



**REPORT OF INDEPENDENT ACCOUNTANT'S
FORENSIC AUDIT
CONSULTING PROCEDURES**

MAY 29, 2020

**MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
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REPORT OF INDEPENDENT ACCOUNTANT'S FORENSIC AUDIT CONSULTING PROCEDURES

To the County Commission and
Ms. Joy Ansley, County Manager
Mora County
Mora, New Mexico
and
Mr. Brian Colón, Esq.
New Mexico State Auditor
Santa Fe, New Mexico

Subject: Mora County Forensic Audit of the Mora Volunteer Fire Department

Dear Commissioners and Auditor Colón:

Thank you for the opportunity to work with you to complete this forensic audit consulting engagement for Mora County (the County). This report summarizes our procedures, findings, and recommendations as it relates to our assistance with your evaluation of accounting and financial irregularities at Mora Volunteer Fire Department (MVFD).

We have performed the consulting procedures enumerated below, which were agreed to by the County and the New Mexico Office of the State Auditor (OSA), solely to assist you in determining the fraud risk, the value of diverted funds, and the causes of fund diversion. The period subject to review was July 1, 2013 through June 30, 2018 (the Period).

This consulting engagement was conducted in accordance with the Audit Act Sections 12-6-1 through 12-6-14 NMSA 1978, the Audit Rule 2.2.2 NMAC Requirements for Contracting and Conducting Audits of State Agencies, and Standards for Consulting Services established by the American Institute of Certified Public Accountants. The scope of this engagement is outlined in the body of our report. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the consulting procedures described below either for the purpose for which this report has been requested or for any other purpose. The County remains responsible for their accounting records, operations, funds, fraud prevention and detection, and for maintaining effective internal controls over the financial statements and compliance.

EXECUTIVE SUMMARY

In January 2019, the County formally terminated the former MVFD Fire Chief. In his words, he was fired for "embezzling \$280,000". This followed a months-long investigation into MVFD expenditures paid by his daughter, the former Payroll and Payments Clerk. The internal investigation discovered she had possibly committed fraud through reimbursement and time theft schemes in 2018. The former MVFD Fire Chief, her father, had signed and

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presented the fraudulent invoice to the County for reimbursement to her and then misled the official investigator by misrepresenting the flooring purchased. During a surprise visit in July 2018, there was no flooring present. This was discovered by the County Commissioners with a questionable reimbursement to the former Payroll and Payments Clerk with an invoice numbered "1234". In May 2018, the former Payroll and Payments Clerk paid herself \$1,538 for luxury flooring the County did not procure or use. She admitted to fabricating the invoice and reimbursed the County the funds. Our testing substantiated that she did create the falsified invoice.

Thus, the County began an investigation for an 18-month period on expenditures which indicated there were many questionable expenditures. The areas mentioned by the County's attorney in question were fuel, propane, computer, salaries, the luxury flooring, payments to many of the former MVFD Fire Chief's family, and other expenditures without proper documentation. The MVFD firehouse was closed for a few days to change the locks. Since that time, the MVFD fire station has responded to County events on occasion.

The NM State Auditor's Office designated the County for Special Audit on February 14, 2019 for an examination of probable misuse of funds and questionable expenditures. After the County performed procurement, contracting, and gathered documents for the forensic work, JAG began testing in late November 2019. Although the County's team and other agencies we collaborated with were very helpful, the engagement pace was hindered by the lack of documentation and difficulty in finding necessary documentation for five fiscal years. It appears the MVFD records were removed by unknown parties from the fire station after the scope of our audit was determined. One filing cabinet had the key left in it with one drawer emptied and another locked cabinet was pried open with files removed. The MVFD financial documentation for years in the Period (fiscal years 2014 through 2018) are missing along with the personnel files of those who were paid with County funds.

This engagement was designed to assist the County in determining the potential: fraud risk and dollar value of funds unaccounted for, the causes for unaccounted funds, the value of diverted funds, and the causes of fund diversion. The County and its Commission remain responsible for providing the public with reasonable assurance that the County has adequate controls to safeguard assets. An adequate system of internal accounting and operational controls is necessary to meet these responsibilities. Unfortunately, employees do find ways to collude and circumvent controls, no matter how strong the County's checks and balances are.

Through our forensic testing, we identified an estimated \$335,000 in unsubstantiated and questionable expenditures and numerous violations of statutes, regulations, and policies (EXHIBIT 2 – SUMMARY OF NON-COMPLIANT EXPENDITURES). From the limited information available to us, interviews, and testing, it appears a particular family and group of friends dishonestly benefited from the County's taxpayers' public funds. A former Finance Director may have known or should have known about these transactions.

[The Fraud Triangle](#)

The Fraud Triangle, showing that there are three factors which must be present at the same time in order for an ordinary person to commit fraud, originated from Donald Cressey's hypothesis: *"Trusted persons become trust violators when they conceive of themselves as having a financial problem which is non-shareable, are aware this problem can be secretly resolved by violation of the position of financial trust, and are able to apply to their own conduct in that situation verbalizations which enable them to adjust their conceptions of themselves as trusted persons with their conceptions of themselves as users of the entrusted funds or property."* – Donald R. Cressey,

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Other People's Money (Montclair: Patterson Smith, 1973) p. 30. The three factors of the Fraud Triangle are: Pressure, Opportunity, and Rationalization. We discuss below possible factors contributing to the Fraud Triangle from the information available to us.

Pressure

The first leg of the fraud triangle represents *perceived pressure*. This is what motivates the crime in the first place. The individual(s) have some financial problem that the person is unable or chooses not to solve through legitimate means, so the person begins to consider committing an illegal act, such as stealing cash or falsifying a financial statement, as a way to solve the problem. The financial problem can be personal (e.g., in personal debt or an addiction) or professional (e.g., job or organization is in jeopardy or political/public expectations).

In this case, we are not aware of the exact personal pressures of the employees and paid volunteers of the County.

Opportunity

The second leg of the fraud triangle is *perceived opportunity*, which defines the method by which the crime can be committed. The person must see some way to use (abuse) her position of trust to solve her financial problem with a low perceived risk of getting caught. It is also critical that the fraud perpetrator can solve their problem in secret. Many people commit white-collar crimes to maintain their social status. Fraudsters not only have to be able to steal funds, but they have to be able to do it in such a way that will likely not be caught and the crime itself will not be detected.

The former Payroll and Payments Clerk and her father, the former MVFD Fire Chief, had the opportunity to misuse County funds, as described above and in **EXHIBIT 3 – SCHEDULE OF FINDINGS AND RESPONSES** of this report. Inadequacy of controls, nepotism, and collusion between employees can lead to methods by which they can abuse their position of trust to solve their problems with a low perceived risk of getting caught.

Rationalization

The third leg of the fraud triangle is *rationalization*. The vast majority of fraudsters are first-time offenders with no criminal past; they do not view themselves as criminals. They see themselves as ordinary, honest people who are caught in a bad set of circumstances. Consequently, the person must justify the crime to themselves in a way that makes it an acceptable or justifiable act. Common rationalizations include: "I was only borrowing the money", "I was underpaid", "I worked 2-3 job duties and got paid for one", and "I had to steal to provide for my family".

In an interview with the County's outside investigator on July 17, 2018, the former MVFD Fire Chief admitted he arbitrarily set payrates, his rationalization was to help some guys out of work because he [the County's Wildland Fund] had the money.

Definitions

NMSA 1978 Section 10-16-3(A). A legislator or public officer or employee shall treat the legislator's or public officer's or employee's government position as a public trust. The legislator or public officer or employee shall use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests.

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NMSA 1978 Section 30-16-6. *Fraud* consists of the intentional misappropriation or taking of anything of value which belongs to another by means of fraudulent conduct, practices, or representations.

NMSA 1978 Section 30-16-8. *Embezzlement* consists of the embezzling or converting to his or her own use of anything of value with which he or she has been entrusted, with fraudulent intent to deprive the owner thereof.

NMSA 1978 Section 30-16-10. *Forgery* consists of: A) falsely making or altering any signature to, or any part of, any writing purporting to have any legal efficacy with intent to injure or defraud; or B) knowingly issuing or transferring a forged writing with intent to injure or defraud. "Legal efficacy" is a writing which could be made the foundation of liability that would apparently operate to the legal prejudice of another. We usually think of forgery as altering a document for financial gain, but it can also be "any document required by law to be filed...or necessary...to the discharge of a public official's duties."

NM State Audit Rule 2.2.2.15 NMAC SPECIAL AUDITS, ATTESTATION ENGAGEMENTS, PERFORMANCE AUDITS AND FORENSIC AUDITS:

A. Fraud, waste or abuse in government reported by agencies, IPAs or members of the public:

(1) Definition of fraud: Fraud includes, but is not limited to, fraudulent financial reporting, misappropriation of assets, corruption, and use of public funds for activities prohibited by the constitution or laws of the State of New Mexico. Fraudulent financial reporting means intentional misstatements or omissions of amounts or disclosures in the financial statements to deceive financial statement users, which may include intentional alteration of accounting records, misrepresentation of transactions, or intentional misapplication of accounting principles.

Misappropriation of assets means theft of an agency's assets, including theft of property, embezzlement of receipts, or fraudulent payments. Corruption means bribery and other illegal acts. (GAO-14-704G federal internal control standards paragraph 8.02).

(2) Definitions of waste and abuse: Waste is the act of using or expending resources carelessly, extravagantly, or to no purpose. Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary operational practice given the facts and circumstances. This includes the misuse of authority or position for personal gain or for the benefit of another. Waste and abuse do not necessarily involve fraud or illegal acts. However, they may be an indication of potential fraud or illegal acts and may still impact the achievement of defined objectives. (GAO-14-704G federal internal control standards paragraph 8.03).

Internal Controls

Effective internal controls require independent and ethical oversight with integrity, accountability and ongoing risk assessment in order to provide reliable indicators of an entities performance. The U.S. Governmental Accountability Office, in Section OV1.01 of the Green Book, defines internal control as "a process effected by an entity's oversight body, management, and other personnel that provides reasonable assurance that the objectives of an entity will be achieved ..." Without the appropriate design and implementation of these controls, entities are more susceptible to fraud, waste, and abuse. JAG recommends the County adopt the US GAO Green Book as

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the basis for its internal controls, guiding the ongoing development of its policies and procedures. These policies and procedures need to ensure transparency and risk assessment and monitoring are occurring.

Auditing Standards

Auditing standards provide that it is the responsibility of management to ensure that agencies have sound internal structure. Statement of Auditing Standards (SAS) Codification (AU) Section 110, paragraph .03 explains that it is management's responsibility to adopt sound accounting policies and to establish and maintain internal control that will, among other things, initiate, authorize, record, process, and report transactions (as well as events and conditions) consistent with management's assertions embodied in the financial statements. SAS AU 316 paragraph .04 states that "Management, along with those charged with governance, should set the proper tone; create and maintain a culture of honesty and high ethical standards; and establish appropriate controls to prevent, deter, and detect fraud. When management and those charged with governance fulfill those responsibilities, the opportunities to commit fraud can be reduced significantly."

Furthermore, Statement on Auditing Standard AU Section 325 paragraph 3 provides that "internal control is a process – effected by those charged with governance, management, and other personnel – designed to provide reasonable assurance about the achievement of the entity's objectives with regard to reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations." Pursuant to Section 12-6-6 NMSA 1978, an agency or IPA shall notify the State Auditor immediately, in writing, upon discovery of any alleged violation of a criminal statute in connection with financial affairs. The notification shall include an estimate of the dollar amount involved and a complete description of the violation, including names of persons involved and any action taken or planned.

Each agency should evaluate the internal controls by reviewing and testing internal controls to ensure they are properly designed and implemented. Any violation of law or good accounting practice including instances of non-compliance or internal control weaknesses must be reported as an audit finding per Section 12-6-5 NMSA 1978. Pursuant to GAGAS 4.23, "Auditors should communicate in the report on internal control over financial reporting and compliance, based upon the work performed: significant deficiencies and material weaknesses in internal control; instances of fraud and non-compliance with provisions of laws or regulations that have a material effect on the audit and any other instances that warrant the attention of those charged with governance; non-compliance with provisions of contracts or grant agreements that has a material effect on the audit; and abuse that has a material effect on the audit."

Findings

This report summarizes our findings discovered during test work to accomplish the goals of the forensic examination. We have provided specific recommendations for the County to strengthen internal controls over the financial statements and compliance in relation to activity funds, fraud prevention, and fraud detection in **EXHIBIT 3 – SCHEDULE OF FINDINGS AND RESPONSES** of this report. We want to emphasize it is vital for the County to perform frequent risk assessments for all financial areas at all campuses and monitor procedures over its corrective actions, along with accountability for non-compliance, to prevent, detect, and report situations promptly in the future. County management is dedicated to implementing these safeguards to further secure receipts and activity funds at the County and has already taken some corrective action and implemented some of the recommendations to prevent future theft, fraud, or embezzlement.

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Findings include the elements as required by 2.2.2.15 B and 2.2.2.10 I (3) (c) NMAC. Management's responses to the findings were not audited and/or presented verbatim.

Our examination was limited to the areas and periods described and limited to the documents available and the interviews of employees performed. Had we reviewed other periods or areas or documents, other matters may have been identified warranting the County's attention.

CONSULTING PROCEDURES

Our procedures were as follows for the Period:

1. Establish an understanding of the processes and procedures (official and unofficial) for any payments/disbursements/payables (cash, check, ACH, WEX gas cards, etc.) made by the County on behalf of the Mora volunteer fire department (MVFD). This includes an understanding of purchase requisitions, purchase orders (including open purchase orders) and signature authorizations. The understanding gained also includes pertinent reviews, reports, and discussion with County Officials.
2. Establish an understanding of the processes and procedures (official and unofficial) for asset inventory of MVFD.
3. Identify all the County's revenue sources for MVFD.
 - a. Scrutinize the County's Wildland Fund receipts and disbursements and test for compliance with statutes, regulations, and policies and procedures. This includes a review of reimbursement forms, shift tickets, crew time reports, and timesheets.
 - b. Compare reimbursement forms submitted to third parties (State Forestry, State Fire Marshal, etc.) with internal reimbursement forms submitted by employees of the County.
4. Scrutinize high-risk expenditures/requests for reimbursement by employees of MVFD.
5. Review procurement files and supporting documentation for MVFD volunteer fire department, test for compliance with statutes, regulations, and policies and procedures, with an emphasis in the awarding of said contract/purchase.
6. Identify and scrutinize all transactions handled/initiated by the County's former Payroll and Payments Clerk, former Fire Chief, and former Fire Administrator for MVFD.
7. Compare 1099s for MVFD employees and the former Payroll and Payments Clerk with detail of all payments issued to said employees for completeness.
8. Identify fraud risks (including, but not limited to, collusion) at the County for the Period.

DETAILED PROCEDURES PERFORMED

This section expands upon our testing and results of the consulting procedures listed above. JAG has performed procedures for the time period requested: July 1, 2013 through June 30, 2018:

1. Processes and Procedures

- ✓ We interviewed those who were involved in the process for the MVFD funds, including, but not limited to: the former Interim County Manager, the current Finance Director, the current Payroll Clerk, the Chief Procurement Officer (CPO), the current Fire Administrator, and a County Commissioner. See also **EXHIBIT 1 – COUNTY & MVFD ORGANIZATION CHARTS (RELEVANT POSITIONS)**.

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- ✓ We reviewed the County policies and the County's internal procedures. We gained an understanding of the processes and procedures, reviewed documentation, and have reported results in **EXHIBIT 3 – SCHEDULE OF FINDINGS AND RESPONSES** of this report.
- ✓ We became familiar with the processes and procedures as we tested the records and reviewed what the County Finance Department, including its General Counsel, NM State Police law enforcement, the NM State Auditor, and NM Energy, Minerals, and Natural Resources Department (EMNRD), of which NM State Forestry is a Division of, and the County's external investigator (UIS) had collected on this matter.
- ✓ Since the former Payroll and Payments Clerk and the former MVFD Fire Chief were no longer with the County at the time of our procedures, the County did not believe it to be appropriate for us to interview them. Therefore, our procedures did not include interviewing them.
- ✓ The former Finance Director declined to allow us an interview.

2. Understand MVFD Asset Inventory

- ✓ We established an understanding of the processes and procedures (official and unofficial) for asset inventory of MVFD.
- ✓ We toured the fire stations in the area and the County offices.
- ✓ We interviewed the current Fire Administrator.
- ✓ We checked the MVFD inventory provided to us and did not find exceptions; however, we noted there were inventory items and a fire truck that may be missing.

3. Identify MFVD Revenue Sources

- ✓ We identified revenue sources in the County's annual audit and activity fund disclosures.
- ✓ Interviews assisted us in determining what the revenue sources should be.
- ✓ To the extent that information was available, we tested the Wildland funds during the Period.
- ✓ We compared reimbursement requests to the State during the Period from information that was available.

4. Identify and Scrutinize MFVD Transactions

- ✓ We applied forensic auditing procedures to higher risk transactions as needed. This led to many diversions in the work but were necessary to follow up on. For example, the propane gas contract procurement and potential related violations required extra work.
- ✓ See **EXHIBIT 2 – SUMMARY OF NON-COMPLIANT EXPENDITURES** included in this report.

5. Review MVFD Procurement Files

- ✓ Through our interviews, it was disclosed to us that the former Finance Director handled procurement for the County Complex and MVFD instead of the Chief Procurement Officer (CPO), a procedural irregularity.
- ✓ We tested requisitions (not always used) and purchase orders and check packets.
- ✓ We noted violations of procurement. See also **EXHIBIT 3 – SCHEDULE OF FINDINGS AND RESPONSES** of this report.

6. Review Transactions by former Payroll and Payments Clerk and former MVFD Fire Chief

- ✓ We examined, *to the extent available*, transactions by the father and daughter with documentation such as: receipts, expenses, leave records, timesheets, fire revenue and expenditure documents, electronic records, Triadic reports, and personnel files.

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- ✓ The items listed above help us pull information into useable formats (such as graphs and pivot tables) to analyze trends, risks, and causes of the alleged fraud, deficiencies in internal controls, and non-compliance.
- ✓ We compared the records to applicable policies, procedures, regulations, and state laws and have reported results in **EXHIBIT 3 – SCHEDULE OF FINDINGS AND RESPONSES** of this report.

7. Identify Fraud Risks

- ✓ To help identify not only what went wrong in the past, but also what could be improved in the future, our team consisted of highly-trained individuals in governmental and forensic auditing; including three Certified Public Accountants (CPAs), one Certified Fraud Examiner (CFE), and various staff with experience in governmental auditing and consulting.
- ✓ Regarding potential collusion, we believe the results indicate increased risk of collusion between the former Payroll and Payments Clerk, a former Finance Director, the former MVFD Fire Chief, and various other paid fire-related personnel.
- ✓ We identified risks and our recommendations for strengthening controls to help you prevent and detect fraud in the future are within **EXHIBIT 3 – SCHEDULE OF FINDINGS AND RESPONSES** of this report.

CORRECTIVE ACTIONS TO DATE

- ✓ The County disclosed the alleged embezzlement to the New Mexico Office of the State Auditor (OSA).
- ✓ Hired an internal investigator for certain allegations, mainly on employee time and the luxury flooring illegal reimbursement.
- ✓ Employees and paid volunteers were terminated based on the investigations.
- ✓ Finance employees must now use a time clock.
- ✓ The MVFD's locks were changed.
- ✓ The County hired a new County Manager in November of 2019.
- ✓ The County engaged an external independent auditor, Jaramillo Accounting Group LLC (JAG), to perform these forensic procedures.
- ✓ A new Fire Administrator was hired.
- ✓ The County Commission Chair has been actively involved in the correct detailed level of reviews and approvals of expenditures.
- ✓ The County has implemented certain new policies and procedures.

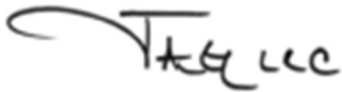
We were not engaged to, and did not conduct an audit examination, the objective of which would be the expression of an opinion on the accounting records of the County under attestation standards. Accordingly, we provide no opinion, attestation, or other form of assurance with respect to our work or the information upon which our work is based. The procedures performed do not constitute an examination in accordance with generally accepted auditing or attestation standards. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information of the parties specified above, County management, and parties identified by the County's management and their designated legal counsel, and law enforcement agencies. This

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report should not be relied upon by any other party. JAG accepts no responsibility to any other party to whom this report may be shown or who may otherwise gain access to this report.

We appreciate the opportunity to assist you in your assessment of these activities and achieve stronger internal controls. Please do not hesitate to call if you have any questions or need further assistance regarding this important matter. JAG would like to sincerely thank the County's Commissioners, Administrators, and other employees for their support in assisting us with our procedures.

A handwritten signature in black ink that reads "JAG LLC". The signature is stylized, with a large, sweeping initial "J" that loops back to the right.

