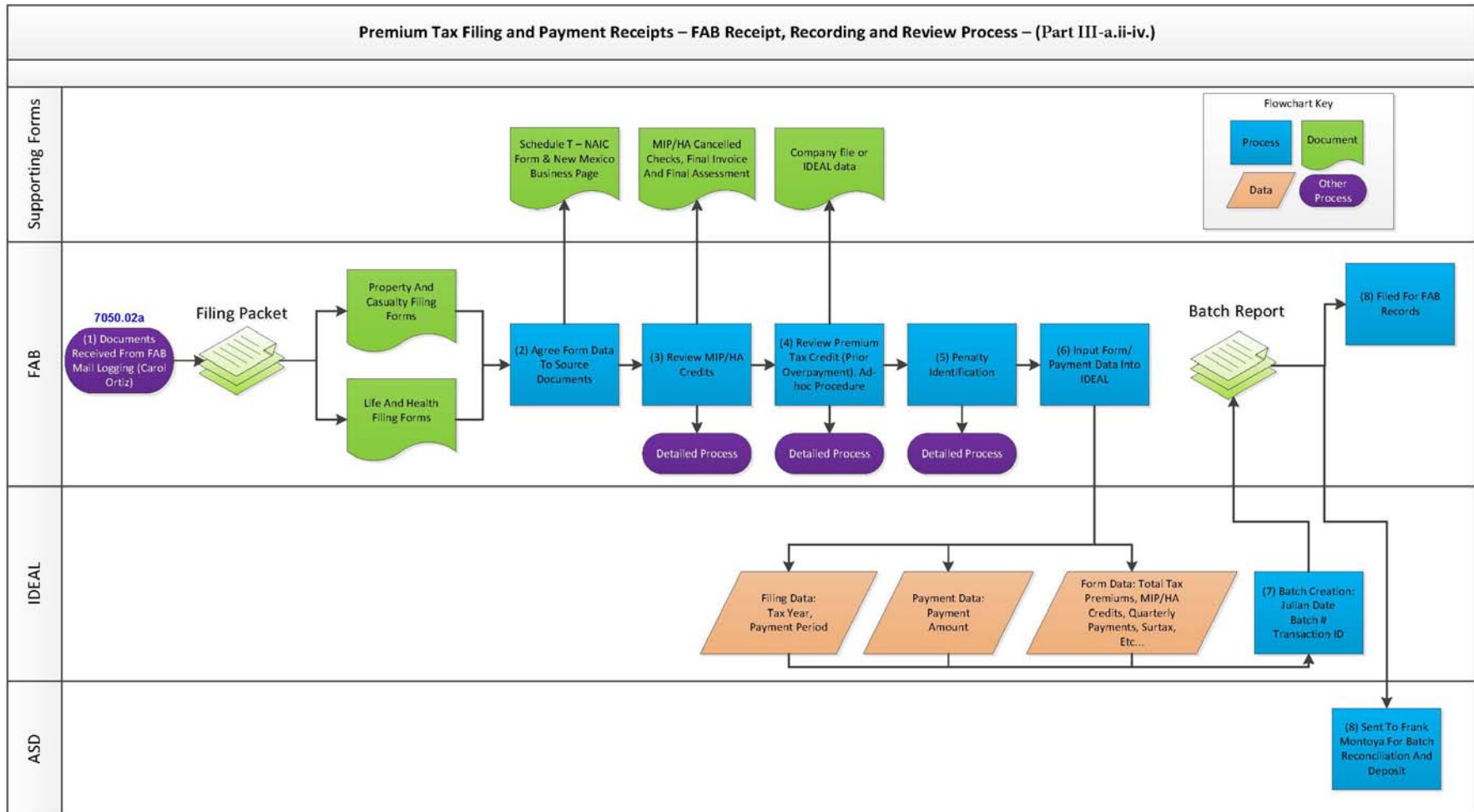
**Management's Response:** Please refer to all of OSI Management's prior Responses, which are incorporated herein by this reference.

OSI management agrees that FAB's Policies and Procedures should, and will, clarify record keeping procedures and controls. In the drafting of the Policies and Procedures, OSI will identify opportunities to enhance training of all FAB staff in record keeping procedures and controls.