Jaramillo Accounting Group LLC (JAG)
Albuquerque, New Mexico
May 29, 2020

**MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
EXIT CONFERENCE & DISCLAIMER
MAY 29, 2020**

The contents of this report were discussed on May 29, 2020, in a closed executive session. The following individuals were in attendance:

Mora County Commission

L. Frank Maestas, Chair
Veronica M. Serna, Vice-Chair
Alfonso J. Griego, Commissioner

Mora County – Administration

Michael Aragon, Esq., Counsel
Joy Ansley, County Manager

NM Office of the State Auditor

Shawn Beck, Special Investigations Director
Joseph Holloway, Esq., Chief Counsel

Jaramillo Accounting Group LLC (JAG)

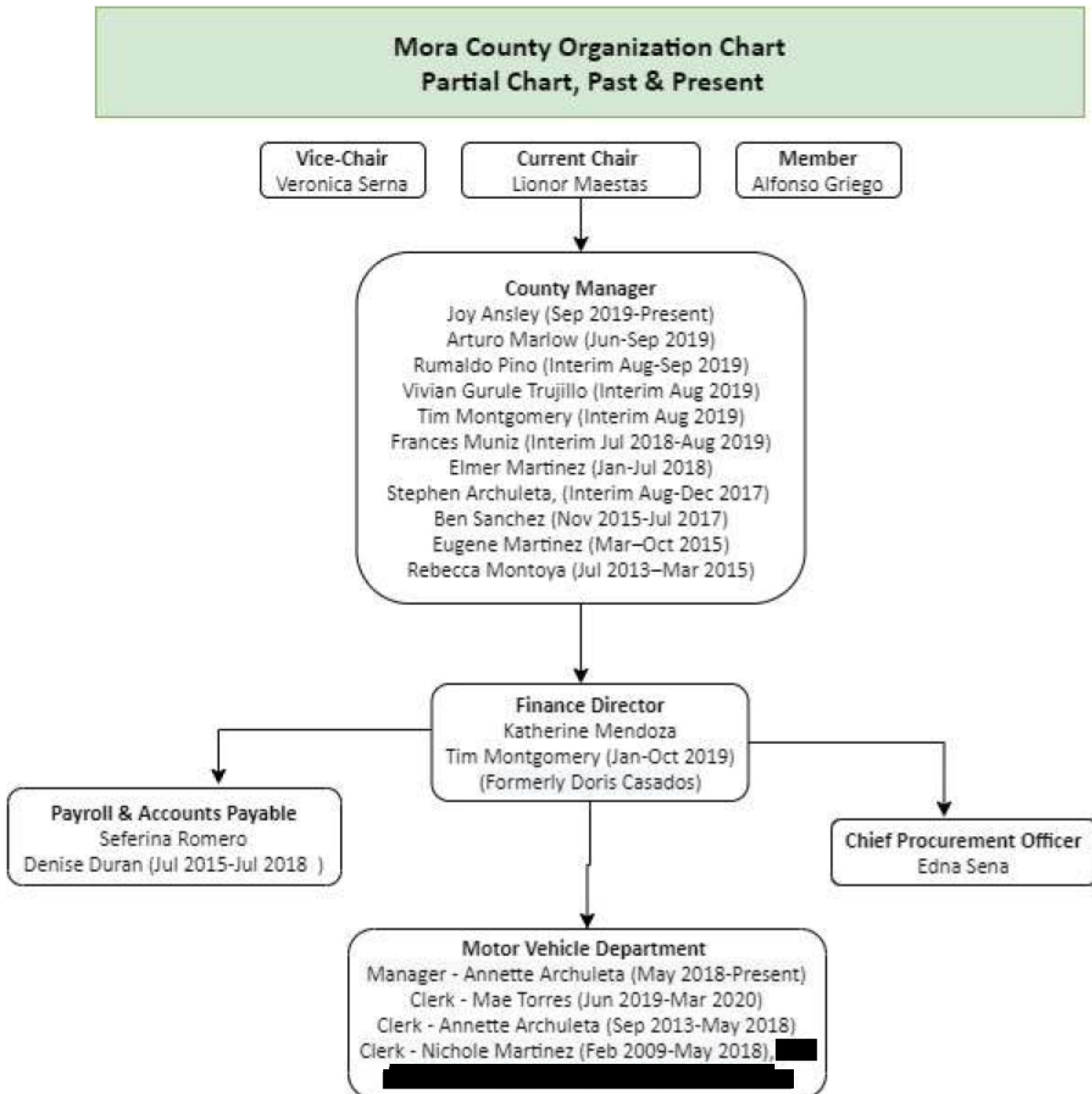
Audrey J. Jaramillo, CPA, CFE, Managing Partner
Karen Kiser, Senior Auditor

DISCLAIMER

We are not lawyers and are not a law enforcement agency or prosecuting officer. We do not have power to subpoena records or power to subpoena witnesses to testify under oath. We are private accounting firm conducting a specified forensic consulting services based on information voluntarily provided by the subject of the engagement. Here, the subject of the consulting procedures had incomplete information due to inadequate controls and documentation at the County. Because we have incomplete information, this letter is intended only to raise potential fraud and abuse, as well as potential non-compliance with laws, regulations, and contracts, as well as potential criminal violations in connection with the financial affairs of the County.

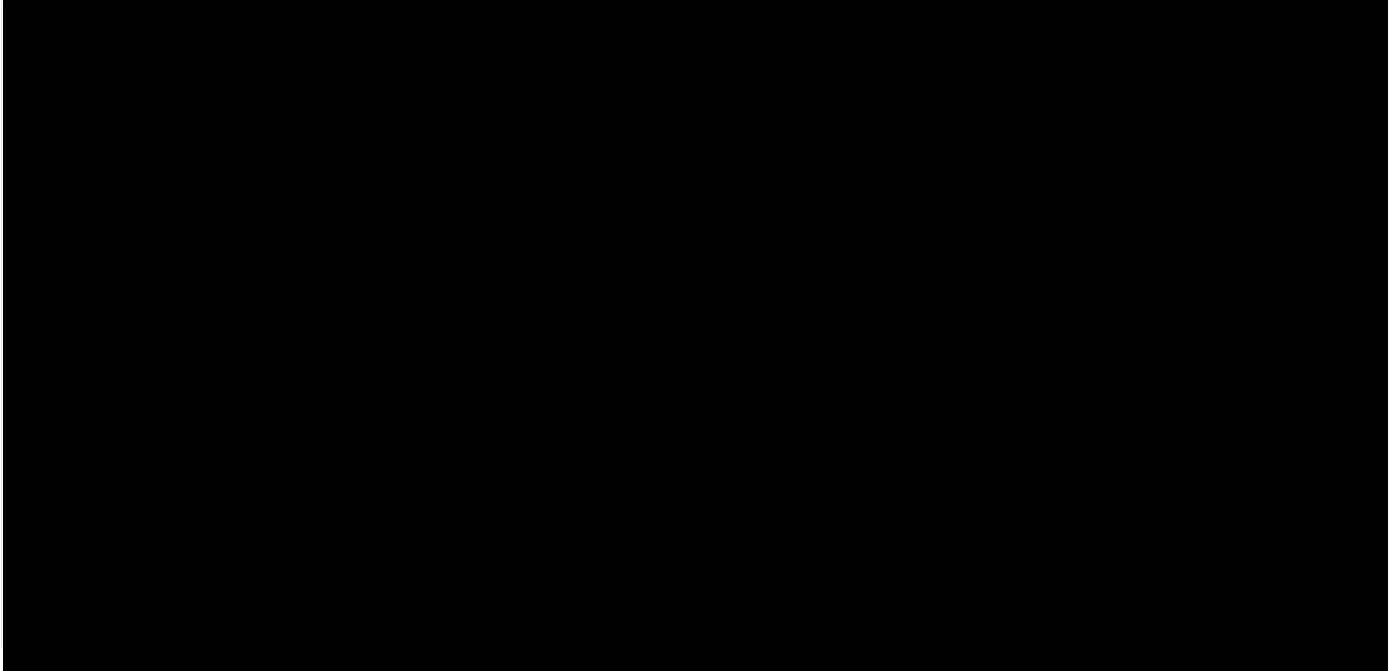
We cannot conclude on the guilt or innocence of any party. We cannot and do not purport to be in a position to establish beyond reasonable doubt whether such violations occurred. Importantly, these allegations of potential fraud, waste, or abuse and/or potential violations of criminal statute in connection with financial affairs cover many years and will require further investigation by the relevant offices and authorities, which may include referral to the “proper prosecuting officer.” We do not draw legal conclusions here and, instead, raise the matters below for consideration and investigation by appropriate authorities. Exercising our auditor judgment and erring on the side of transparency and disclosure, we are identifying these risks to the County and the New Mexico Office of the State Auditor so that they can determine appropriate next steps.

**EXHIBIT 1
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
ORGANIZATIONAL CHARTS
MAY 29, 2020**



**EXHIBIT 1
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
ORGANIZATIONAL CHARTS (CONTINUED)
MAY 29, 2020**

**Mora County Volunteer Fire Department (MVFD)
Past & Present Organization Chart**



**EXHIBIT 2
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SUMMARY OF NON-COMPLIANT EXPENDITURES
MAY 29, 2020**

Mora County Findings of Potential Fraud

Event	Persons Involved	Public Funds/Assets Under the Control of:	Public Funds/Assets Also Under the Control of:	Start Date	End Date	Amount	Total
1. Alleged Wildland Firefighter Overpayment				7/1/2013	12/31/2013	\$ 120	
1. Alleged Wildland Firefighter Overpayment				7/1/2013	6/30/2018	9,355	
1. Alleged Wildland Firefighter Overpayment				7/1/2013	12/31/2018	133	
1. Alleged Wildland Firefighter Overpayment				7/1/2013	12/31/2013	6,017	
1. Alleged Wildland Firefighter Overpayment				7/1/2013	12/31/2017	6,808	
1. Alleged Wildland Firefighter Overpayment				1/1/2014	6/30/2018	5,767	
1. Alleged Wildland Firefighter Overpayment				1/1/2015	12/31/2015	874	
1. Alleged Wildland Firefighter Overpayment				1/1/2016	12/31/2016	93	
1. Alleged Wildland Firefighter Overpayment				5/3/2015	5/3/2015	192	
1. Alleged Wildland Firefighter Overpayment				1/1/2016	12/31/2016	1,617	
1. Alleged Wildland Firefighter Overpayment				1/1/2018	6/30/2018	3,325	\$ 34,300
2. Firefighter without Wildland Certification Evidence				1/1/2014	6/30/2018	18,704	
2. Firefighter without Wildland Certification Evidence				1/1/2013	12/31/2017	790	
2. Firefighter without Wildland Certification Evidence				1/1/2018	6/30/2018	8,011	
2. Firefighter without Wildland Certification Evidence				1/1/2018	6/30/2018	550	28,055
3. Disallowed Landscaping/ Maintenance Expense at MVFD				6/4/2018	6/27/2018	360	
3. Disallowed Landscaping/ Maintenance Expense at MVFD				6/4/2018	6/27/2018	1,512	
3. Disallowed Landscaping/ Maintenance Expense at MVFD				6/4/2018	6/27/2018	216	
3. Disallowed Landscaping/ Maintenance Expense at MVFD				6/4/2018	6/27/2018	1,644	
3. Disallowed Landscaping/ Maintenance Expense at MVFD				6/4/2018	6/27/2018	318	4,050
3. Alleged Time Sheet/Leave Manipulation				7/1/2013	6/30/2018	1,018	
3. Alleged Time Sheet/Leave Manipulation				7/1/2014	6/30/2018	16,557	
3. Alleged Time Sheet/Leave Manipulation				7/1/2014	6/30/2018	4,762	
3. Alleged Time Sheet/Leave Manipulation				7/1/2014	6/30/2018	3,253	
3. Alleged Time Sheet/Leave Manipulation				7/1/2015	6/30/2018	1,147	26,737
4. Alleged Under Reported 1099 Income				1/1/2014	12/31/2017	580	
4. Alleged Under Reported 1099 Income				1/1/2016	12/31/2016	603	
4. Alleged Under Reported 1099 Income				1/1/2016	12/31/2017	2,440	
4. Alleged Under Reported 1099 Income				1/1/2017	12/31/2017	307	
4. Alleged Under Reported 1099 Income				1/1/2017	12/31/2017	400	4,330
5. Alleged Unreported 1099 Income				1/1/2014	12/31/2017	17,547	
5. Alleged Unreported 1099 Income				1/1/2014	12/31/2014	62,700	
5. Alleged Unreported 1099 Income				1/1/2016	12/31/2017	10,425	
5. Alleged Unreported 1099 Income				1/1/2016	12/31/2016	2,769	
5. Alleged Unreported 1099 Income				1/1/2015	12/31/2015	3,000	
5. Alleged Unreported 1099 Income (Amount included above)				1/1/2018	6/30/2018	-	96,441
6. Possible Personal Use of WEX Cards				7/1/2013	12/31/2017	1,097	
6. Possible Personal Use of WEX Cards				7/1/2013	12/31/2016	1,119	
6. Possible Personal Use of WEX Cards				1/1/2015	6/30/2018	477	
6. Possible Personal Use of WEX Cards				1/1/2018	6/30/2018	28	
6. Possible Personal Use of WEX Cards				1/1/2018	6/30/2018	702	3,423
7. Possible Unsubstantiated Travel Expenses				11/14/2016	11/22/2016	425	425
8. Potentially Disallowed Wildland Fund Expenses				7/1/2013	6/30/2018	2,702	2,702
9. Potentially Fraudulent Wildland Pay				7/1/2013	6/30/2018	8,144	8,144
10. Questionable Coat Purchases				2/1/2017	7/13/2017	1,200	1,200
11. Fire Protection Fund Annual Review-Disallowed Expenditures				7/1/2017	2/5/2019	28,742	28,742
12. Missing/Auctioned Firetruck- Type 6 XC 7916				12/22/2015	12/31/2017	81,545	81,545
13. Ladies Boots				8/21/2015	6/27/2018	18,000	18,000
TOTAL						\$ 338,095	

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- 1. Firefighter hours > Truck hours
- 5. Reported some income but not all 1099 income to the IRS
- 6. Did not report 1099 income to the IRS
- 11. \$32,165 disallowed by State Fire Marshall, reduced by \$3,243 from item #6 above (Possible Personal Use of WEX Cards)

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES
MAY 29, 2020**

Finding #	Finding Description (Material Weaknesses)
2020-001F	Potential Fraud, Forgery, Embezzlement and Non-Compliance
2020-002F	Violations of the State of New Mexico Governmental Conduct Act (GCA)
2020-003F	Illegal Failure to Issue and Submit IRS Federal Forms 1099 and W2
2020-004F	Violations of the Procurement of Public Purchases and Property
2020-005F	Possible Kickbacks and Overpayments on Gas Contract
2020-006F	Lack of Segregation of Duties (Checks and Balances) over County Funds
2020-007F	Possible Fraudulent Payments with Wildland Funds
2020-008F	Potentially Fraudulent Gas Card Purchases
2020-009F	Ineligible PERA Members Reported
2020-010F	Disallowed MVFD Local Fire Protection Fund Expenditures
2020-011F	Reimbursement Requests to the State Do Not Agree to the County's Records
2020-012F	County's General Ledger Software Design and Reports
2020-013F	County Commission – Monitoring and Corrective Actions
2020-014F	County's Manager and Department Leaders - Monitoring, Risk Assessment, and Corrective Actions
2020-015F	Possibly Fraudulent Timesheets, Payroll Records, and Paid Time Off
2020-016F	Insufficient Accounting Records, Document Retention, Inspection of Public Records Act
2020-017F	Lack of Established Practices for the Identification, Mitigation, and Monitoring of Risks
2020-018F	Violations of the Anti-Donation Clause of the NM State Constitution
2020-019F	Other Risks Identified during the Forensic Procedures
2020-020F	Travel Advances
2020-021F	Blanket Purchase Orders
2020-022F	Electronic and Stamped Signatures
2020-023F	Capital Asset Inventory and Certifications
2020-024F	Capital Asset Records
2020-025F	Controls Over Supplies Inventory and Sensitive Equipment

EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020

Jaramillo Accounting Group LLC (JAG) does not conclude on the guilt or innocence of any party. This potential fraud, forgery, embezzlement, abuse, and/or potential violations of criminal statute in connection with financial affairs will require further investigation by the relevant offices and authorities. We also realize that the next step that follows this letter is a potential referral by the New Mexico State Auditor to the "proper prosecuting officer", a further investigation by law enforcement (which includes the County Attorney's Office), yielding their conclusions on these matters. We raise these matters for future consideration and draw no legal conclusions.

2020-001F Potential Fraud, Forgery, Embezzlement and Non-Compliance

CONDITION

In summary, based on the information the County and other entities provided and interviews we performed, it appears that several County employees and paid volunteers (employees paid as contractors) may have committed fraud by collusion, misappropriation, forgery, and embezzlement of County funds. These individuals, mainly within one extended family, potentially misappropriated, via various schemes, approximately \$300,000 during the five-year period we were engaged to examine. This was calculated from testing the information available. See Summary at **Exhibit 2**.

CRITERIA

NM State Audit Rule 2.2.2.10 (K)(2) NMAC. Pursuant to Section 12-6-6 NMSA 1978 (criminal violations), an agency [County] or IPA [external auditor] shall notify the state auditor immediately, in writing, upon discovery of any violation of a criminal statute in connection with financial affairs. The notification shall include an estimate of the dollar amount involved and a complete description of the violation, including names of persons involved and any action taken or planned. If warranted, the state auditor may cause an audit of the financial affairs and transactions of the agency in whole or in part pursuant to Section 12-6-3 NMSA 1978 and 2.2.2.15 NMAC. If the state auditor does not designate an agency for audit, an agency shall follow the provisions of 2.2.2.15 NMAC when entering into a professional services contract for a special audit, performance audit or attestation engagement regarding the financial affairs and transactions of the agency relating to financial fraud, waste, and abuse.

If any information comes to our attention (regardless of materiality) indicating any fraud, illegal acts, non-compliance, or any internal control deficiencies, such instances must be disclosed in the report as required by Section 12-6-6 NMSA 1978. Additionally, the external auditor's consideration of fraud in a financial statement audit includes reporting to management and/or governance any evidence that fraud may exist.

NMSA 1978 Section 6-10-2. It is the duty of every public official or agency of this state that receives or disburses public money to maintain a cash record in which is entered daily, in detail, all items of receipts and disbursements of public money. The cash record shall be balanced daily so as to show the balance of public money on hand at the close of each day's business. Except as may be otherwise provided by law, the cash record is a public record and is open to public inspection.

NMSA 1978 Section 10-16-3(A). A legislator or public officer or employee shall treat the legislator's or public officer's or employee's government position as a public trust. The legislator or public officer or employee shall use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests.

EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020

2020-001F Potential Fraud, Forgery, Embezzlement and Non-Compliance (Continued)

NMSA 1978 Section 30-16-6. *Fraud* consists of: A. Intentional misappropriation or taking of anything of value that belongs to another by means of fraudulent conduct, practices or representations.

B. Whoever commits fraud when the value of the property misappropriated or taken is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.

C. Whoever commits fraud when the value of the property misappropriated or taken is over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.

D. Whoever commits fraud when the value of the property misappropriated or taken is over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.

E. Whoever commits fraud when the value of the property misappropriated or taken is over two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony.

F. Whoever commits fraud when the value of the property misappropriated or taken exceeds twenty thousand dollars (\$20,000) is guilty of a second degree felony.

G. Whoever commits fraud when the property misappropriated or taken is a firearm that is valued at less than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.

NMSA 1978 Section 30-16-1. *Larceny* consists of stealing anything of value that belongs to another.

NMSA 1978 Section 30-16-8. *Embezzlement* consists of: A. the embezzling or converting to his or her own use of anything of value with which he or she has been entrusted, with fraudulent intent to deprive the owner thereof.

B. Whoever commits embezzlement when the value of the thing embezzled or converted is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.

C. Whoever commits embezzlement when the value of the thing embezzled or converted is over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.

D. Whoever commits embezzlement when the value of the thing embezzled or converted is over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.

E. Whoever commits embezzlement when the value of the thing embezzled or converted is over two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony.

F. Whoever commits embezzlement when the value of the thing embezzled or converted exceeds twenty thousand dollars (\$20,000) is guilty of a second degree felony.

NMSA 1978 Section 30-16-10. *Forgery* consists of: A.1) falsely making or altering any signature to, or any part of, any writing purporting to have any legal efficacy with intent to injure or defraud; or 2) knowingly issuing or transferring a forged writing with intent to injure or defraud. "Legal efficacy" is a writing which could be made the foundation of liability that would apparently operate to the legal prejudice of another. We usually think of forgery as altering a document for financial gain but it can also be "any document required by law to be filed...or necessary...to the discharge of a public official's duties."

B. Whoever commits forgery when there is no quantifiable damage or when the damage is two thousand five hundred dollars (\$2,500) or less is guilty of a fourth degree felony.

C. Whoever commits forgery when the damage is over two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-001F Potential Fraud, Forgery, Embezzlement and Non-Compliance (Continued)

D. Regardless of value, whoever commits forgery of a will, codicil, trust instrument, deed, mortgage, lien or any other instrument affecting title to real property is guilty of a third degree felony.

E. Whoever commits forgery when the damage is over twenty thousand dollars (\$20,000) is guilty of a second degree felony.

NMSA 1978 Section 30-23-2. *Paying or receiving public money for services not rendered* consists of: knowingly making or receiving payment or causing payment to be made from public funds where such payment purports to be for wages, salary or remuneration for personal [services] which have not in fact been rendered. Nothing in this section shall be construed to prevent the payment of public funds where such payments are intended to cover lawful remuneration to public officers or public employees for vacation periods or absences from employment because of sickness, or for other lawfully authorized purposes. Whoever commits paying or receiving public money for services not rendered is guilty of a fourth degree felony.

NMSA 1978 Section 30-23-3. *Making or permitting false public voucher* consists of knowingly, intentionally or willfully making, causing to be made or permitting to be made, a false material statement or forged signature upon any public voucher, or invoice supporting a public voucher, with intent that the voucher or invoice shall be relied upon for the expenditure of public money. Whoever commits making or permitting false public voucher is guilty of a fourth-degree felony.

NMSA 1978 Section 30-26-1. *Interfering or Tampering with Public Records* consists of knowingly altering any public record without lawful authority.....destroying, concealing, mutilating or removing without lawful authority any public record or public document belonging to or received or kept by any public authority for information, record or pursuant to law.

NMSA 1978 Section 30-28-2. *Conspiracy* consists of: A) knowingly combining with another for the purpose of committing a felony within or without this state.

B) Whoever commits conspiracy shall be punished as follows:

(1) if the highest crime conspired to be committed is a capital or first degree felony, the person committing such conspiracy is guilty of a second degree felony;

(2) if the highest crime conspired to be committed is a second degree felony, the person committing such conspiracy is guilty of a third degree felony; and

(3) if the highest crime conspired to be committed is a third degree felony or a fourth degree felony, the person committing such conspiracy is guilty of a fourth degree felony.

NMSA 1978 Section 13-1-190 Unlawful employee participation prohibited (2019).

A. Except as permitted by the University Research Park and Economic Development Act [Chapter 21, Article 28 NMSA 1978] or the New Mexico Research Applications Act [53-7B-1 to 53-7B-10 NMSA 1978], it is unlawful for any state agency or local public body employee, as defined in the Procurement Code, to participate directly or indirectly in a procurement when the employee knows that the employee or any member of the employee's immediate family has a financial interest in the business seeking or obtaining a contract.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-001F Potential Fraud, Forgery, Embezzlement and Non-Compliance (Continued)

EFFECT

Allegations of fraud causes a decrease in public trust of the County. There is potentially fraud and embezzlement of public funds that taxpayers worked hard to obtain for their County, other entities, and individuals. Also, there may be additional costs as others may be required to follow up on certain aspects of the potential fraud.

Criminal charges may be filed. NMSA 1978 Section 30-28-3. Criminal solicitation; penalty. A. Except as to bona fide acts of persons authorized by law to investigate and detect the commission of offenses by others, a person is guilty of criminal solicitation if, with the intent that another person engage in conduct constituting a felony, he solicits, commands, requests, induces, employs or otherwise attempts to promote or facilitate another person to engage in conduct constituting a felony within or without the state.

B. In any prosecution for criminal solicitation, it is an affirmative defense that under circumstances manifesting a voluntary and complete renunciation of criminal intent, the defendant:

- (1) notified the person solicited; and
- (2) gave timely and adequate warning to law enforcement authorities or otherwise made a substantial effort to prevent the criminal conduct solicited.

The burden of raising this issue is on the defendant, but does not shift the burden of proof of the state to prove all of the elements of the crime of solicitation beyond a reasonable doubt.

C. It is not a defense that the person solicited could not be guilty of the offense solicited due to insanity, minority or other lack of criminal responsibility or incapacity. It is not a defense that the person solicited is unable to commit the crime solicited because of lack of capacity, status or other characteristic needed to commit the crime solicited, so long as the person soliciting or the person solicited believes that he or they have such capacity, status or characteristics.

D. A person is not liable for criminal solicitation when his solicitation constitutes conduct of a kind that is necessarily incidental to the commission of the offense solicited. When the solicitation constitutes a felony offense other than criminal solicitation, which is related to but separate from the offense solicited, the defendant is guilty of such related felony offense and not of criminal solicitation. Provided, a defendant may be prosecuted for and convicted of both the criminal solicitation as well as any other crime or crimes committed by the defendant or his accomplices or coconspirators, or the crime or crimes committed by the person solicited.

E. Any person convicted of criminal solicitation shall be punished as follows:

- (1) if the highest crime solicited is a capital or first degree felony, the person soliciting such felony is guilty of a second degree felony;
- (2) if the highest crime solicited is a second degree felony, the person soliciting such a felony is guilty of a third degree felony; and
- (3) if the highest crime solicited is a third (3) degree felony or a fourth degree felony, the person soliciting such felony is guilty of a fourth degree felony.

In addition to criminal allegations, there may be civil actions taken.

NMSA 1978 Section 30-23-7. Civil damages for engaging in illegal acts. In addition to any criminal penalties imposed by Section 23-6 [30-23-6 NMSA 1978], a public officer or public employee convicted of violating such section shall be liable for anything of value received by him to the department of the state or political subdivision in whose employ or service he was at the time of such violation of that section. Action for recovery of amounts under this section

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-001F Potential Fraud, Forgery, Embezzlement and Non-Compliance (Continued)

shall be brought in the district court of the county in which any element of the crime occurred. The actions shall be brought in the name of the state for the benefit and use of the department of the state or political subdivision in whose employ or service the public officer or public employee was at the time of the commission of the crime.

CAUSE

Certain employees and paid volunteer employees chose to circumvent laws, requirements, and internal controls. The County's internal controls and accountability were not strong enough to prevent, detect, and stop continued fraud or errors.

RECOMMENDATION

We recommend the Commission, an Audit Committee, an Internal Auditor, Administration, Department leaders, and other staff assess risk and put into place strong controls and accountability to prevent and detect any future fraud, waste, abuse, or non-compliance. The current County administration should continue to change any entitlement or lack of accountability in the organizational culture.

MANAGEMENT RESPONSE

Corrective Action(s): Multiple controls have already been put into place. Segregation of duties as well as internal controls are important to this administration. Accounts payable, payroll, and purchasing all work together closely to monitor the requisitions and purchase orders. County Management is also required to sign off on all requisitions, as well as timesheets. The Commission will explore the fiscal impact to the County of an independent auditor, as well as the feasibility of an audit committee. County Management as well as Finance will work consistently to determine whether the internal controls are sufficient or need to be tightened even more, in order to reduce the risk of possible collusion, fraud, embezzlement, waste, or mismanagement.

Responsible Party: County Management and Finance Department

Due Date of Completion: Fiscal Year 2020

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-002F Violations of the State of New Mexico Governmental Conduct Act (GCA)

CONDITION

It appears several County former employees violated the Governmental Conduct Act. Government (County) employees and public officials must treat their position as a public trust. Employees and public officials must only use the powers and resources of the County **to advance the public interest and not to obtain personal benefits** or pursue private interests. They shall conduct themselves in a manner that justifies the confidence placed in them by the people, always maintaining the integrity and **discharging ethically the high responsibilities of public service**. (NMSA 1978 Section 10-16-3)

Reported and discovered violations include, but are not limited to:

Former Payroll and Payments Clerk (Daughter)

- Paying herself County funds for luxury flooring the County did not procure or approve
- Paying herself for time off not earned
- Maintaining open purchase orders to a local restaurant owned by relatives
- Paying herself \$25/hour (almost double her approved payrate) for time not worked on Wildland Fires
- Paying her husband and son for Wildland Fires without documentation of service
- Creating and inflating hours she paid to her family members
- Not holding family members accountable for personal use of WEX gas cards and approving payment
- Not submitting IRS Form 1099s for family members after issuing checks to them from invoices she created
- Paying family members for unsubstantiated landscaping/painting on MVFD
- Purchasing boots through the Sheriff's Office and other funds, receiving them; they are not in inventory. Boot purchases doubled from 2015 to 2016 and continued to double each year. By 2018, the County spent approximately \$18,000 on boots.
- Purchasing personal coats
- Utilizing the County Manager's signature stamp for her own leave records
- Not ensuring procurement was followed on the expenditures involved in her conflicts of interest
- Not maintaining a proper and certifiable inventory listing each year for MVFD
- Charging unallowed expenditures for her father, the former Chief of MVFD to the Fire Protection Funds which had to be reimbursed to the State Fire Marshal. There may be over \$10,000 more in unallowed expenses to reimburse the state.
- Not properly classifying the 1099 employees (they were not "volunteers") as W2 employees in compliance with the NM Attorney General's opinion and with County trainings
- Preparing certain Wildland reimbursements which her husband approved from NM Energy, Minerals, and Natural Resources Department's State Forestry Division
- Her husband was also in a government position with State Forestry where he was able to call out the fires; the complaint was that he would give or approve the fires to his family in Mora
- Before leaving her position (after being discovered on the luxury flooring payment to herself) she increased payments to family on a Wildland fire with 155 hours to \$25/hour and 200 hours
- Approving the purchase of a laptop for her sister

EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020

2020-002F Violations of the State of New Mexico Governmental Conduct Act (GCA) (Continued)

Former MVFD Fire Chief (Father)

- Approving purchases of unsubstantiated inventory and charges to the Fire Protection Funds
- Admitting in a recorded interview he wanted to help out [aid] those members of his family by paying them “his” extra Wildland Funds
- Approving payments for unsubstantiated time on fires to family members
- Purchasing gas with County WEX gas card(s) not for County use
- Also admitting in a recorded interview that he was allowing inflated payments to family members of 20 hours instead of the typical 1 hour to “ready the truck” after a fire
- Not providing trustworthy stewardship of federal and state Wildland funds which went to family members, were unallowed (hot tub, sauna, exercise equipment), etc.
- It was reported to us the former MVFD Fire Chief solicited a cash deal from a vendor for department trainings. The vendor did not accept, and we referred this to law enforcement for further investigation.
- Participating in the procurement selection of a propane gas vendor (as a Fire Chief he was a decision maker on the bids) from which he received a 30% discount on and began his account the same day as the County contract (alleged kickback). Regardless of the amount or the discount offer, public employees may not use their position or make decisions to personally benefit themselves or their family.

Former Interim County Manager/Contractor

- This former Interim County Manager was the Treasurer for a former County Commissioner’s campaign. The Commissioner won; he was then hired into the County Manager employee position in April 2013 by County Commission vote.
- This followed him leaving Mora Independent School District under a cloud of misspent funds while a state agency revoked his license.
- Although he was an employee, he was also paid for \$5,562 in July 2013 for “professional services”. He was reimbursed for mileage during this time as well. There is no evidence of procurement.
- As County Manager, he applied for a grant from NM Community Foundation on September 15, 2013. This \$12,500 was awarded to the County evidenced by a letter on December 18, 2018 from the Foundation.
- On January 14, 2014, he signed a Professional Services Contract with the same former County Commissioner’s approval for \$1,000 (40 hours @\$25/hour)/mo under this same grant he had applied for.
- On January 14, 2014, he was awarded and also signed a Professional Services Contract with the same former County Commissioner’s approval for \$47,030 plus GRT for entrepreneurial consulting services. Funding for this contract came from NMFA Loan Project #2891-PG in February 2013.

There are numerous conflicts of interest in these transactions and violations of the Governmental Conduct Act.

CRITERIA

Governmental Conduct Act, NMSA 1978 Section 10-16-1 et seq.: The primary law governing ethical conduct by officials of New Mexico in state and local government is the Governmental Conduct Act. The Governmental Conduct Act, NMSA 1978, Chapter 10, Article 16 (“GCA”), was enacted in 1967 as the Conflicts of Interest Act. The current title was enacted as part of an extensive revision to the law in 1993. Originally this law applied only to officials and employees of state government. The legislature has extended coverage of this law to officials and employees of local government, including judges and many Board and Commission members. It has therefore

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-002F Violations of the State of New Mexico Governmental Conduct Act (GCA) (Continued)

become crucial that all state and local government officers and employees in New Mexico, including volunteers, understand their ethical responsibilities under the Act. To that end, the Attorney General has published a Compliance Guide to explain the provisions of the Governmental Conduct Act and clarify their application to covered officials and employees. In addition, the Guide will enable members of the public to become more knowledgeable about the standards of conduct the Act requires and assist them in holding their representatives in government accountable to those standards. The Attorney General's Compliance Guide on the Governmental Conduct Act may be found online at <https://www.nmag.gov/publications.aspx>. Select the Governmental Conduct Act Compliance Guide.

NMSA 1978 Section 10-16-3 D. No legislator or public officer or employee may request or receive, and no person may offer a legislator or public officer or employee, any money, thing of value or promise thereof that is conditioned upon or given in exchange for promised performance of an official act. Any person who knowingly and willfully violates the provisions of this subsection is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

NMSA 1978 Section 10-16-2. As used in the Governmental Conduct Act: ... H. "official act" means an official decision, recommendation, approval, disapproval or other action that involves the use of discretionary authority.

NMSA 1978 Section 10-16-3(C). Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct. At all times, reasonable efforts shall be made to avoid undue influence and abuse of office in public service.

NMSA 1978 Section 10-16-4 A. It is unlawful for a public officer or employee to take an official act for the primary purpose of directly enhancing the public officer's or employee's financial interest or financial position.

Any person who knowingly and willfully violates the provisions of this subsection is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of NMSA 1978 Section 31-18-15. B. A public officer or employee shall be disqualified from engaging in any official act directly affecting the public officer's or employee's financial interest, except a public officer or employee shall not be disqualified from engaging in an official act if the financial benefit of the financial interest to the public officer or employee is proportionately less than the benefit to the general public.

NMSA 1978 Section 10-16-8 B. A former public officer or employee shall not represent a person in the person's dealings with the government on a matter in which the former public officer or employee participated personally and substantially while a public officer or employee.

Note > "public officer or employee" means any elected or appointed official or employee of a state agency or local government agency who receives compensation in the form of salary or is eligible for per diem or mileage. The former Interim County Manager did receive mileage reimbursements and was officially hired by the Commission to that position.

NMSA 1978 Section 10-16-8 C. A local government agency shall not enter into a contract with, or take any action favorably affecting, any person or business that is: 1) represented personally in the matter by a person who has

EXHIBIT 3
MORA COUNTY
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2020-002F Violations of the State of New Mexico Governmental Conduct Act (GCA) (Continued)

been a public officer or employee of that local government agency within the preceding year if the value of the contract or action is in excess of one thousand dollars (\$1,000) and the contract is a direct result of an official act by the public officer or employee; or 2) assisted in the transaction by a former public officer or employee of that political subdivision of the state whose official act, while in employment with that political subdivision of the state, directly resulted in the agency's making that contract or taking that action.

NMSA 1978 Section 10-16-8 C. For a period of one year after leaving government service or employment, a former public officer or employee shall not represent for pay a person before the state agency or local government agency at which the former public officer or employee served or worked.

NMSA 1978 Section 10-16-13.2 A. A public officer or employee shall not sell, offer to sell, coerce the sale of or be a party to a transaction to sell goods, services, construction or items of tangible personal property directly or indirectly through the public officer's or employee's family or a business in which the public officer or employee has a substantial interest, to an employee supervised by the public officer or employee. A public officer or employee shall not receive a commission or shall not profit from the sale or a transaction to sell goods, services, construction or items of tangible personal property to an employee supervised by the public officer or employee.

The provisions of this subsection shall not apply if the supervised employee initiates the sale. It is not a violation of this subsection if a public officer or employee, in good faith, is not aware that the employee to whom the goods, services, construction or items of tangible personal property are being sold is under the supervision of the public officer or employee.

NMSA 1978 Section 10-16-6. No legislator or public officer or employee shall use or disclose confidential information acquired by virtue of the legislator's or public officer's or employee's position with a state agency or local government agency for the legislator's, public officer's or employee's or another's private gain.

NMSA 1978 Section 10-16-3 A. The legislator or public officer or employee shall use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests.

NMSA 1978 Section 10-16-4.3. It is unlawful for a state agency employee or local government agency employee who is participating directly or indirectly in the contracting process to become or to be, while such an employee, the employee of any person or business contracting with the governmental body by whom the employee is employed.

NMSA 1978 Section 10-16-17. Unless specified otherwise in the Governmental Conduct Act, any person who knowingly and willfully violates any of the provisions of that act is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one year or both. Nothing in the Governmental Conduct Act shall preclude criminal prosecution for bribery or other provisions of law set forth in the constitution of New Mexico or by statute.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-002F Violations of the State of New Mexico Governmental Conduct Act (GCA) (Continued)

NMSA 1978 Section 13-1-190 Unlawful employee participation prohibited (2019).

A. Except as permitted by the University Research Park and Economic Development Act [Chapter 21, Article 28 NMSA 1978] or the New Mexico Research Applications Act [53-7B-1 to 53-7B-10 NMSA 1978], it is unlawful for any state agency or local public body employee, as defined in the Procurement Code, to participate directly or indirectly in a procurement when the employee knows that the employee or any member of the employee's immediate family has a financial interest in the business seeking or obtaining a contract.

Other potential criminal statutes (not limited to) in NMSA 1978:

Embezzlement: § 30-16-8

Soliciting or receiving illegal kickbacks: § 30-41-1

Tampering with public records: § 30-26-1

Unlawful interest in a public contract: § 30-23-6

Tax evasion: 26 U.S.C. § 720

Fraud Against Taxpayers Act: §§ 44-9-1 to -14

Procurement Code: §§ 13-1-28 to -199

EFFECT

Taxpayer funds (federal, state, and local) were not spent in the best interest of the entire County. Fraud, waste, and abuse of public funds and non-compliance with laws, regulations, policies, and procedures likely occurred.

NMSA 1978 Section 10-16-17.4. Criminal proceedings. Unless specified otherwise in the Governmental Conduct Act, any person who knowingly and willfully violates any of the provisions of that act is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one year or both. Nothing in the Governmental Conduct Act shall preclude criminal prosecution for bribery or other provisions of law set forth in the constitution of New Mexico or by statute.

However, for this section, it is a fourth degree felony: **It is unlawful for a public officer or employee to take an official act for the primary purpose of directly enhancing the public officer's or employee's financial interest or financial position. Any person who knowingly and willfully violates the provisions of this subsection is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.**

Additionally, the Governmental Conduct Act does not preclude criminal prosecution for other provisions of the law, as noted above. Therefore, NOT ALL GCA violations are misdemeanors. Prosecutors may also charge the violators under other anti-corruption statutes, such as bribery laws. These result in much stronger sentences.

CAUSE

Individuals circumvented internal controls and laws. The County had a severe lack of accountability, including preventative and detective controls for fraud and segregation of duties for related party transactions.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-002F Violations of the State of New Mexico Governmental Conduct Act (GCA) (Continued)

RECOMMENDATION

The GCA helps to ensure that the people who operate state and local government and public institutions act honestly, diligently, transparently, fairly, within the limits of their lawful authority, and with integrity. The key that binds all these strands together is the concept of rule of law, sometimes referred to as a government of laws, not of men and women. What these phrases signify is that the people who make and carry out the laws do so according to binding legal principles, not according to their personal interests and whims. Adherence to the rule of law is necessary for fair decisions by the government, respect for the government, meaningful voting and public petitions to the government, and the existence of personal liberties.

We recommend the Commission, an Audit Committee, an Internal Auditor, Administration, Department heads, and other staff should assess risk and put into place strong controls and accountability to prevent and detect any future fraud or non-compliance. It is vital that the culture reported to us of “sweeping things under the rug” is changed and that high ethical standards are expected and monitored with timely and strong staff evaluations. The current County administration should continue to change any entitlement or lack of accountability in the organizational culture.

MANAGEMENT RESPONSE

Corrective Action(s): Multiple changes have been made since this time. The current administration takes the abuse of public trust very seriously, and management and legal make references of the Government Conduct Act on a regular basis. The Commission will explore the fiscal impact to the County of an independent auditor, as well as the feasibility of an audit committee and policies will continue to be developed and enforced to ensure the minimization of fraud and/or abuse. Management will institute additional trainings to teach the Government Conduct Act to staff. The staff will be trained and reminded of ethical expectations as well as the rule of law. Internal controls are imperative and have been and will continue to be put into place as well, with procedures such as purchasing, accounts payable, and payroll. It is the intent of the Commission that any individuals associated with alleged collusion, fraud, embezzlement, waste, or other mismanagement will be turned over to law enforcement. The County will comply with requests of law enforcement institutions and seek restitution.