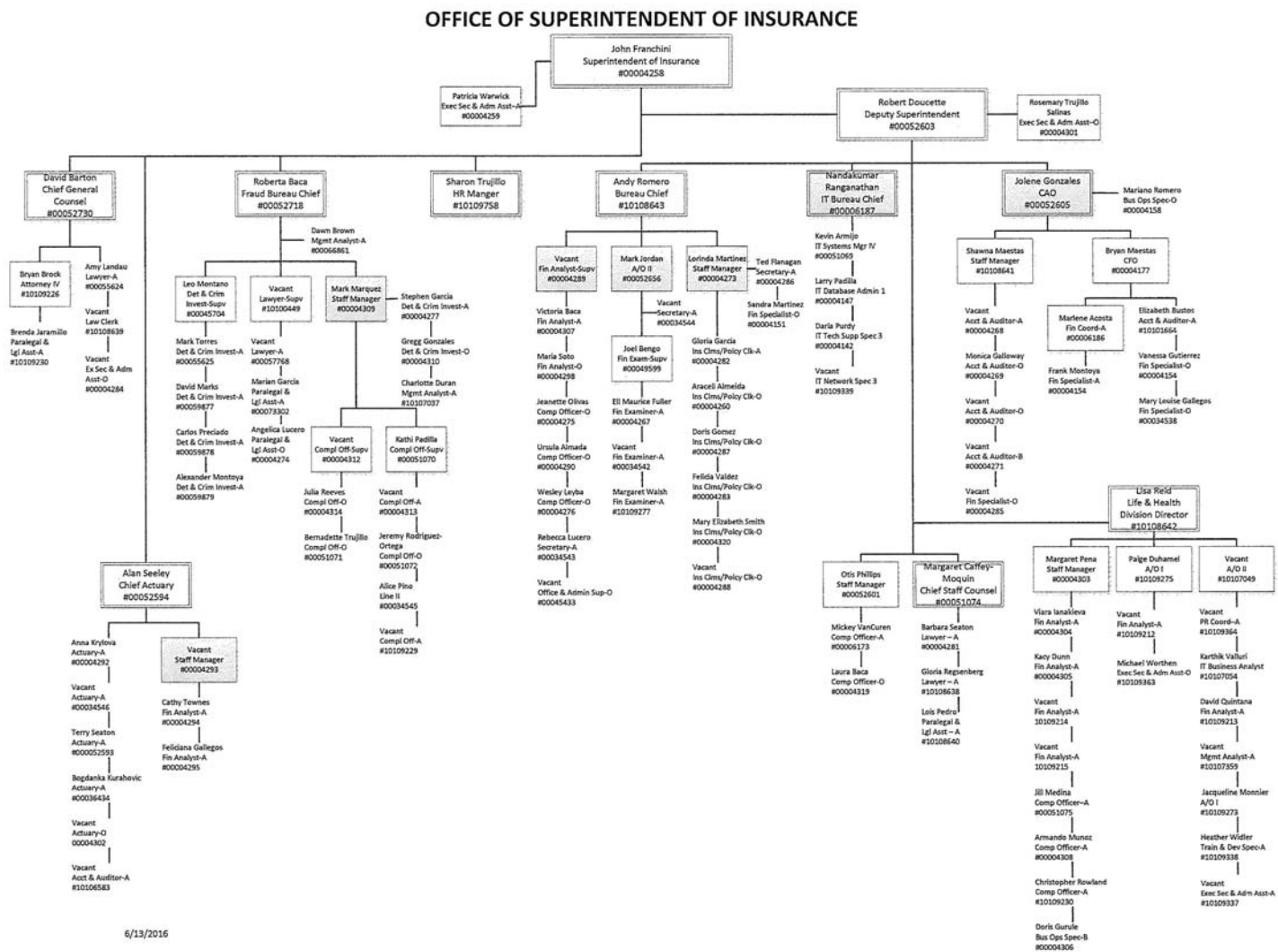
**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
 APPENDIX A – FLOW CHARTS OF WALKTHROUGHS  
 APRIL 1, 2010 THROUGH APRIL 30, 2015**



**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
APPENDIX A – FLOW CHARTS OF WALKTHROUGHS (CONTINUED)  
APRIL 1, 2010 THROUGH APRIL 30, 2015**



**NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE  
APPENDIX B – NM OSI ORGANIZATION CHART  
APRIL 1, 2010 THROUGH APRIL 30, 2015**



6/13/2016