Responsible Party: County Commission, Management and Finance

Due Date of Completion: Fiscal Year 2020

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-003F Illegal Failure to Issue and Submit IRS Federal Forms 1099 and W2

CONDITION

We also discovered potential fraud through 1) the categorization of paid firefighters as “volunteers”, 2) the failure to issue the firefighter employees’ W2s, and 3) the failure to issue and submit IRS Forms 1099

The former Payroll and Payments Clerk and former Finance Director compensated the firefighters for some of their time with County funds, disqualifying them from the “volunteer” designation. Evidence also indicates the County fire employees were aware of the NM Attorney General’s opinion and training that volunteer firefighters are employees, not contractors. Instead, the former Payroll and Payments Clerk and the former Finance Director issued certain 1099s to the firefighters with no taxes paid or withheld, in violation of the AG’s opinion and IRS rules.

Since certain 1099s were filed and others were not filed or were under-reported, it does not appear plausible that the former Payables and Payroll Clerk simply missed these. Especially considering certain recipients of County Funds were family members. Not reporting their “contract” income to the IRS could mean the individuals did not pay taxes on that income. One individual in the list has been under investigation in the past for fraud.

IRS Form 1099 Transcript Filed vs. County Check Listing	Calendar Year 2014 Under Reported Income to the IRS	Calendar Year 2015 Under Reported Income to the IRS	Calendar Year 2016 Under Reported Income to the IRS	Calendar Year 2017 Under Reported Income to the IRS	Calendar Year 2018 Under Reported Income to the IRS	Individual
NAME	(Due 2015)	(Due 2016)	(Due 2017)	(Due 2018)	(Due 2019)	Total
			(8,936)	(1,490)		\$ (10,425)
			(720)	(295)	(1,645)	(2,660)
				(1,701)		(1,701)
	(1,880)	(5,770)	(13,040)	(8,390)		(29,080)
			(2,330)		(110)	(2,440)
	(720)			(100)		(820)
		(3,000)				(3,000)
	(62,700)					(62,700)
			(2,796)			(2,796)
			(603)			(603)
					(2,194)	(2,194)
Calendar Year Total	\$ (65,300)	\$ (8,770)	\$ (28,425)	\$ (12,683)	\$ (3,949)	\$ (119,126)

Note > These numbers are conservative because we excluded certain reimbursements such as travel. With a true independent contractor relationship, all costs are borne by the contractor vendor and the County would need to include this income in the IRS Form 1099. The County likely needs to issue the correct forms (W2s for the firefighters and 1099s for true vendors), they will need to recalculate the exact amounts to submit new/amended forms for.

CRITERIA

Fraud may be committed in many ways, including by false representation, failing to disclose information, or abuse of position. Filings of information returns are critical. Non-compliance and avoidance of taxes are serious charges. Many of the missing 1099s would likely be classified under Intentional Disregard (26 CFR Section 6721-1 (e)).

The chart below shows the penalties for the County for each calendar year.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-003F Illegal Failure to Issue and Submit IRS Federal Forms 1099 and W2 (Continued)

Penalty Rates

The penalty rates and maximums for not filing correct information returns and/or not furnishing correct payee statements, including inflationary adjustments if applicable, are reflected in the following table (*-as adjusted for inflation):

Large Businesses with Gross Receipts of More Than \$5 Million (*Average annual gross receipts for the most recent 3 taxable years) and Government Entities (Other than Federal entities) IRC 6721 & IRC 6722				
Time returns filed/furnished	Not more than 30 days late	31 days late – August 1	After August 1 or Not at All	Intentional Disregard
Due 01-01-2020 thru 12-31-2020	\$50 per return or statement - \$556,500* maximum	\$110* per return or statement - \$1,669,500* maximum	\$270* per return or statement - \$3,339,000* maximum	\$550 per return or statement - No limitation
Due 01-01-2019 thru 12-31-2019	\$50 per return or statement - \$545,500* maximum	\$100 per return or statement - \$1,637,500* maximum	\$270* per return or statement - \$3,275,500* maximum	\$540* per return or statement - No limitation
Due 01-01-2018 thru 12-31-2018	\$50 per return or statement - \$536,000* maximum	\$100 per return or statement - \$1,609,000* maximum	\$260* per return or statement - \$3,218,500* maximum	\$530* per return or statement - No limitation
Due 01-01-2017 thru 12-31-2017	\$50 per return or statement - \$532,000* maximum	\$100 per return or statement - \$1,596,500* maximum	\$260* per return or statement - \$3,193,000* maximum	\$530* per return or statement - No limitation
Due 01-01-2016 thru 12-31-2016	\$50 per return or statement - \$529,500* maximum	\$100 per return or statement - \$1,589,000* maximum	\$260* per return or statement - \$3,178,500* maximum	\$520* per return or statement - No limitation
Due 01-01-2011 thru 12-31-2015	\$30 per return or statement - \$250,000 maximum	\$60 per return or statement - \$500,000 maximum	\$100 per return or statement - \$1,500,000 maximum	\$250 per return or statement - No limitation

EFFECT

The County may owe interest and penalties on the 1099s and because of the determination of the AG that certain individuals were employees, the County may owe back payroll taxes on W2s. Also, when these “contractors” receive a new or amended Form 1099 now from the County, if they did not originally pay taxes on that income as they should have (even without a 1099 from the County, they knew they had that income), they will owe a 25% penalty plus 6% interest for each tax year.

Allegations of fraud causes a decrease in public trust of the County. There is potentially fraud and embezzlement of public funds that taxpayers and employees worked hard for.

CAUSE

Since some vendors were properly issued IRS Form 1099s, it does not appear rational that these were simply missed.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-003F Illegal Failure to Issue and Submit IRS Federal Forms 1099 and W2 (Continued)

RECOMMENDATION

We recommend the Commission, an Audit Committee, an Internal Auditor, Administration, A/P Clerk, Finance Director, and other staff should assess risk and put into place strong controls and accountability to prevent and detect any future fraud or non-compliance. W-9 Forms should be issued as soon as possible to be in compliance. The County needs to bring in certain individuals, including firefighters, into the payroll system. The IRS has a checklist for determining contractors v. employees which the Accounts Payable employee should use to document for each new person being paid by the County.

MANAGEMENT RESPONSE

Corrective Action(s): As recommended and previously stated, the County has and will continue to implement internal controls and policies for accountability internal controls. The County shall reissue the 1099's and/or W-9's, where legally required. The County will refer the matter to the IRS and State Tax & Rev, and if there is any proven criminal activity, the County will seek restitution. The County is also researching implementation of transitioning volunteers into the payroll system. This will take some time, but will be implemented in FY21.

Responsible Party: County Commission, Management and Finance

Due Date of Completion: Fiscal Year 2021

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-004F Violations of the Procurement of Public Purchases and Property

CONDITION

The former Finance Director, current Certified Procurement Officer, and former Payroll and Payments Clerk and her father, the former MVFD Fire Chief have not complied with the Procurement Code and the County's internal policies on purchasing public property and services with public funds. Within our limited scope, we noted the following violations:

Certified Procurement Officer (CPO)

It was reported to us and documents indicate the former Finance Director specifically held onto all procurement related to the County Complex and transactions related to MVFD, not allowing the CPO to make decisions in those areas. This is a serious red flag, an indication of collusion, and violates the NM State Procurement Code.

Propane Gas

The 2014 Request for Proposal (RFP), or bid, process for propane gas was handled by the CPO and the then County Manager. Two providers submitted bids, Cortez Gas and Pacheco Gas. Pacheco Gas submitted a bid stating they would not offer a fixed propane price. A fixed propane price was a requirement of Mora County's request for bid. Pacheco Gas scored 20 out of 50 by all voting. Cortez Gas scored 50 out of 50 by all voting.

Cortez Gas of Las Vegas, NM Manager is a relation of the former Payroll and Payments Clerk, the daughter of former MVFD Fire Chief. The County's former MVFD Fire Chief participated in the selection committee, had the authority to renew the contract, reportedly contacted the winning vendor (Cortez Gas) with advice of what to include in the bid (fixed price for the County and a discount for firefighters) in September 2014, and personally benefitted from the awarded contract. He began his account on the same day the County did.

The County paid Cortez Gas approximately \$200,000 during the contract periods. Cortez Gas began their contract with Mora County September 25, 2014. The contract was renewable, not to exceed three years, per Section 13-1-150 NMSA, and for a period of less than one full year after. This took the contract through March 13, 2018. The County then awarded the next bid to Ferrell Gas, at the objection of the Fire Chiefs. The County has currently advertised the RFP for propane but may renew with Ferrell Gas through March 2021 by a vote of the Mora County Fire Chief Association. After this approval, the CPO may award the contract.

Further violations relating to the County's *overpayments and contract* with Cortez Gas are detailed in **Finding 2020-005F**.

Wildland Fire Truck from Grant Funds

The County's former Fire Administrator purchased a firetruck on 2/11/2014 for \$88,700 (Checks #254510 and #255016). There is no evidence of procurement performed, a material violation of the Procurement Code. Most of the expense was paid from Fund 266 state grant funds.

Lack of Controls & Monitoring over Small Purchases

The County changed the small purchase threshold several times during the Period of our engagement. From our inquiries and testing, it does not appear there were controls and accountability for implementing these require-

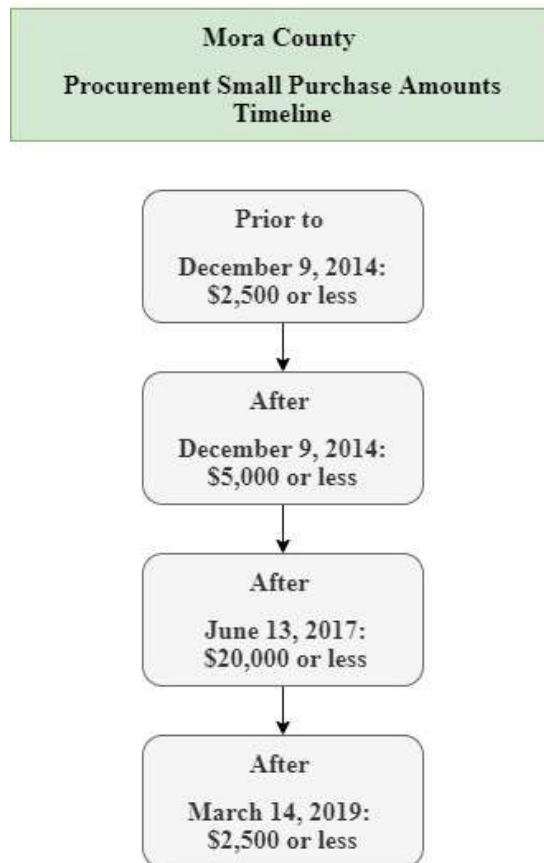
**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-004F Violations of the Procurement of Public Purchases and Property (Continued)

ments. Quotes were not always obtained, and documentation is scant on procurement. For example, there was a purchase for \$5,390 on 3/9/2015 for EMS Training the County Manager said was sole source.

Independent Contractors

As described in **Finding 2020-003F**, the County did not properly classify fire personnel as employees. They also classified them as “volunteers” when they were actually paid. However, from a procurement standpoint, all independent contractors are subject to the procurement process. While one person may agree to perform “landscaping” for \$6,000, another may quote \$3,500, for example. Therefore, the County should always obtain quotes to ensure they are obtaining the best price and value for the taxpayers’ public funds.



As shown above, the threshold was increased significantly while the former Payroll and Payments Clerk was employed and decreased significantly after her termination. During this time, many unsubstantiated purchases were made (as disclosed in other findings) under conflict of interest.

It does not appear the County requested quotes for the \$14,500 grant fund PSC to a former Interim County Manager (see also **Finding 2020-002F**).

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-004F Violations of the Procurement of Public Purchases and Property (Continued)

It does not appear the County requested quotes and/or retained them on file for various boot and other equipment purchases during the Period. Approximately \$17,000 in boots were purchased from April to June 2018 just prior to the former Payroll and Payables Clerk's termination. It appears increasing the procurement threshold in June 2017 assisted those involved in not running purchases through the Procurement Process.

CRITERIA

NM County Commissioner Handbook (2016): An extremely important and daily administrative function of the Board of County Commissions (BOCC) is that of purchasing. The State's Procurement Code (§13-1-28 through 199 NMSA) applies to all expenditures by state agencies and local public bodies for the procurement of items of tangible personal property, services, and construction, unless specifically exempted or excluded by the Code (§13-1-30 NMSA). Unfortunately, there are a tremendous number of exclusions and exemptions contained in the voluminous act that make it confusing and sometimes difficult to assess whether a proposed purchase is subject to the Code. In those cases, it is advisable to **err on the side of free competition** and issue a bid or request quotes. Counties are, as local public bodies, excluded from the requirement to purchase through the State's Central Purchasing Office. This does not mean however that counties are excluded from following procurement process. Though counties may adopt their own purchasing rules and regulations, which **may be more stringent than the State's** [but not less], in the absence of local regulation, counties must follow the State's Procurement Code. The Procurement Code requires that each county centralize its purchasing function in one officer or office responsible for making all purchases for the county (§13-1-97 C NMSA).

This office under the CPO ensures that state and county procurement rules are followed by the various departments, and that federal laws are complied with when federal funds are involved in a project. Federal laws usually involve equal opportunity, equal access, wage rates and minimum wages, environmental standards and other affirmations relating to compliance with the laws. Every time a CPO is hired, the county is required to provide to the state purchasing agent the name of the county's CPO and information identifying the county's central purchasing office, if applicable. The CPO is required to complete an initial certification and recertification every two years.

Ideally, each county **CPO provides training to the other county departments** regarding the federal, state and local requirements for purchasing, as well as the forms and other procedures adopted by the county, to make it easier for all to understand and to abide by. Some highlights of basic public procurement law follow: • There are numerous items of goods or services that the Legislature has exempted from the provisions of the Procurement Code. The pertinent exceptions are listed in (§13-1- 98 NMSA). • Small purchases are not subject to competitive bid, although other more informal requirements apply, to allow for fair competition. • A small purchase is defined as a tangible good not exceeding \$20,000 in cost, and a professional service not exceeding \$60,000 (§13-1-125 NMSA). • County regulations, however, may impose more stringent requirements than those found in the Procurement Code. • Procurement of professional services such as accounting, architectural, engineering, surveying, legal and medical services are not subject to pricing controls, and are decided on the basis of qualifications and the respondent whose offer is most advantageous to the county. • When no exceptions apply, invitations for sealed competitive bids must be published at least ten days in advance of any date set for opening of the bids (§13-1-104 NMSA) and must include specifications for the goods or services, terms, conditions, date, time and place of the bid opening (§13-1-103 NMSA). • Bids are to be evaluated based upon objective criteria

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-004F Violations of the Procurement of Public Purchases and Property (Continued)

also provided in the bid specifications. • Bids are to be opened in a public meeting with written notice sent to the lowest responsive bidder. • When the county awards a construction contract that exceeds \$25,000, the contractor must provide a performance bond (§13-4-18 NMSA). • Bonds for contracts under \$25,000 may be required at the discretion of the county, which should be included in the bid specifications. • The bond may be reduced to less than 50 percent (50%) of the contract price when it is determined that it is less costly and more advantageous for the county to self-insure a portion of the performance of the contractor.

NMSA 1978 Section 13-1-95.2. Chief procurement officers; reporting requirement; training; certification (2013).

E. On and after July 1, 2015, **only** certified chief procurement officers may do the following, except that persons using procurement cards may continue to issue purchase orders and authorize small purchases:

- (1) make determinations, including determinations regarding exemptions, pursuant to the Procurement Code;
- (2) issue purchase orders and authorize small purchases pursuant to the Procurement Code; and
- (3) approve procurement pursuant to the Procurement Code.

NMSA 1978 Section 30-41-1. Soliciting or receiving illegal kickback. Whoever knowingly solicits or receives any remuneration in the form of any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind from a person:

- A. in return for referring an individual to that person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part with public money; or
- B. in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any goods, facilities, services, or items for which payment may be made in whole or in part with public money, shall be guilty of a fourth degree felony.

NMSA 1978 Section 13-1-199 Public Purchases and Property, Procurement, Penalties (2019). Any business or person that willfully violates the Procurement Code is guilty of:

- A. a misdemeanor if the transaction involves fifty thousand dollars (\$50,000) or less; or
- B. a fourth degree felony if the transaction involves more than fifty thousand dollars (\$50,000).

NMSA 1978 Section 13-1-198 Kickbacks; additional civil penalty (2019). Upon a showing that a subcontractor made a kickback to a prime contractor or a higher-tier subcontractor in connection with the award of a subcontract or order thereunder, it is conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the state agency or a local public body. An amount equal to the kickback is imposed as a civil penalty by the state agency or a local public body upon the recipient and upon the subcontractor making such kickbacks in addition but pursuant to the terms and conditions of Section 169 [13-1-196 NMSA 1978] of the Procurement Code.

NMSA 1978 Section 13-1-196 Civil penalty (2019).

Any person, firm or corporation that knowingly violates any provision of the Procurement Code is subject to a civil penalty of not more than one thousand dollars (\$1,000) for each procurement in violation of any provision of the Procurement Code. The district attorney in the jurisdiction in which the violation occurs or the state ethics commission is empowered to bring a civil action for the enforcement of any provision of the Procurement Code; provided that the commission may refer a matter for enforcement to the attorney general or the district attorney

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-004F Violations of the Procurement of Public Purchases and Property (Continued)

in the jurisdiction in which the violation occurred. Any penalty collected under the provisions of this section shall be credited to the general fund of the political subdivision in which the violation occurred and on whose behalf the suit was brought.

NMSA 1978 Section 13-1-195 Use of confidential information prohibited (2019).

It is unlawful for any state agency or local public body employee or former employee knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person.

NMSA 1978 Section 13-1-190 Unlawful employee participation prohibited (2019).

A. Except as permitted by the University Research Park and Economic Development Act [Chapter 21, Article 28 NMSA 1978] or the New Mexico Research Applications Act [53-7B-1 to 53-7B-10 NMSA 1978], it is unlawful for any state agency or local public body employee, as defined in the Procurement Code, to participate directly or indirectly in a procurement when the employee knows that the employee or any member of the employee's immediate family has a financial interest in the business seeking or obtaining a contract.

EFFECT

Non-compliance with the Procurement Code is a serious matter and those violating it are subject to consequences including criminal charges. The County has likely not been obtaining the best value for taxpayer funds expended. Individuals have likely benefited from public funds.

CAUSE

The County needs tighter controls over procurement processes and documentation of compliance with the law and the Commission's thresholds set. There is not strong accountability for not performing these required duties. As well, with the related party transactions, it appears certain employees and contractors circumvented controls.

RECOMMENDATION

County purchases must be free from bias, undue influence, conflicts of interest, personal/family self-interest, etc. We recommend the Commission, an Audit Committee, an Internal Auditor, Administration, Department heads, the Certified Procurement Officer (CPO), and other staff should assess risks surrounding purchases of assets and services and put into place strong controls and accountability to prevent and detect any future fraud or non-compliance. This, along with risks assessments related to other findings, will require several meetings to go through all the County's risks and brainstorm compensating controls. The County may wish to hire a consultant to assist in this complex process.

MANAGEMENT RESPONSE

Corrective Action(s): The County has put into place a comprehensive Purchasing Policy. Changes have been made to the purchasing levels, but this requires commission action. Requisitions signed by the department head are turned into the CPO for procurement compliance. The requisition is then circulated to the Finance Director for budgetary compliance and finally to the County Manager for final approval. This chain of internal controls helps establish precedent and oversight to ensure processes are followed. The County intends to ask the Commission to change policy so that any non-compliant purchases must be brought before the Commission for official action.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-004F Violations of the Procurement of Public Purchases and Property (Continued)

Additionally, all contractual awards for sealed purchases must be approved by Commission, alleviating much of the risk of violations. If the County finds that willful or wanton violations were made, the matters will be referred to the proper authorities and restitution will be sought.

Responsible Party: County Management and Purchasing

Due Date of Completion: Fiscal Year 2020

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

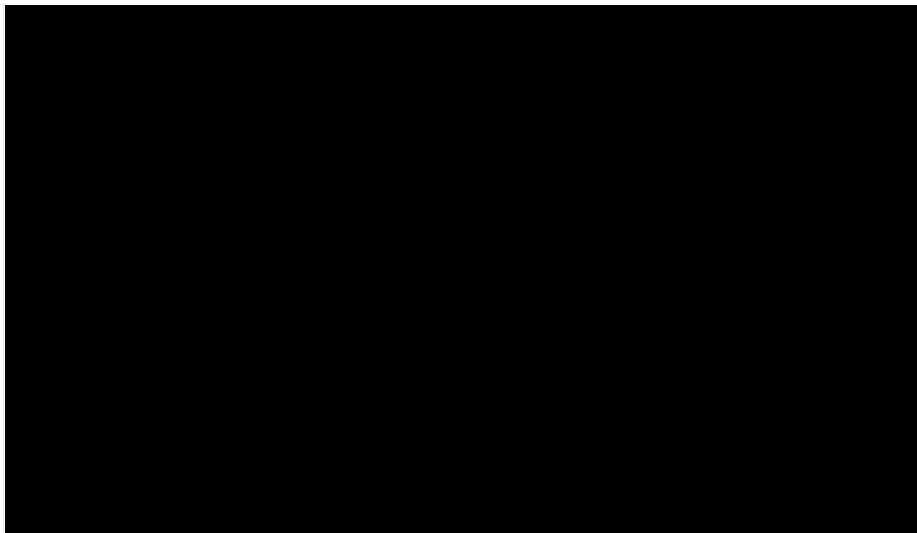
2020-005F Possible Kickbacks and Overpayments on Propane Gas Contract

CONDITION

Through our forensic work, we saw supporting detail and it was reported to us that the former MVFD Fire Chief may have been receiving kickbacks for securing the bid awarded to Cortez Gas. Cortez Gas of Las Vegas, NM Manager, is related to the former Payroll and Payments Clerk and her husband. The former Payroll and Payments Clerk is the daughter of former MVFD Fire Chief. The County's former MVFD Fire Chief participated in the selection committee, had the authority to renew the contract, allegedly contacted the winning vendor (Cortez Gas) with advice of what to include in the bid (fixed price for the County and a discount for firefighters) in September 2014, and may have personally benefited from the awarded contract. Points to consider are as follows:

- He began his account on the same day the County did.
- It was reported to us and it appears from our recalculations that the former MVFD Fire Chief received approximately 30 cent per gallon discounts off propane at his personal residence.
- His account (sample follows here) shows unusual payments of Cash Sale Receipts. It appears unusual for a customer to count out exact change with pennies to pay a propane bill.

former MVFD Assistant Chief and son-in-law of the former MVFD Fire Chief, Chief of Rainsville Volunteer Fire Department (RVFD), and a firefighter at Sierra Bonita Volunteer Fire Department (SBR) also accepted the propane gas discount. Per the former MVFD Fire Chief's Cortez Gas account records, although he had a 1998 tank, he began service September 30, 2014, the same day as the Mora County account. The discount was only available to someone with a Cortez Tank in proper condition. He continues to have an account with Cortez Gas in 2020.



- Also, we noted unusual charges to the County the gas company said were "input errors". The County paid these amounts and they may have received propane for them in another location.
- The following is a summary of unallowed/overpaid amounts:

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-005F Possible Kickbacks and Overpayments on Gas Contract (Continued)

Description	Unsubstantiated Amount
Unidentified Locations	\$ 4,543
Undelivered Gas (Net)	1,848
Installation > \$2,500 Contract	
Guadalupita Sub tank	319
LMC Sub tank	461
Watrous tank	670
Golondrinas tank	604
Other Installation Labor	900
Other Installation Parts	194
Fire Protection Fund (209)	17,075
TOTAL	\$ 26,614

CRITERIA

NMSA 1978 Section 30-23-6. Unlawful interest in a public contract consists of:

A. any public officer or public employee receiving anything of value, directly or indirectly, from either a seller or a seller's agents, or a purchaser or a purchaser's agents in connection with the sale or purchase of securities, goods, leases, lands or anything of value by the state or any of its political subdivisions, unless:

- (1) prior written consent of the head of the department of the state or political subdivision involved in the transaction is obtained and filed as a matter of public record in the office of secretary of state; and
- (2) subsequent to the transaction a statement is filed as a matter of public record in the office of secretary of state by the purchaser or seller giving anything of value to a public officer or public employee and this statement contains the date the services were rendered, the amount of remuneration for the rendered services and the nature of the rendered services;

B. any seller, or his agents, or a purchaser, or his agents, offering to pay or paying anything of value directly or indirectly to a public officer or public employee in connection with the sale or purchase of securities or goods by the state or any of its political subdivisions unless the requirements of Paragraphs (1) and (2) of Subsection A of this section ar [are] complied with.

Any person violating the provisions of Subsection B of this section, where such violation forms the basis for prosecution and conviction of a public officer or public employee, shall be disqualified from transacting any business with the state or its political subdivisions for a period of five years from the date of such violation.

Nothing in this section shall prohibit a public officer or public employee from receiving his regular remuneration for services rendered to the state or its political subdivisions in connection with the aforementioned transactions.

Whoever commits unlawful interest in public contracts where the value received by him is fifty dollars (\$50.00) or less is guilty of a misdemeanor.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-005F Possible Kickbacks and Overpayments on Gas Contract (Continued)

Whoever commits unlawful interest in public contracts where the value received by him is more than fifty dollars (\$50.00) is guilty of a fourth degree felony. Any public officer or public employee convicted of a felony hereunder is forever disqualified from employment by the state or any of its political subdivisions.

EFFECT

Individuals benefited from the County's contract and payments. Additionally, taxpayer dollars were overpaid to a private company. The County paid more than the contract allowed. Procurement Code and other laws may have been violated.

CAUSE

Individuals, including the former MVFD Fire Chief, likely taking advantage of their position. Lack of oversight from the Payroll and Payments Clerk with a conflict of interest and the former Finance Director.

RECOMMENDATION

The current County administration should continue to change any entitlement or lack of accountability in the organizational culture. This starts with tone at the top and should include training, employee evaluations, consequences for violations, rewards for ethical behavior, posting the NM State Auditor's Fraud Hotline around the County, implementing an Audit Committee, hiring an Internal Auditor, carefully choosing procurement committee members, and many other tasks.

MANAGEMENT RESPONSE

Corrective Action(s): The current administration has shown a zero tolerance for the culture of entitlement. Policies and procedures have been put into place that strengthen internal controls and precedence has been set. Multiple references and reminders of the Government Conduct Act have been publicly made and the staff is consistently reminded of correct process. Nothing can be done about apparent past fraud, but the County has taken a strong stance and committed to making sure it does not happen again. Mora County is developing a new culture, which includes consequences for unacceptable behavior, broken rules, and/or ethical violations.

Responsible Party: County Commission and County Management

Due Date of Completion: Fiscal Year 2021

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-006F Lack of Segregation of Duties (Checks and Balances) over County Funds

CONDITION

While reviewing the policies, procedures and internal controls processes in place at the County, we ascertained that the same person (former Payroll and Payments Clerk) who received purchases paid for them. The same person that received the goods or services purchased or delivered, initiated purchases, obtained signatures, approved invoices, and issued check payments. There is a severe lack of controls in place to ensure separation of duties. This same person had access to timesheets, to manually change balances, a County Manager signature stamp, and to issue payroll funds. This lack of checks and balances allowed the former Payroll and Payments Clerk to pay employees for leave not due to them and to pay for unsubstantiated expenditures of County taxpayers' dollars. It appears the former Finance Director and the current Procurement Officer allowed these payments. Supervisory reviews were not used to compensate for the lack of separation of duties and the prevalent nepotism and conflicts of interest that existed.

The expectation is that employees are honest, transparent, and perform with the highest ethical standards possible (as specially required by NM State law in the Governmental Conduct Act). However, this does not always occur, thus internal controls must be implemented to prevent and detect any errors, fraud, or non-compliance. **Even with segregation of duties firmly in place, employees may collude or find ways to circumvent the controls.**

CRITERIA

A strong system of controls requires separation between custody of assets, recording of transactions and authorization of transactions. If a small number of employees does not allow for proper separation of duties, deep supervisory reviews should be used to compensate for the lack of separation of duties.

Control activities are the internal policies and procedures that help ensure County directives are carried out. These policies and procedures help ensure necessary actions are taken to address risks to achieving the County's objectives. They include a range of activities such as diverse as approvals, authorizations, verifications, reconciliations, review of operating performance, security of assets, and segregation of duties. Control procedures are those processes in addition to the control environment and accounting system that the County has established to provide reasonable assurance that specific County objectives will be achieved. Control procedures have various objectives and are applied at various organizational and data processing levels. They may also be integrated into specific components of the control environment and the accounting system. There should be a risk assessment analysis for each process.

EFFECT

Potential theft and errors remained undetected since certain controls were not in place and employees chose to circumvent those in place.

CAUSE

There was a lack of review, reconciliation, and accountability for payments of public funds. There was significant turnover in the County Manager position. County Managers have not been supported and praised for holding employees accountable. It was reported to us that a County Manager attempted to hold the former Payroll and Payments Clerk accountable and ended up under attack himself. This is something the new County Manager and Attorney are working on to remedy.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-006F Lack of Segregation of Duties (Checks and Balances) over County Funds (Continued)

RECOMMENDATION

The County has adequate staffing to separate incompatible duties between the various departments. The basic premise is that no one person should have access to both physical assets and the related accounting records or to all phases of a transaction. The County should devise, establish, and maintain a written structure of internal administrative and accounting controls to provide: Segregation of responsibilities which is also known as division of duties to be established and implemented. The three main duties to be segregated are the authorization to execute a transaction, the recording of the transaction, and the custody of assets involved in the transaction. A system of authorization and recording procedures should be adopted by the Commission and implemented by the County.

For the Cash Receipts transaction cycle, there should be adequate segregation of duties among those who:

- Collect accounts receivable
- Open the mail or copy checks received
- Prepare deposits
- Compare the listing of receipts received daily to the bank receipt of daily deposit
- Authorize write-offs or adjustments
- Independently investigate discrepancies or issues related to revenue
- Process staff/parent calls and complaints
- Reconcile bank accounts
- Perform surprise audits

For the Cash Disbursements transaction cycle, there should be adequate segregation of duties among those who:

- Review, authorize, or sign checks or transfers
- Initiate checks for expenditures such as Purchase Requisitions and Purchase Orders
- Prepare checks or transfers
- Mail or issue checks or transfers
- Order checks
- Edit the Vendor master file
- Independently investigate discrepancies or issues involving expenditures
- Process staff and Vendor calls and complaints
- Open the mail or copy checks received
- Receive invoices to be paid
- Reconcile bank accounts
- Perform surprise audits
- Post JEs to the GL
- Monitor suspense or clearing account usage

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-006F Lack of Segregation of Duties (Checks and Balances) over County Funds (Continued)

For the Payroll transaction cycle, there should be adequate segregation of duties among those who:

- Initiate payroll checks or transfers
- Prepare payroll checks
- Sign payroll checks
- Review and authorize electronic payroll disbursements
- Disburse payroll checks
- Resolve employee payroll inquiries
- Determine salary and wage rates
- Approve changes to salary and wage rates
- Edit the payroll master file
- Post JEs to the GL
- Monitor suspense or clearing account usage

Having duties and even more importantly **access** to the different areas in a particular transaction cycle separated with strong independent reviews is critical to prevent and detect fraud and errors. Ethical behavior should be rewarded, there should be consequences for violation, and safeguards in place for lack of segregation and conflicts of interest.

MANAGEMENT RESPONSE

Corrective Action(s): Many of these referred policies and procedures have already been implemented. As discussed in multiple other finding responses, the County has moved towards tightening internal controls and segregation of duties. Suggestions for cash receipting are already being followed, but the County will move towards written procedures to ensure institutional knowledge for future administrations and staff. The recommendations for the cash disbursement cycle are also being followed, with multiple internal controls implemented. Same is true with the Payroll transaction cycle, although the County does need to implement the written procedures. We will work towards accomplishing this goal.

Responsible Party: County Management, Finance and Purchasing

Due Date of Completion: Fiscal Year 2021

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-007F Possible Fraudulent Payments with Wildland Funds

CONDITION

There were numerous findings on unsubstantiated expenditures from Wildland Funds during the Period, including but not limited to:

- 1) The County potentially overpaid hours to individuals on Wildland Fires. When testing the Wildland expenses for validity, we compared the reported “man hours” on each fire to the reported truck hours. Per our discussion with another fire chief, man hours should not exceed truck hours on a fire. For example, if it was reported they used a firetruck for 20 hours on a Wildland Fire, the most hours any one firefighter should report is 20 hours. We confirmed with NM State Fire Marshal, NM State Forestry and Mora County that time spent on any given fire cannot exceed the time the truck was authorized to be responding. Instead, many firefighters reported hours well in excess of truck time for a total of approximately \$62,400 in overpayments to the firefighters listed in the table below.

Event	Persons Involved	Public Funds Under Control of:	Public Funds Also Under Control of:	Amount	Total
1. Alleged Wildland Firefighter Overpayment				\$ 120	
1. Alleged Wildland Firefighter Overpayment				9,355	
1. Alleged Wildland Firefighter Overpayment				133	
1. Alleged Wildland Firefighter Overpayment				6,017	
1. Alleged Wildland Firefighter Overpayment				6,808	
1. Alleged Wildland Firefighter Overpayment				5,767	
1. Alleged Wildland Firefighter Overpayment				874	
1. Alleged Wildland Firefighter Overpayment				93	
1. Alleged Wildland Firefighter Overpayment				192	
1. Alleged Wildland Firefighter Overpayment				1,617	
1. Alleged Wildland Firefighter Overpayment				3,325	\$ 34,300
2. Firefighter without Wildland Certification Evidence				18,704	
2. Firefighter without Wildland Certification Evidence				790	
2. Firefighter without Wildland Certification Evidence				8,011	
2. Firefighter without Wildland Certification Evidence				550	\$ 28,055
8. Potentially Disallowed Wildland Fund Expenses				2,702	
9. Potentially Fraudulent Wildland Pay				8,144	\$ 10,846
Estimated Total from Hours Overpaid on Wildland Fires					\$ 73,201

- 2) Fire equipment has a maximum crew capacity. We confirmed the maximum crew per fire equipment with several sources as well as verification that personal vehicles were not used. Crew frequently exceeded this maximum and received payment for fires to which they may not have responded.
- 3) Pay for the former Payroll and Payments Clerk from the Wildland Fund could not be substantiated. Reportedly, she never attended a fire, but paid herself the highest level of pay, \$23-\$25 an hour, almost double her Clerk pay. This level of pay is typically only awarded to engine bosses on fires. She allegedly did paperwork for the Wildland Fires, filling out an excel template she created while on her computer for her regular County job. While often times the former Payroll and Payments Clerk said it took five hours or more to do this paperwork, the relative simplicity of her form along with the fact that paperwork often was inconsistent and incomplete; we do not believe it would even take half an hour to complete this page.

EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020

2020-007F Possible Fraudulent Payments with Wildland Funds (Continued)

She also said she ran dispatch for the Wildland fires for Mora County, but dispatch is run out of Las Vegas NM. All interviews indicated she did not sit at MVFD to dispatch and did not take time off the County to be instead paid from Wildland. Her father, the former MVFD Fire Chief approved these payments as did the former Finance Director.

- 4) The former Payroll and Payables Clerk prepared the time sheets of her son, husband, brother in law and other family members. The longer she worked, the higher she increased their payrates. By June 12, 2018, shortly before she was fired, she paid all firefighters responding to the Ute Park/Emery Gap Fires at an Engine Boss rate of \$25/hours and overstated hours worked for all.
- 5) We also believe her son's pay on the Broken Mill/Severity/Valdez Fire is disallowed as well since he was underage at the time of that fire. This fire occurred in April of 2018 when he was only 17. We believe that he received pay for this fire primarily because he is the former Payroll and Payable Clerk's son. Two witnesses we interviewed said they had never seen or heard of her son missing school or attending any fires.
- 6) The former Payroll and Payments Clerk paid for other potentially fraudulent transactions out of Wildland Funds relating to other areas such as expenditures at a related-party restaurant, water, candy, personal boots, coats, jewelry, a laptop for her sister, and maintenance totaling approximately \$45,000.
- 7) Approximately \$6,570 of landscaping/painting to the fire station, over 337 hours of work, was unsubstantiated. For our inquiries and tours, we noted there was no landscaping or painting performed on the grounds, fence, or building. All of the material purchased for this alleged maintenance was disallowed by the NM State Fire Marshal and Mora County had to reimburse the state. The materials were purchased via Fire Protection Fund #209-0242-02-440-44010. The labor was paid through Wildland Fund #299-025-02-470-47994. The following individuals participated in the maintenance expense fraud by receiving pay checks in June 2018: [REDACTED]. The former MVFD Fire Chief admitted he wanted to help out the guys and the Wildland Fund had money.
- 8) There were also wasteful expenditures such as a spa, a sauna, and gym equipment prior to our scope, but did include spa maintenance expenditures of \$992. These items have not been used since the MVFD has been closed.
- 9) There was a missing voucher packet & check for check #265040, dated May 2, 2018, payable to Galls, Inc. for Danner Wildland Tactical Firefighter Boots, for \$4,080. This check was also paid by the MVFD Wildland Fund #209-0250-02-470-47994. 13 pairs of boots were invoiced to the County to the attention of the former Payroll and Payables Clerk and shipped to Mora County's Sheriff Department's address specifically to her attention. An additional single pair of boots was shipped to her attention at 1 Courthouse Drive, Mora. The boots were ordered from April 11, 2018 to April 20, 2018. None of these boots were visible when we conducted MVFD Inventory. The Secretary and Dispatch for Mora Sheriff's Department since

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-007F Possible Fraudulent Payments with Wildland Funds (Continued)

2015, confirmed that these boots were never ordered nor received by Mora Sheriff's Department. Among the 14 total pairs of boots ordered, 5 pairs appear to be women's sizes 7- 8. This check packet was available when we physically tested the data at Mora County. During testing we noted that the Requisition Form had been manually altered and was for 16 pairs of boots. The invoices provided by Galls indicate 14 pairs of boots. The boots sold for \$288/pair. The dollar amount reconciles with the 14 pairs of boots supported by Galls invoices including shipping fees.

- 10) There was a missing packet and check #265080, dated May 8, 2018, payable to Laguna Vista Quick Stop, for Wildland Boots for \$6,184. Documentation from the vendor is the only evidence of this transaction that we have. It shows that Guadalupita Fire Department purchased 15 pairs of custom made 25V Hotshot boots on May 1, 2018. Guadalupita Fire Department paid for these boots with funds from County Fire Excise Tax Fund #222.
- 11) Over \$34,000 was paid for boots during the Period. Certain purchases may have been valid; however, the County could not substantiate them. It seems abnormal that the former Payroll and Payments Clerk purchased over \$18,000 in boots in the 3 months just prior to her termination. At this same time, she was increasing other payments to family members. The Wildland Fund boot purchases were not in inventory at MVFD. Many of the boots are high quality and could be sold or could be used everyday (not only for fires).

CRITERIA

NMSA 1978 Section 14-2-5. Inspection of Public Records Act (IPRA) indicates that the public is entitled to the greatest possible information and documents are to be made available to the public.

County Policy 521 Daily Cash Deposits. Money received from all individuals and organizations shall be receipted and deposited in the bank within twenty-four (24) hours or one banking day. The bank deposit slip shall have the numbers from applicable receipts entered on it or attached as a reference.

Strong internal controls require review and approvals throughout accounting processes. This includes segregation of duties for receiving, depositing and posting receipts. A thorough review and approval of all deposits and retention of related documentation is essential.

Control Environment Attitudes, awareness, and actions of management, as well as those charged with governance, demonstrate the County's commitment to accurate accounting and financial reporting and compliance with provisions of laws, regulations, contract, and grant agreements relative to federal programs. The County should demonstrate a commitment to integrity and ethical values. The governing body must demonstrate independence from administration in exercising oversight of the development and performance of internal control over financial reporting and its compliance with laws, regulations, and the provisions of contracts or grant agreements relative to federal award programs. With governing body oversight, administration establishes structures, reporting lines, and appropriate authorities and responsibilities to achieve financial reporting objectives and compliance objectives relative to major programs. The County should demonstrate a commitment

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-007F Possible Fraudulent Payments with Wildland Funds (Continued)

to attract, develop, and retain competent individuals in alignment with financial reporting objectives and compliance objectives relative to major programs. The County must hold individuals accountable for their internal control responsibilities and compliance objectives relative to major programs.

EFFECT

The lack of strong controls surrounding receipts greatly increases the risk for misappropriation of funds that should be for the benefit of the County. Taxpayer dollars were likely spent on unallowed expenditures and certain individuals benefited from that. Public trust in the County decreases.

CAUSE

The former MVFD Fire Chief and his daughter, former Payroll and Payments Clerk, controlled all aspects of payments issued to responding firefighters, most of whom were their immediate family members. She compiled, submitted, and retained (or failed to retain) Wildland Reimbursement Requests. Additionally, her husband controlled the dispatch of Wildland fires to MVFD with his position at State Forestry for a period.

RECOMMENDATION

The County must develop and implement strong policies and procedures to ensure that receipts and payments are processed completely, recorded accurately, and approved. We recommend that procedures for transaction initiation and processing be formally documented as soon as possible, taking into account the NM Governmental Conduct Act. Written procedures, instructions, and assignments of duties will also prevent or reduce the risk that unauthorized transactions could occur, funds could be inappropriately accounted for, and transactions could be inaccurately recorded and reported.

The County will need to examine all the Volunteer Fire Departments in light of these findings. JAG recommends the County consider the following items to strengthen internal controls over compliance to prevent embezzlement, fraud, errors, or non-compliance from occurring in the future:

- Communicate from the top down the expectation that employees elevate instances such as this up the chain of command or even to an anonymous hotline. This situation may have been alleviated if those who observed red flags had brought the urgency to the County Manager or another agency, who could have interceded in the process and initiated discussions with the employees sooner.
- Employees should be trained to report any red flags or hunches that something is not right. "See something, say something".
- The Commission should hire an Internal Auditor. Internal Auditors usually pay for themselves with the preventative and detective measures.
- The Commission should appoint an Audit Committee as an independent check and balance on the County. Quarterly and surprise audits could be performed and they could identify and monitor any risks in the County.
- Quality control procedures, perhaps with a checklist, should be created for those preparing and reviewing work. The person performing the quality control review (someone other than the preparer or approver, independent of the process) will carefully check details such as dollar amounts agree to the bank statements, dates, copies of receipts and invoices, and other items.
- There should be consequences for not following deadlines, job requirements, and corrective action plans.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-007F Possible Fraudulent Payments with Wildland Funds (Continued)

- Document retention and security are vital.
- Require that all vendor complaints go to an independent person not involved with the with Accounts Payables.
- Require that all vendor invoices be sent to an independent person, not the requesting party.
- Signoffs indicating review of the information should be included with signatures and dates of approval. The data must be updated daily as required.
- The County must address the systemic turnover in County manager position. This leads to lack of accountability and higher risks of fraud and errors.
- Key personnel should have annual training in purchasing and procurement, internal controls, reconciling, safeguarding assets, Commission policies, oversight regulations, applicable NM State Statutes, County procedures, accountability, and the consequences for violations. The severe ramifications stated in NMSA 1978 Sections 13-1-199 and 13-1-196 for Procurement Code violations should be communicated to all employees. It is best that the County develop and utilize handbooks and assist new hires to feel comfortable with their roles, responsibilities, and tasks.
- Again, it is critical to address the reported long standing organizational lack of accountability at the County.
- The County may wish to consult with a consultant for risk management purposes and to implement stronger controls.

MANAGEMENT RESPONSE

Corrective Action(s): The County has developed policy and procedure for consistent and thorough processing of payments, with sufficient internal controls. The County has already opened the lines of communication within departments, acknowledging incompleteness or mistakes made on paperwork. Paperwork, including requisitions, are consistently kicked back to the departments for corrections and amendments, prior to issuance of purchase orders.

The County will communicate from the top down, the expectation that employees follow the chains of command, or the anonymous hotline for reporting these types of issues. The County will research the fiscal impact of hiring an internal auditor. There will be consequences for not following deadlines, job requirements, and corrective action plans. Key personnel will be trained, at least annually, in purchasing and procurement, internal controls, etc.

The County is also working towards more thorough document retention and converting those documents to electronic so that they are saved in multiple ways. The County is consistently trying to establish procedures of institutional knowledge to decrease the loss of such knowledge during turnover of vital roles.

Responsible Party: County Commission, Elected Officials, Management, Finance, Purchasing

Due Date of Completion: Fiscal Year 2022

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-008F Potentially Fraudulent Gas Card Purchases

CONDITION

During our testing, we noted unusual MVFD gas card purchases involving the same family. The former Payroll and Payables Clerk had the responsibility to review and pay the gas card bills and did not question the expenses. This is likely not the only area of the County with poor controls over gas card expenditures.

Relationships shown in relation to the Former MVFD Fire Chief

Name	Title	FY13	FY14	FY15	FY16	FY17	FY18	Grand Total
██████████ (Nephew)	Former Fire Administrator		\$ 768	\$ 91			\$ 239	\$ 1,097
██████████	Former MVFD Fire Chief	\$ 235	\$ 249	\$ 354		\$ 282		\$ 1,119
██████████ (Son-in-Law)	Firefighter			\$ 327		\$ 32	\$ 117	\$ 477
██████████ (Nephew)	Firefighter						\$ 28	\$ 28
██████████ (Son-in-Law)	Former MVFD Deputy Fire Chief			\$ 12	\$ 95	\$ 236	\$ 358	\$ 702
	Total	\$ 235	\$ 1,017	\$ 784	\$ 95	\$ 550	\$ 743	\$ 3,423

Includes: Other Fuel, Super, Unleaded, and Unleaded +Plus since per County they do not use these types of fuel for MVFD.

In our examination of the gas card expenditures spanning five years, we discovered numerous transactions for unleaded or super/plus unleaded fuel with gas cards assigned to diesel vehicles. Additionally, in examining the times at which the transactions occurred, fuel purchases were only minutes apart, and were found for both diesel and unleaded under a gas card assigned to a diesel vehicle. For trips out of state using a single diesel company vehicle, non-diesel fuel transactions were also found. The WEX card holders are required to input the odometer reading at the time of each card use. We found multiple instances of incorrect entries including decreasing mileages progressively through the months, and missing ending digits resulting in a previous six-digit odometer reading becoming a five-digit reading.

CRITERIA

NMSA 1978 Section 30-16-28. Fraudulent transfer or receipt of a credit card.

A person other than the issuer, or his authorized agent, who, with intent to defraud, transfers possession of a credit card to a person other than the person whose name appears thereon, or a person who with intent to defraud receives possession of a credit card issued in the name of a person other than himself from a person other than the issuer, or his authorized agent, is guilty of a fourth degree felony.

NMSA 1978 Section 30-16-33. Fraudulent use of a credit card.

A. Fraudulent use of a credit card consists of a person obtaining anything of value, with intent to defraud, by using:

- (1) a credit card obtained in violation of Sections 30-16-25 through 30-16-38 NMSA 1978;
- (2) a credit card that is invalid, expired or revoked;
- (3) a credit card while fraudulently representing that the person is the cardholder named on the credit card or an authorized agent or representative of the cardholder named on the credit card; or
- (4) a credit card issued in the name of another person without the consent of the person to whom the card has been issued.

B. Whoever commits fraudulent use of a credit card when the value of the property or service obtained is two hundred fifty dollars (\$250) or less in any consecutive six-month period is guilty of a petty misdemeanor.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-008F Potentially Fraudulent Gas Card Purchases (Continued)

C. Whoever commits fraudulent use of a credit card when the value of the property or service obtained is over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) in any consecutive six-month period is guilty of a misdemeanor.

D. Whoever commits fraudulent use of a credit card when the value of the property or service obtained is over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) in any consecutive six-month period is guilty of a fourth degree felony.

E. Whoever commits fraudulent use of a credit card when the value of the property or service obtained is over two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) in any consecutive six-month period is guilty of a third degree felony.

F. Whoever commits fraudulent use of a credit card when the value of the property or service obtained is over twenty thousand dollars (\$20,000) in any consecutive six-month period is guilty of a second degree felony.

EFFECT

The lack of strong controls surrounding gas card expenditures greatly increases the risk for misappropriation of funds that should be for the benefit of the County's taxpayers.

CAUSE

The County did not have sufficient preventative and detective controls over gas cards; however, it appears certain individuals chose to misuse the cards.

RECOMMENDATION

The County must develop and implement strong policies and procedures to ensure that expenditures are processed completely, recorded accurately, and approved. Staff must be made aware that they should not leave until they have a receipt in-hand for all gas card purchases.

MANAGEMENT RESPONSE

Corrective Action(s): The County has developed a Vehicle Use Policy, establishing process for utilizing gas cards, as well as accidents, drug and alcohol testing, take-home vehicles, etc. All employees will be trained on this policy and be required to sign for receipt and training. Mandatory fuel logs have been implemented and all departments are now following this process. Departments are reviewing the fuel logs prior to submission to Accounts Payable, and Accounts Payable are reconciling logs with fuel invoices. Internal controls have been implemented and departments are being held accountable for fuel usage.

Responsible Party: County Management, Finance and all Departments

Due Date of Completion: Fiscal Year 2021

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-009F Ineligible PERA Members Reported

CONDITION

The former MVFD Fire Chief listed and certified the eligibility of 18 participating members on the Volunteer Firefighter Service Credit Qualification Record Form dated March 27, 2018, including family members. Two listed are paid NM State Forestry firefighters: his son-in-law, [REDACTED], and his cousin, [REDACTED]. Per EMNRD, his son-in-law was asked to resign any other position when he came into his position with State Forestry, so he is no longer a volunteer and with State Employee PERA, he is no longer eligible for this fund. Other family members of the former MVFD Fire Chief and former Fire Administrator are listed when in fact, there is no complete evidence of their service and eligibility ([REDACTED] and some were paid employees.

We reviewed the PERA Volunteer Firefighters Annual Reporting Form for Mora Volunteer Fire Department for years 2015, 2016, 2017, and 2018. Section 10-11A-6 discusses the documentation required for determination of service credit (eligibility for a pension). Section 10-11A-6(B) indicates that the Fire Chief is responsible to provide the necessary records proving member responses and attendance. In the case of MVFD although the notarized annual form was signed and completed indicating that all members listed had earned their service credit, there is no evidence to support this claim. Members include many members of former MVFD Fire Chief's family as well as former Fire Administrator's family. There are not adequate records provided to support the claim that service credit was earned. There are no response records, no incident reports, so it is unknown if any member on the list responded to MVFD calls. There are lists provided for MVFD that indicate member attendance in trainings and meetings, but most of these are typed lists or completed all in the same handwriting. The sign in form purposefully leaves a spot for the printed name of the attending member and their signature for identifications purposes. These reasonable practices were not followed by MVFD. As a result, the members listed on the 2015 – 2018 PERA Service Credit Qualification Forms have no supporting evidence that they in fact earned their service credit. Proper procedures with the member in attendance signing their own name to verify attendance must be maintained. Incident reports documenting which member responded to MVFD calls are also necessary to comply with PERA VFRA requirements.

CRITERIA

The PERA Statute that governs the volunteer firefighter's retirement is NMSA 1978, Section 10-11A-1 through 10-11A-8. Chapter 10, Article 11A NMSA 1978 may be cited as the "Volunteer Firefighters Retirement Act". Relevant portions are provided below:

10-11A-3. Volunteer firefighters retirement fund; creation; transfer of funds from the fire protection fund.

- A. There is created the "volunteer firefighters retirement fund" in the state treasury. All annuities and benefits in lieu of annuities shall be paid from the fund as provided in the Volunteer Firefighters Retirement Act [Chapter 10, Article 11A NMSA 1978].
- B. Beginning in fiscal year 1998, the state treasurer shall transfer annually on or before the last day of July seven hundred fifty thousand dollars (\$750,000) plus an additional two hundred fifty thousand dollars (\$250,000) for fiscal year 1998 plus an additional two hundred fifty thousand dollars (\$250,000) for fiscal year 1999 plus an additional five hundred thousand dollars (\$500,000) for fiscal year 2000 from the fire protection fund to the credit of the volunteer firefighters retirement fund.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-009F Ineligible PERA Members Reported (Continued)

10-11A-5. Retirement benefits; eligibility.

- A. Any member who attains the age of fifty-five years and has twenty-five years or more of service credit shall be eligible to receive a retirement annuity of two hundred dollars (\$200), payable monthly from the fund during the remainder of his life.
- B. Any member who attains the age of fifty-five years and has at least ten but less than twenty-five years or more of service credit shall be eligible to receive a retirement annuity of one hundred (\$100), payable monthly from the fund during the remainder of his life.
- C. Any member who ceases to be a volunteer non-salaried firefighter after completing at least ten but less than twenty-five years of service credit is eligible to receive upon attaining the age of fifty-five years a retirement annuity of one hundred dollars (\$100), payable monthly from the fund during the remainder of his life.
- D. Any member who ceases to be a volunteer non-salaried firefighter after completing twenty-five years of service credit is eligible to receive upon attaining the age of fifty-five years a retirement annuity of two hundred dollars (\$200), payable monthly from the fund during the remainder of his life.
- E. Any member who qualifies for and receives a retirement annuity pursuant to this section may continue as an active member on the rolls of a fire department. However, such member shall not accrue additional service credit for the purpose of increasing the amount of his retirement annuity.

10-11A-6. Determination of service credit.

- A. A member may claim one year of service credit for each year in which a fire department certifies that the member:
- (1) attended seventy-five percent of all scheduled fire drills;
 - (2) attended seventy-five percent of all scheduled business meetings; and
 - (3) participated in at least fifty percent of all emergency response calls for which the fire department held the member responsible to attend.
- B. The chief of each fire department shall submit to the association by March 31 of each year the records of attendance of members for emergency response calls, fire drills and business meetings during the preceding calendar year; provided that the chief shall:
- (1) submit such records on forms provided by the association;
 - (2) acknowledge the truth of the records under oath before a notary public; and
 - (3) have the notarized forms signed by the mayor, if distributions from the fire protection fund for the fire department are made to an incorporated municipality, or the chairman of the county commission, if distributions from the fire protection fund for the fire department are made to an independent fire district.
- C. For service credit that has been earned, but not credited pursuant to Subsection B of this :prior to January 1, 2005, but for not more than five years of additional service credit, by filing with the association no later than December 31, 2005:
- (1) a copy of the state fire marshal's records or the records of the member's fire department indicating the member's record of attendance for emergency calls, fire drills and business meetings during the calendar years for which service credit is claimed; and
 - (2) a completed "Corrected Qualification Record" or "Adjusted Qualification Record" as prescribed by the board.
- D. Failure to timely provide the records required pursuant to Subsection C of this section shall result in the loss of the member's service credit not credited pursuant to Subsection B of this section.

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MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-009F Ineligible PERA Members Reported (Continued)

The New Mexico Volunteer Firefighters Retirement Act (VFRA) applies to volunteer non-salaried firefighters who are listed as active members on the rolls of a fire department. Service credits may only be earned during or after the year a member turns 16.

Beginning January 1, 2009 to qualify for service credit, each volunteer must:

- Attend 50% of all scheduled fire drills
- Attend 50% of all scheduled business meetings
- Participate in at least 50% of all emergency response calls.

This supersedes the previous 75% requirement outlined in section 10-11A-6 above. The 50% rule refers to all meetings, trainings and responses which the fire department holds the member responsible to attend.

EFFECT

No member or employer contributions are required by the VFRA; contributions are made annually by the State Fire Marshal's office from the fire protection fund. See section 10-11A-3. Therefore, taxpayer dollars are spent without corresponding service in return.

CAUSE

The former MVFD Fire Chief chose to certify volunteers who were actually paid by the County and/or had not completed the eligibility requirements. He did not maintain records of the certifications as required.

RECOMMENDATION

The County must develop and implement strong policies and procedures to ensure that true volunteers eligible for this retirement fund are processed completely, recorded accurately, and approved. Documentation must be complete and safeguarded. The County will need to consult with PERA on next steps.

MANAGEMENT RESPONSE

Corrective Action(s): The County is looking at opportunities to increase oversight in the volunteer fire departments. The County has a part-time administrator, but according to his contract, the position does not have oversight authority, specifically. The County is exploring the option of hiring a full-time position of authority, as a County Fire Chief or Fire Marshal. The responsibilities of this position will be department oversight, i.e., volunteer discipline, purchases, trainings, paperwork, responsiveness, apparatus checks, equipment checks, etc. This position will be responsible for development of policy and procedure for the departments themselves, i.e., uniform and consistent SOP's and by-laws, as well as compliance with paperwork within the County and externally, i.e., State Fire Marshal's Office, State Forestry, PERA, VFIS, etc.

Responsible Party: County Commission and Management

Due Date of Completion: Fiscal Year 2021

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-010F Disallowed MVFD Local Fire Protection Fund Expenditures

CONDITION

The State Fire Marshal audited certain funds for 2017 and 2018 and found a significant number of expenditures approved by the Fire Chiefs, the former Finance Director, and the former Payroll and Payables Clerk which were unallowed expenses. The County reimbursed the State for these amounts. However, there are still amounts prior to their scope of audit which appear to be unallowed as well (over \$10,000). Not all equipment purchased over \$250 is on MVFD's inventory listing as required.

CRITERIA

Policy of Authorized Fire Fund Expenditures NM State Fire Marshal Division Fire Service Support Bureau. This policy includes very specific lists of allowed/unallowed costs.

NMSA 1978 Section 10-25-10 Public Safety and Law Enforcement State Fire Marshal Fire Protection Fund. This law clarifies the requirements under which fire departments are funded and to specify items and services that can be procured for use in the operations, maintenance, and betterment of local fire departments. Procurement must be followed, and all single items purchased costing \$250 or more must be listed on the fire department's inventory list.

EFFECT

The County then had to expend general fund monies for these disallowed expenditures. The County's reputation suffers with oversight agencies. The State Fire Marshal's Office could shut down MVFD. The County likely has a payable to record back to the state.

CAUSE

The County's controls were not strong enough over and the former MVFD Fire Chief and his daughter, former Payroll and Payables Clerk chose to run unallowable expenditures through the fund.

RECOMMENDATION

The County should maintain tight controls over the approval of expenditures to be paid from Local Fire Protection Fund public monies. Eligibility requirements must be checked before requisitions/purchase orders are approved. Additional training may be implemented but is probably not the cause here. Strict oversight should be implemented.

MANAGEMENT RESPONSE

Corrective Action(s): The County will continue to enforce policies and procedures for purchases and/or trainings. The lines of communication have been opened with the State Fire Marshal's Office and the County, which helps alleviate internal issues with regards to policy violations. The Commission Chair or Vice-Chair is tasked with the responsibility of manually reviewing and signing all checks, prior to issuance.

Responsible Party: County Management, Finance and Purchasing

Due Date of Completion: Fiscal Year 2020

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-011F Reimbursement Requests to the State Do Not Agree to the County's Records

CONDITION

We examined documents which were available to us and noted the State and County documentation was incomplete. Very few packets agreed entirely. One packet on WA First Creek Fire did not agree by \$24,146. State Forestry has an internal investigation into why records were removed from the Las Vegas, NM office. All fires should have shift tickets, crew tickets, reimbursement forms by department and by fire, truck hours, etc. Not every fire had that documentation. For the check payments out of the County to "volunteers", the packets were much more complete in earlier years. Once the former Payroll and Payables Clerk started to put together Excel worksheets, that is all that was used for supporting documentation. These excels did not always "foot" as rows were hidden of her family member(s) paid. It appears County and State Forestry Las Vegas, NM office records have been tampered with.

Fire/Packet	Info to JAG from County & Compared to EMNRD	Info to JAG from EMNRD & Compared to County	Differences
Montoso Fire	Agree	Agree	\$ -
Romero Fire	Agree	Agree	\$ -
Romo Fire	Adequate paperwork	Missing truck hrs./ reimbursement	Unknown
Zamora Fire	Combined Romero, Zamora, and Romo, could not calculate	Missing truck hrs./ reimbursement.	Unknown
Arellano Fire	Missing Documents	Adequate paperwork	Unknown
Diego Fire	Missing Documents	Only had invoice for total of two fires, Moss Rock (MVFD was not on) and Diego.	Unknown
Two Mile Fire	Missing Documents	Missing truck hrs./ reimbursement.	Unknown
Duke Fire	Missing Documents	Missing truck hrs./ reimbursement.	Unknown
WA First Creek Fire	Adequate paperwork	First Fire to provide Equipment Shift tickets. State paid out \$44,246 but no record of who it went to, at least in 20100 MVFD	\$ 24,146
Ojo Feliz Fire	Adequate paperwork	Missing truck hrs./ reimbursement.	\$ -
Truck, Narranjo, Ruidoso Fires	Combined three fires, but otherwise sufficient, could not calculate	No documentation except incident reports, no truck hrs., no reimbursement.	Unknown
La Jara. Evans, Clavel & 104 Fires	Combined three fires, but otherwise sufficient, could not calculate	No documentation on La Jara and Evans, only invoices. Paid out \$9,620, no way to tell who it went to.	Unknown
Marsh and Ridge Fires	Combine two fires but otherwise sufficient, could not calculate	No documentation for MVFD but documentation for RFD	Unknown
Harper, Duran, and Brighten Fires	Combine three fires, missing reimbursement request from county to state	EMNRD combine 6 fires and paid one large check; Clavel, Marsh, Ridge Fire, Harper, Duran, and Brighten Fires. Missing documentation.	Unknown
Soberanes Fire in California	Starting on this fire we only get a single excel sheet created by [REDACTED] Documentation is now inadequate.	State documentation complete	Unknown
Rocky Mountain Fire in Georgia	Only have [REDACTED]'s Excel sheet, no other documentation.	State documentation complete	Unknown
Bird Fire	Agree	Agree	\$ -

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-011F Reimbursement Requests to the State Do Not Agree to the County's Records (Continued)

Fire/Packet	Info to JAG from County & Compared to EMNRD	Info to JAG from EMNRD & Compared to County	Differences
Oregon Fire-Flounce	Missing Documents	Missing reimbursement request, but otherwise adequate. Equipment shift tickets present.	Unknown
Oregon Fire-Or723s006318	Only have [REDACTED]'s Excel sheet, no other documentation. Combined Flounce and 723S	Adequate Documentation	Unknown
Oregon Fire- RSf	Missing Documents	Adequate Documentation	Unknown
Dominic Fire	Adequate paperwork	No documentation	Unknown
Coyote Fire	Agree	Agree	\$ -
Vigil & Refuge Fires	Combine Vigil & Refuge, but only have Vigil Documentation	Adequate Documentation	\$ -
Broken Mill Fire, Severity, Valdez Fires	Combined three fires, but otherwise sufficient, could not calculate	State lumps multiple fires under one name as Non Reimbursable on some documentation.	Unknown
Arena Fire	No Documentation except [REDACTED]'s excel	Only fire we get crew time sheets. Likely for travel reimbursement purposes. Also had Equipment Shift tickets	Unknown
Ute Fire	No Documentation except [REDACTED]'s excel; No truck data just paychecks	No documentation from the state	Unknown
Ute Park, Emery Gap Fires	Only have documentation or Emery Gap, no documentation on UTE park except [REDACTED]'s form	Adequate Documentation	Unknown
Los Alamitos Fire	Agree	Agree	\$ -
Lil Conchas Fire	Agree	Agree	\$ -

Note 1 > All Fires should use Equipment Shift Tickets and Crew Time Sheets

Note 2 > Six days before the Payroll & Payments Clerk was fired, everyone was paid \$25 an hour regardless of position or hours and rounded up to 200 hours even.

CRITERIA

NMSA 1978 Section 6-6-3. Local public bodies; duties. Every local public body shall:

- A. Keep all the books, records and accounts in their respective office in the form prescribed by the local government division;
- B. Make all reports as may be required by the local government division; and
- C. Conform to the rules and regulations adopted by the local government division.

NMSA 1978 Section 6-6-6. Approved budgets; claims or warrants in excess of budget; liability.

When any budget for a local public body has been approved and received by a local public body, it is binding upon all officials and governing authorities, and no governing authority or official shall allow or approve claims in excess thereof, and no official shall pay any check or warrant in excess thereof, and the allowances or claims or checks

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SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
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2020-011F Reimbursement Requests to the State Do Not Agree to the County's Records (Continued)

or warrants so allowed or paid shall be a liability against the officials so allowing or paying those claims or checks or warrants, and recovery for the excess amounts so allowed or paid may be had against the bondsmen of those officials.

NMSA 1978 Section 6-6-10. Violation of expense limit; penalty. Any member of any board of county commissioners, or of any local school board, or of any governing board or council of any municipality, or any other official who shall violate the provisions of Sections 6-6-7 through 6-6-10 NMSA 1978 [6-6-7, 6-6-9, 6-6-10 NMSA 1978] shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars (\$500) or by imprisonment for not more than six months or both [and] upon conviction under the section the position shall be declared vacant. Any official whose duty it is to allow claims and issue warrants therefor, who issues warrants or evidences of indebtedness contrary to the provisions of Sections 6-6-7 through 6-6-10 NMSA 1978 shall be liable to his respective county, school district, or municipality for such violations and recovery may be made against the bondsmen of such official.

EFFECT

The County's and the State's documentation is incomplete.

CAUSE

Employees chose to circumvent controls and the County did not secure all MVFD documentation as we instructed. Records were removed by unknown person(s).

RECOMMENDATION

We recommend the County implement document retention and security procedures immediately. See **Finding 2020-016F**. We recommend strong reconciliation processes with detailed levels of review and approval by people independent of the reimbursement process.

MANAGEMENT RESPONSE

Corrective Action(s): Both Mora County and NM State Forestry have tightened requirements for reimbursements, as per NM State Forestry's presentation to Mora County at a recent Chief's Association meeting. Records do seem to have disappeared, unbeknownst to County Staff. The County will progressively move towards more consistent record retention with regard to fire departments, in a consistent place, rather than in each department. The County will research the budgetary feasibility of hiring a full-time County Fire Chief, who shall report to the County Manager. This position will be tasked with keeping and maintaining files such as personnel and training, PERA, district response, paperwork, equipment, inventories, and others.

Responsible Party: County Commission and Management

Due Date of Completion: Fiscal Year 2021

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-012F County's General Ledger Software Design and Reports

CONDITION

During our review of employee leave, we noted balances were not rolling forward properly in Triadic, the County's general ledger software. It appears the software allowed the Payroll & Payments Clerk (or anyone with access) to manually adjust time off with no review or approval control built-in. This was corroborated through our interviews and our testing on balances. Reports out of the system could not always be exported to Excel, and the reports many times did not exist or did not capture complete information. Administration had to spend significant amounts of time capturing information for the audit and the process of trying to obtain the information was not simple.

CRITERIA

The County is responsible for maintaining proper and thorough accounting and reporting.

EFFECT

Without proper software controls and reports, the entity is at more risk for identity theft, loss of data, loss of funds, lack of segregation of duties, fraud, waste, abuse, and non-compliance.

CAUSE

Training and the software development lack of reporting features and internal controls.

RECOMMENDATION

We recommend the County formally monitor leave balances and ensure employees have access to the information and data needed. It is critical that balances roll forward properly.

MANAGEMENT RESPONSE

Corrective Action(s): Department heads are receiving leave balances for each pay period. They are checking the leave balances, in addition to the payroll clerk and finance director. Software systems will be upgraded to reflect necessary changes. The Payroll Clerk will also keep an independent log of any manual modifications made, and the log will require the signature of the County Manager.

Responsible Party: County Department Heads, Management and Finance

Due Date of Completion: Fiscal Year 2020

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-013F County Commission – Monitoring and Corrective Actions

CONDITION

While the current County Commission has implemented stronger oversight procedures, during our scope of the engagement there was no indication that the Commission was actively assessing risks and following up on the thorough implementation of the independent auditor’s recommended corrective actions and other risks reported throughout the County. Repeated complaints and rumors year after year are red flags for administration and governance (which includes the Commission and any Committees) to analyze the causes and implement strong controls to take corrective action. The County did not have an Audit Committee or Internal Auditor to address risks and surprise audits were not conducted.

CRITERIA

Audit Committees increase accountability and transparency by providing independent oversight of County financial practices that may impact the annual external audit and County budget, revenues, expenditures, and operations. They are normally comprised of one member of the Commission and volunteer County Stakeholders with expertise in financial matters. Administration would be ex-officio members. Audit committees could make recommendations to the Commission and Administration in the following areas: (a) financial planning, including **reviews** of the County’s revenue and expenditure projections; (b) **review** of financial statements and periodic **monitoring** of revenues and expenses; (c) annual budget preparation and **oversight**; and (d) procurement; and (2) serve as an **external monitoring** committee on budget and other financial matters.

For example, County audit committees are required by NM state statute to: (1) evaluate the request for proposal for annual financial audit services; (2) recommend the selection of the financial auditor [to the Board]; (3) attend the entrance and exit conferences for annual and special audits; (4) meet with external financial auditors at least monthly after audit field work begins until the conclusion of the audit; (5) be accessible to the external financial auditors as requested to facilitate communication [with the Board and Administration]; (6) **track and report progress on the status of the most recent audit findings and advise on policy changes needed to address audit findings**; (7) **provide other advice and assistance** as requested by the Board; and (8) be subject to the same requirements regarding the confidentiality of audit information as those imposed upon the government by the Audit Act and rules of the State Auditor.

We also recommend the County hire an Internal Auditor employee or contractor who would report directly to the Audit Committee. The Audit Committee does not make decisions, rather, they perform inquiries and procedures and make *recommendations* to the Commission. The Internal Auditor would address risks at the County and audit quarterly and issue reports on progress/findings to take corrective action on. Internal Audit positions usually “pay for themselves”. *Per the ACFE Fraud Report to the Nations (2020), having an Internal Auditor can cut the median duration time of fraud from 24 to 12 months, protecting County funds. The median losses drop from \$900,000 to \$100,000 (in the case studies), so 1/9th of what the losses would have been without Internal Audit.*

NM County Commissioner Handbook (2016): The form of organization for County Government in New Mexico is established by the State Constitution. The powers of the county as a political and corporate entity are exercised by a Board of County Commissioners (BOCC) (Section 4-38-1 New Mexico Statutes Annotated). The BOCC has broad authority, including adopting the annual budget, approving tax levies, and enacting ordinances to provide for the health, safety, welfare and prosperity and morals of the community. In addition, the BOCC has significant appointive, administrative, and regulatory powers.

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MORA COUNTY
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SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
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2020-013F County Commission – Monitoring and Corrective Actions (Continued)

Trust in government: This depends upon the belief that it will keep its promises, perform diligently and competently, give out truthful and complete information, act transparently, distribute public benefits and burdens fairly, and use publicly funded resources for the benefit of the community. Nothing erodes public confidence in government more than unethical or dishonest leadership. Even the perception of immoral or corrupt behavior can be sufficient to destroy political careers. More important, however, is the impact on the larger community. The cynicism and distrust of government that usually follows political scandals over ethical violations diminish the public trust in its leaders, institutions, and laws. Both history and current events offer numerous examples where the public found dishonesty and favoritism so pervasive that they even attacked the very legitimacy of their governments.

Ethical Conduct: A leader must inspire ethical conduct within the organization. The leader must demonstrate every hour of every day that ethical conduct is valued and emphasized. Employees and colleagues must know that choosing the ethical course of action will be respected and rewarded, even when it may not be the fastest or easiest way to attain other goals. It is equally important to convey the message that unethical conduct will not be tolerated or overlooked, even when it is done in the name of a desirable goal. To create a culture of ethics, a leader must ensure that everyone working with the organization understands that he or she is expected to behave ethically at all times. This requires training in ethics for everyone in the organization, and clear statements of the standards of expected conduct. The disciplinary consequences of unethical conduct must also be clearly defined, and, when necessary, applied. Leaders must assess the compliance of staff with ethical standards, both through periodic performance reviews and through closer, more frequent monitoring as needed to resolve problems. To ensure the credibility of the agency's commitment to ethics, leadership must train everyone to recognize and respond appropriately to trouble signs, whether those signs point to inappropriate conduct internal to the organization or in dealing with the public. Staff and the public must have clear, easily accessible directions on how to report ethical concerns, and each concern must be acted on promptly and appropriately. Staff must also be confident that a fair and efficient mechanism exists for resolving disputes within the organization, so that they will resort to those mechanisms for constructive conflict resolution before disputes escalate.

Power to Improve Morals: County government is responsible for many aspects of the health and welfare of its residents. The powers and responsibility are set forth in the General Welfare Clause of the Counties; Powers, and Ordinances section of the State Statutes. "All counties are granted the same powers that are granted municipalities except for those powers that are inconsistent with statutory or constitutional limitations placed on counties. Included in this grant of powers to the counties are those powers necessary and proper to...improve the morals...of any county or its inhabitants. The Board of County Commissioners may make and publish any ordinance to discharge these powers not inconsistent with statutory or constitutional limitations placed on counties." (Section 4-37-1 New Mexico Statutes Annotated)

County Commissioners as Administrative & Executive Officers: In addition to its legislative duties, the BOCC must perform a large number of administrative functions. These duties include: • those specified by law • those necessary to follow through on implementation of the BOCC's prior legislative action • those administrative actions necessary to carry out the routine day-to-day operations of the county The other county elected officers are also granted specific powers within the framework of county government, and executive branch authority. The executive powers granted to the BOCC include, but are not limited to, the following: • set salaries for county

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2020-013F County Commission – Monitoring and Corrective Actions (Continued)

employees, including a County Manager • care for county property • perform certain election duties • make appointments to a number of boards and commissions • grant certain licenses and regulate certain activities • perform a number of financial management functions within the county government structure • maintain a variety of county services, including those provided through intergovernmental agreements approved pursuant to the Joint Powers Agreements Act, (§11-1-1 through 7 NMSA).

Discipline and Dismissal: The County's merit system ordinance should explain the minimum standards of conduct that will be expected from each employee, and should clarify that some consequence (i.e., discipline) will be imposed for violation of same, along with explaining the procedures by which such consequences will be imposed. If the county has not adopted a merit system ordinance, then the County Manager should ensure that the county's administrative directives (i.e., policies) are written and distributed to the employees. This will assist each supervisor in enforcing the county's policies on a consistent basis and will assist the county in defending against claims that may be predicated in part on an alleged failure to address misconduct.

Specific Statutory Duties: Some of the specific duties/authorizations assigned to the BOCC are: • The BOCC serves ex officio as the County Board of Finance (§6-10-8 NMSA). • The BOCC must examine and settle all accounts of receipts and expenses of the county and all accounts chargeable against the county (§4-38-16 NMSA). • Accounts must be itemized and the Board can disapprove all or part of the accounts (§4-45-3 NMSA) • The BOCC is responsible for assuring that a statement of receipts and expenditures is prepared on an annual basis (§4-38-27 NMSA) • If the BOCC approves the payment of county funds without the authority of law, they are liable for the amount paid out, as well as the costs and fees associated with collecting those funds (§4-38-28 NMSA) • The BOCC may impose, by ordinance, various local option gross receipts tax increments, as described in FYI-C120. • The BOCC may issue revenue bonds upon approval from a majority of all the members of the Board (note: this is different from a majority vote of the Board present, which might be a majority of a quorum and less than the full Board) and may issue general obligation bonds after election and voter approval • The BOCC, and/or its staff, serve as an agent of the United States Government for the expenditure of money authorized by U.S. Congress (§4-36-3 NMSA) • Despite this seemingly extensive authority, the BOCC, as manager of the county's funds, is subject to many other internal and external controls. For example: • The BOCC has no authority to divert money from one fund to another. • If Commissioners attempt to pay warrants drawn from improper funds, the county Treasurer must refuse to pay the warrants. • If a county has a history of problems with the budget and/or violates LGD's rules and regulations on a regular basis, the State (through the DFA Secretary) has the right to step in and take over the county's fiscal matters, in accordance with the statutory processes for same (§10-5-2 NMSA).

County Board of Finance: The BOCC constitutes the ex officio Board of Finance. • The purpose of the Board of Finance is to coordinate with the Treasurer to determine the qualifications and selection of banks, savings and loan institutions, credit unions and other institutions to receive the county's deposits. • The County Treasurer is responsible for the investment and safekeeping of public funds. • The County Clerk serves ex officio as the Clerk for the Board of Finance. Board meetings are held upon request of the Treasurer or whenever the Board deems it necessary (§6-10-8 NMSA). 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 NMSA). 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 NMSA).

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MORA COUNTY
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MAY 29, 2020**

2020-013F County Commission – Monitoring and Corrective Actions (Continued)

Accounting: The BOCC fulfills several specific duties in the area of accountability for money received and expended within the county. Each January, the BOCC must see to it that an annual statement of receipts and expenditures is prepared (§4-38-27 NMSA). The BOCC must also examine and settle all accounts of receipts and expenditures for the county (§4-38-16 NMSA). All accounts must be itemized so that the BOCC can approve or disapprove them (§4-45-3 NMSA). Every four years, or at the end of term of the elected Treasurer, the County Treasurer is required to make a full and complete settlement with the BOCC and deliver in the presence of the County Clerk all books, papers, and other property to the new Treasurer. The BOCC is then required to file a comprehensive financial statement with the State Auditor including all unfinished business of the previous County Treasurer that is passed on to a successor. The books must be balanced before being passed on to the successor (§4-43-4 NMSA). The LGD prescribes the form for all budgets, books, records, and accounts used by county governments (§6-6-2 NMSA). The Statewide Uniform Budgeting System is a means of evaluating the total performance of a county government; it introduces other measures such as budget performance, outstanding encumbrances, fixed assets, control and usage of funds and efficiency of programs and services.

Among other things, the Commission governing board is responsible for adopting policies over the establishment of all funds. These policies should include the appropriate accounting, documentation, and reporting practices. Funds must be supported by detailed records and maintained.

Internal Controls over Monitoring. The County should obtain an understanding and describe how management monitors the operation of the entity's five components of internal control to make sure (a) controls are operating as intended and (b) changes to controls are made when necessary. Also describe what reports or other information (such as budget variances, reconciliations, or monthly financial reports) Administration uses for that purpose and why Administration considers the information reliable. Consider controls relevant to the audit. Consider the following principles: The County selects, develops, and performs ongoing and/or separate evaluations to determine whether the components of internal control are present and functioning. The County evaluates and communicates internal control deficiencies in a timely manner to those parties responsible for taking corrective action, including senior administration and the governing body, as appropriate.

EFFECT

The County's finances and operations do not have the proper external monitoring and oversight. Corrective action on findings and risks are not occurring as completely as they should. This leaves the County susceptible to fraud, waste, abuse, conflicts of interest, and errors.

CAUSE

The statutory powers of the Commission are not being utilized to their intended and fullest extent.

RECOMMENDATION

The Commission, through an Audit Committee, Internal Auditor (employee or outsourced) and any necessary ordinances/policies, should monitor that corrective action is being taken and that all audit findings are resolved promptly and *thoroughly*. The Audit Committee should document their purposes, responsibilities, functions, and procedures to assess risks and monitor the correction of existing deficiencies in the accounting internal controls environment. *We recommend that the Audit Committee remain active throughout the year to increase its*

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-013F County Commission – Monitoring and Corrective Actions (Continued)

effectiveness. Examples of remaining active are: attending finance and ethics trainings, performing random audits of funds, requesting reports from administration on specific areas with findings or risks, evaluating internal controls, following up on audit findings and rumors, following up on fraud risks, addressing rumors or red flags, issuing quarterly internal audit reports, managing risks, etc.

Board and committee members are principally adept at assessing risks that may exist in the County and monitoring correction of problems because they are the closest to the people – parents, children, staff, business owners, and community members – and are accountable to their constituents.

MANAGEMENT RESPONSE

Corrective Action(s): The Commission will explore the fiscal impact to the County of an independent auditor, as well as the feasibility of an audit committee, and assign responsibility for the implementation of essential procedures and policy recommendations. County Management will stay in close communication with the Commission and staff to update progress as it is made.

Responsible Party: County Commission and Management

Due Date of Completion: Fiscal Year 2021

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-014F County's Manager and Department Leaders - Monitoring, Risk Assessment, and Corrective Actions

CONDITION

During the forensic engagement, we noted that the former County Administration and Department leaders did not perform monitoring, risk assessment, and proper corrective action during the years in our scope. The audits must test for certain key controls such as segregation of duties, inventory and control of cash disbursements and payroll, document retention, and reconciliations. There was no indication that Finance was actively assessing risks, tightening up internal controls over cash funds in response to their findings and reports of red flags by community members and by other employees, and monitoring the thorough correction of the findings with accountability. Multiple complaints and rumors in and audit findings are red flags for administration and governance to analyze the causes and implement strong controls to prevent the errors from occurring in the future.

CRITERIA

State laws and federal funding requirements and good accounting practices require this level of detail in government employees' work.

EFFECT

The County's finances and operations do not have the proper monitoring, risk assessment, and oversight. Internal audit procedures and corrective action on internal findings are not functioning as they should be. This leaves the County susceptible to fraud, waste, abuse, and errors.

CAUSE

The procedures, corrections, and accountability were not strong enough. There was significant turnover in the County Manager position. There is significant public/peer pressure to conform and not "hold the line". For example, the former MVFD Fire Chief told one County Manager to "take care of his daughter" in Spanish. When this Manager called out her and other employees for not being at work when they should be, he received complaints and ultimately left the County after a short period of time.

RECOMMENDATION

The County's administration should monitor that corrective action is being taken and that all risks they determine are resolved promptly. **Setting an ethical and strong tone at the top, followed through with accountability for staff is critical, as this sets the tone for standard conduct.** We recommend analyzing the internal controls over the County's accounting and operational processes. They must address various risks and set up stronger accountability for staff to remain in compliance with County and oversight agency policies, procedures, laws and regulations. We recommend strong procedures and monitoring to ensure compliance with the Governmental Conduct Act. An Internal Auditor with the expertise could assist Administration with this process.

MANAGEMENT RESPONSE

Corrective Action(s): The County Commission has endured excessive turnover in the Manager's Office. They are attempting to alleviate some of these issues by consideration of a multiple year contract with the current manager. It is the Commission's intent to attempt to put into place various policies, procedures, checks and balances, and internal controls under the purview of this manager so that processes are easier to follow for those coming into that position. The current Commission has also empowered the County Manager with decision-

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MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-014F County's Manager and Department Leaders - Monitoring, Risk Assessment, and Corrective Actions

making authority in an attempt to alleviate political pressures. The culture is changing in Mora County and the authorities are demanding production in a legal, ethical, and moral manner.

Responsible Party: County Commission and Management

Due Date of Completion: Fiscal Year 2022

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-015F Possibly Fraudulent Timesheets, Payroll Records, and Paid Time Off

CONDITION

The County's Investigator found fraud within the former Payroll and Payments Clerk's timesheets and paid time off records. We reviewed 5 employees' timesheets, forms, and Triadic balances of leave during the Period. For 4 employees there was a distinct pattern of forms missing, signatures missing, use of signature stamps, leave accruals not agreeing to the Triadic payroll system. There are several pen adjustments: adding hours or crossing out hours. There were multiple occasions of time sheets not matching Triadic, however these differences are not 100% attributable to handwritten adjustments to the physical records. The differences appear to be intentional as amounts entered into Triadic differ from physical records without handwritten adjustments also.

1. [REDACTED] - From analyzing the former Payroll and Payment Clerk's Triadic and physical time sheets, multiple pen corrections, unsigned time sheets and unsupported leave hours were found.
 - a. The totals shown for each fiscal year she had been working at the Mora office show *accruals* above the typical 96 hours accrued for both sick and vacation leave. The payroll leave system (Triadic) shows she accrued 100 vacation hours in FY16-17 and FY17-18 instead of 96. They system also shows she accrued 104 sick hours in FY17-18 instead of 96. These accruals violate County policy and could only be accomplished with a manual entry to her accrual balances.
 - b. For fiscal year 17-18, it was found that on 12/15/2017 she gave herself an extra 8 hours of sick leave in Triadic, and in combination with the normal accrual of 4 hours per pay period, received 12 hours of sick leave in order to balance out 12 hours of sick absence.

Run Number	Leave Type	Date	Leave Accum	Leave Other	Leave Taken
12152017	SCK	12/15/2017	8		
20170034	VAC	12/15/2017	4		
20170034	VAC	12/15/2017			-36
20170034	SCK	12/15/2017	4		
20170034	SCK	12/15/2017			-12

- c. Below is a table comparing the calculated leave balance at the end of each year of the physical and Triadic reports. Year end balances were calculated by deducting 96 accumulated hours by hours used and adding prior year end balances when applicable. The Triadic calculation took into consideration her unusually higher yearly accumulated leave as shown in (b.) The table shows a negative balance in FY 17-18 on the physical sheets which could explain the addition of 8 hours on December 15, 2017 to make up for the negative balance. The Triadic end balances match with the FY18 payroll register balances, substantiating the calculation method. The differences column is the difference between Triadic and the physical time records.

FY	Physical		Triadic		Differences	
	VAC END BAL	SCK END BAL	VAC BAL	SCK BAL	VAC BAL	SCK BAL
13-14						
14-15						
15-16	22.0	14.0	16.0	8.0	-6.0	-6.0
16-17	20.5	18.5	20.0	24.5	-0.5	6.0
17-18	15.5	-4.5	15.0	9.5	-0.5	14.0

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-015F Possibly Fraudulent Timesheets, Payroll Records, and Paid Time Off (Continued)

The differences between the physical and Triadic records show a difference in entry, or manipulations [REDACTED] had the capability to make. According to [REDACTED]'s interview, only [REDACTED] and [REDACTED] have access to the payroll side of Triadic. Additionally, in the interview [REDACTED] is unsure if additional positive leave hours can be added to each pay period, but (b.) disproves this. She also says Triadic has a 'memo' area where changes can be explained. This 'memo' area is not in the Triadic reports.

- d. It appears the former Payroll and Payments Clerk assisted her co-workers: CPO, former Interim County Manager, and an MVD Clerk with free time off. This employee had time donated which did not have donor's signatures, leave without approvals, leave recorded as "C.T." comp time instead of vacation, changing sick leave to vacation leave, leave taken not entered Triadic, etc.
- e. In or around July 2017, a former County Manager allowed the former Payroll and Payments Clerk to use his signature stamp to sign off on employee time sheets. Reportedly, the stamp was used outside this timeframe.

2. [REDACTED] - From analyzing the **former MVC Clerk's Triadic and physical time sheets**, multiple pen corrections, unsigned time sheets and unsupported leave hours were found.
- a. There are no supporting documents for all administrative leave time taken, a total of 55 hours and \$708 during the Period.
 - b. There are 3 timesheet documents that do not have a supervisor's signature.
 - c. There are 3 leave days, 20 hours totaling \$255, that are shown on the timesheet but are not recorded in the Triadic payroll leave system.
 - d. There are 7 sick leave forms, 78 hours totaling \$1,013, without supervisor's signature (approval) or without supporting documents for the leave taken.
 - e. There are 4 donated time documents, 70 hours totaling \$941, that do not have the donor's signature on them.
 - f. There are 2 vacation leaves, 8 hours totaling \$99, that do not have supporting documents. In one case, on May 5, 2017, more vacation time was used on the timesheet than was asked for and signed off on.
 - g. There are 3 payrolls where instead of a real signature used from a supervisor, there was a stamp used for approval of time off. This could indicate the supervisor or manager never saw or approved the sheet. This included 84 hours of sick leave and 4 hours of vacation leave, totaling \$1,183.

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MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-015F Possibly Fraudulent Timesheets, Payroll Records, and Paid Time Off (Continued)

- h. There are 2 cases of annual and “other” leave, 44 total hours totaling \$562, without supporting documents or signatures from a supervisor.
- i. For pay period ending November 7, 2014, the former MVD Clerk asked for 2 hours of sick leave (signed off by a supervisor), but she took 3 hours on her timesheet. It also looks like the numbers on the timesheet are written in by pen.
- j. During the pay period ending March 11, 2016, there are 24 hours entered into Triadic as vacation time. However, on her timesheet it is entered in as C.T. (Comp Time) leave.
- k. There are 2 cases where the former Payroll and Payments Clerk may have intentionally changed the former MVD Clerk’s timesheets purposely from sick leave to vacation leave. The first instance is pay period ending December 2, 2016 with 8 hours of sick leave (signed off on by a supervisor), but on the timesheet and in Triadic it is entered in as vacation time used. In the second case, pay period ending January 1, 2017, once again, 8 hours of sick leave is signed off on by supervisor, but on the timesheet and in Triadic it is entered as vacation time.
- l. There are 11 sick leave forms, 37 hours totaling \$493, without a supervisor’s signature.
- m. There are 5 annual leave forms, 22 hours totaling \$272, without a supervisor’s signature.
- n. There is one timesheet for payroll ending March 23, 2018, without a supervisor’s signature.
- o. There are 6 timesheets with incorrect leave types which appear intentionally changed. For example, the leave form shows 8 hours for annual leave but is misplaced to C.T used (Compensation leave). Based on County policy, the maximum hours an employee can have on sick leave and annual leave are both 96 hours.
- p. There are 3 leave instances, totaling \$215, shown on the timesheet but not recorded in the Triadic system.
- q. There is 1 leave, for 4 hours and \$54, that is recorded in the Triadic system but not shown on the timesheet

3. [REDACTED] – From analyzing the CPO’s Triadic and physical time sheets, unsupported leave hours were found.

- a. There are no supporting documents for all administrative leave time taken, a total of 67 hours and \$941 during the Period.

We took the 2018 accrual balances for sick and vacation leave from the payroll registers and applied them to both Triadic and physical time sheets to re-calculate balances. For fiscal years 13-14 and 15-16, [REDACTED] had negative balances in her physical leave balances. These balances differ from Triadic, indicating the system was manually adjusted.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
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2020-015F Possibly Fraudulent Timesheets, Payroll Records, and Paid Time Off (Continued)

4. [REDACTED] – From analyzing the former Interim County Manager’s Triadic and physical time sheets, multiple pen corrections, unsigned time sheets and unsupported leave hours were found.
- a. There are 7 timesheets that do not have supervisor’s signature, mostly found in year 2014 and 2015. There is one compensation leave with 16 hours that does not have supervisor’s approval.
 - b. There are 18 sick leaves instances, 115.5 hours totaling \$1,570, without supporting approval documents such as a sick leave form.
 - c. There are 3 annual leave instances, 27.1 hours totaling \$377, without supporting documents such as an annual leave form.
 - d. There are 9 Compensation leaves, 51.9 hours totaling \$628, without supporting documents such as a compensation leave form.
 - e. Almost all types of leaves she took in 2014 and 2015, do not have any supporting approval documents.
 - f. There are no supporting documents for the instances of administrative leave. There were 77 hours, totaling \$1,062, taken without documented approval.
 - g. There are several pen adjustments: adding hours or crossing out hours. There were multiple occasions of time sheets not matching Triadic, however these differences are not 100 percent attributable to handwritten adjustments to the physical records. The differences seem to be intentional as amounts entered into Triadic differ from physical records without handwritten adjustments also.
 - h. During October 2015 to November 2015, [REDACTED] was potentially an interim manager who signed off on time sheets. [REDACTED] began in August 2015 and did not start signing time sheets until late November.
 - i. According to the Triadic donated leave report, [REDACTED] had donated 24 hours of leave on January 31, 2017 and 16 hours on September 8, 2017. Supporting documents were found for the 24 hours donated but not for the 16 hours. In an interview, [REDACTED] mentioned donating a total of 40 hours which matches the total in Triadic.

CRITERIA

It is illegal to commit time fraud and falsify records. Employees must work the time they are paid for.

NMSA 1978 Section 10-16-3(A). A legislator or public officer or employee shall treat the legislator's or public officer's or employee's government position as a public trust. The legislator or public officer or employee shall use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
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2020-015F Possibly Fraudulent Timesheets, Payroll Records, and Paid Time Off (Continued)

NMSA 1978 Section 30-23-2. *Paying or receiving public money for services not rendered* consists of: knowingly making or receiving payment or causing payment to be made from public funds where such payment purports to be for wages, salary or remuneration for personal [services] which have not in fact been rendered. Nothing in this section shall be construed to prevent the payment of public funds where such payments are intended to cover lawful remuneration to public officers or public employees for vacation periods or absences from employment because of sickness, or for other lawfully authorized purposes. Whoever commits paying or receiving public money for services not rendered is guilty of a fourth degree felony.

NMSA 1978 Section 30-23-3. *Making or permitting false public voucher* consists of knowingly, intentionally or willfully making, causing to be made or permitting to be made, a false material statement or forged signature upon any public voucher, or invoice supporting a public voucher, with intent that the voucher or invoice shall be relied upon for the expenditure of public money. Whoever commits making or permitting false public voucher is guilty of a fourth-degree felony.

NMSA 1978 Section 30-26-1. *Interfering or Tampering with Public Records* consists of knowingly altering any public record without lawful authority.....destroying, concealing, mutilating or removing without lawful authority any public record or public document belonging to or received or kept by any public authority for information, record or pursuant to law.

EFFECT

The County's finances and operations do not have the proper monitoring and oversight. Internal audit procedures and corrective action on internal findings are not in effect as they should be. This leaves the County susceptible to fraud, waste, abuse, and errors.

CAUSE

One County Manager attempted to hold employees accountable; however, the procedures, corrections, and accountability were not strong enough and he was not at the County long. There has been significant turnover in that position. There may be organizational issues to work through due to the long lack of accountability and sense of entitlement for "parental leave", informal "admin leave", etc.

RECOMMENDATION

The County's administration should monitor that corrective action is being taken and that all external and internal audit findings are resolved promptly. Setting an ethical and strong tone at the top, followed through with accountability for staff is critical, as this sets the tone for standard conduct. We recommend analyzing the internal controls over the cash accounts internal audit process to ensure the internal audits are testing everything they should and frequently enough to address various risks and set up stronger accountability for staff to remain in compliance with County and DFA policies, procedures, and regulations.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-015F Possibly Fraudulent Timesheets, Payroll Records, and Paid Time Off (Continued)

MANAGEMENT RESPONSE

Corrective Action(s): The County is working to set a stronger tone and it is taking a firm stance with regards to policy and procedure. Department heads are required to sign off on timesheets and the County Manager is now approving timesheets prior to processing. Department heads are reviewing leave balances and leave requests, as is the Manager. The Payroll Clerk and Finance Director are reviewing all documents prior to the Managers' receipt, so internal controls are strong and consistent.

Responsible Party: County Management, Payroll and Department Heads

Due Date of Completion: Fiscal Year 2020

EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020

2020-016F Insufficient Accounting Records, Document Retention, Inspection of Public Records Act

CONDITION

The County did not maintain the required appropriate accounting records for certain transactions and balances. In certain instances, we were unable to comprehensively complete our forensic procedures due to missing records. Many times, we had to expand our testing to include information from outside entities such as vendors, PERA, NM EMNRD's State Forestry Division and the State Fire Marshal's Office due to lack of records at the County.

The County deleted email user accounts after termination and emails were not retrievable. The County did not back up hard drives or network drives during the Period we examined. We were able to recover certain files on the one Fire Administrator's laptop, which may be available for future reviews. The County does not have policies or procedures to ensure compliance with IPRA.

During our first conference call with the former Interim Finance Director, we instructed him to properly secure and preserve any and all electronic and paper documents related to this case (including electronic backups). Unfortunately, certain records and other documents from 2013 forward were suspiciously removed from the MVFD before our fieldwork, perhaps even before our advice. Our examination discovered one filing cabinet was cleaned out with the keys still in it and another had been pried open, damaging the cabinet. These MVFD records remain missing. Certain receipt documents were unavailable and ultimately missing from the County Treasurer's Office as well.

Overall, during our engagement, the process of obtaining evidence and documents was extremely difficult. While our teams worked very well together, we noted an acute pattern with our requests. At times, we would request information and receive nothing; we would request again and get incomplete information. After continued requests, we ultimately received more and more documents. Frequently, our procedures would reveal more relevant aspects which had to be requested. An example of this was our request for all MVFD receipts and expenditures. This was provided; however, we later saw expenditures on a voucher from a completely different accounting fund. Thus, we had to request new information and perform more work.

CRITERIA

County-wide, all records should be categorized and placed in electronic or paper files, folders, or binders for safekeeping and easy access and backed up appropriately. All records should be filed in order by date or other logical format. Along with this binder (or electronic file) there should be a file kept with all the receipts for deposits and withdrawal from each bank account as well as a file with any and all check registers used. All receipts for purchases should be filed by month throughout the fiscal year. The original approved budgets as well as any approved Budget Adjustment Requests should be all in one file or binder. All purchases over the thresholds (quotes, RFPs) for the year for procurement must have a folder to describe the action and decisions taken on procurement. The same goes for the monthly financial statements and monthly close process documentation produced throughout the fiscal year. Electronic records of all this should be maintained as well in archives for permanent access. They are the official record which the auditor must go by to ensure that an entity complies with its operating standards.

Once records have been properly filed it is important that they are stored in a safe place so that they may be utilized in the future by the Commission, Administration, Department heads, new employees, Auditors, or even to comply timely with an Inspection of Public Records Act request from a member of the public. The New Mexico

EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020

2020-016F Insufficient Accounting Records, Document Retention, Inspection of Public Records Act (Continued)

Administrative Code (NMAC) previously set forth the requirements for how long certain types of records must be maintained by a government entity before they can dispose of them. The NMAC outlined these retention requirements in Title 1, Chapter 15 in various parts. They are known as General Records Retention and Disposition Schedules (GRRDS). Now, it is up to local governments, with the advice of the NM Association of Counties to set their own record retention policies. There are many sources of guidance for the County to follow.

NMSA 1978 Section 14-2-5 Inspection of Public Records Act (IPRA). An essential function of a representative government is to ensure an informed electorate. A public records custodian is designated, and all persons are entitled to the greatest possible information about government activities and decisions. All records should be safeguarded and available to the public.

NMSA 1978 Section 30-26-2 Refusal to Surrender Public Record. Refusal to surrender public record consists of any person wrongfully or unlawfully refusing or neglecting to deliver unto the proper authority, any record of either house of the legislature, of any court of this state or of any department of the state or local government which he has in his possession, within three days after demand therefor shall have been made by the proper officer. Whoever commits refusal to surrender public records is guilty of a misdemeanor.

- B. any public officer or public employee knowingly filing or recording any written instrument, judicial order, judgment or decree in a form other than as the original thereof in fact appeared;
 - C. any public officer or public employee knowingly falsifying or falsely making any record or file, authorized or required by law to be kept;
 - D. any public officer or public employee knowingly issuing or causing to be issued, any false or untrue certified copy of a public record; or
 - E. knowingly destroying, concealing, mutilating or removing without lawful authority any public record or public document belonging to or received or kept by any public authority for information, record or pursuant to law.
- Whoever commits tampering with public records is guilty of a fourth degree felony.

NMSA 1978 Section 14-3-18 - County and municipal records; geographic information system; computer databases; copy fees.

- A. The administrator may advise and assist county and municipal officials in the formulation of programs for the disposition of public records maintained in county and municipal offices.
- B. Notwithstanding the provisions of Subsection E of this section, a county or municipality may charge a reasonable fee, as adopted by ordinance of the respective board of county commissioners or governing body of a municipality, for a document or product generated by a geographic information system.
- C. Except as otherwise provided by federal or state law, information contained in a computer database shall be a public record and shall be subject to disclosure in printed or typed format by a county or municipality that has inserted that information into the database, in accordance with the Public Records Act.
- D. The administrator may advise and assist county and municipal officials with the procedures, schedules and technical standards for the retention of computer databases.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-016F Insufficient Accounting Records, Document Retention, Inspection of Public Records Act (Continued)

E. A county or municipality that has inserted data in a computer database shall authorize an electronic copy to be made of the computer database of a public record on a currently available electronic medium for a person if the person agrees to pay a reasonable fee based upon the cost of:

- (1) materials;
- (2) making an electronic copy of the computer database; and
- (3) personnel time to research and retrieve the electronic record.

F. Subject to any confidentiality provisions of law, a county or municipality may permit another federal, state or local government entity access to all or any portion of a computer database created by the county or municipality.

G. A county or municipality may at its option, and if it has the capability, permit access or use of its computer and network system to search, manipulate or retrieve information from a computer database and charge reasonable fees based on the cost of materials, personnel time, access time and the use of the county or municipality's computer network.

NMSA 1978 Section 14-3-13 - Protection of records. The administrator and every other custodian of public records shall carefully protect and preserve such records from deterioration, mutilation, loss or destruction and, whenever advisable, shall cause them to be properly repaired and renovated. All paper, ink and other materials used in public offices for the purposes of permanent records shall be of durable quality.

EFFECT

Insufficient systems over accounting records delayed the forensic work significantly. **This pattern was not any single employee, it was pervasive throughout our engagement.** Other County oversight agencies mentioned the same frustrations to us. The County is not complying with state statutes for records and document retention. Nor are they safeguarding and backing up information properly. Trust in government is decreased.

CAUSE

The reasons the County did not maintain the supporting documentation for transactions and the full accounting records is unknown. Regarding MVFD, it appears the records were stolen from the fire station since the current employees have all searched and asked for them to no avail.

RECOMMENDATION

The County should hold employees accountable for their duties and for retaining the documents required to perform their duties in all government activities and decisions.

MANAGEMENT RESPONSE

Corrective Action(s): The County will continue to work towards training of document retention. We will also develop a computer use and retention policy for employees. A public records custodian has been identified and a process for responding to IPRA's has been implemented. The County is sharing public records, when requested, and we are implementing methods of making document retrieval a simpler and timelier process.

Responsible Party: County Management and Legal

Due Date of Completion: Fiscal Year 2021

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-017F Lack of Established Practices for the Identification, Mitigation, and Monitoring of Risks

CONDITION

During our review of internal controls surrounding the County's risk assessment process, we noted that adequate mechanisms are not in place to identify risks applicable to the County and financial reporting objectives, including fraud risk and then mitigate and monitor them.

CRITERIA

Good internal control practices require that the Commission and Administration have a process in place to identify risks potentially impacting the achievement of financial reporting objectives.

Pursuant to the AICPA *Audit and Accounting Guide for State and Local Governments*, AAG-SLV 13.08, "[m]anagement is responsible for the design and implementation of programs and controls to prevent and detect fraud; management's knowledge of any fraud or suspected fraud affecting the entity involving management, employees who have significant roles in internal control, and others where the fraud could have a material effect on the financial statements; and management's knowledge of any allegations of fraud or suspected fraud affecting the entity."

EFFECT

Without a risk assessment approach to identify potential risks applicable to the County, the County is vulnerable to errors and/or fraud. Without a proactive and thorough risk assessment, errors or fraud could occur and go undetected.

CAUSE

The County's approach to risk has historically been to *react* to non-compliance with requirements instead of proactively ensuring their own accounting policies, procedures and practices adequately address fraud risk, risk of non-compliance with laws, regulations, policies, and procedures, and other financial reporting risks.

RECOMMENDATION

We recommend the Commission, as top leaders of this entity, establish a practice for the identification of risks affecting the County. Mechanisms that should be in place to identify risks applicable to the County and financial reporting objectives include a) changes in operating, economic, and regulatory environments; b) participation in new programs and activities. The County should consider routine events or activities that may affect the County's ability to meet its objectives as well as non-routine events. We recommend developing forward looking mechanisms to provide early warning of potential risks relevant to all transaction cycles and preparation of financial statements. Any risks related to the ability to initiate and process unauthorized transactions, skim cash, submit late or falsified reports, pay related vendors, not follow procurement, violate the Anti-Donation Clause, misuse County funds, violate the Governmental Conduct Act, fail to safeguard County records, abuse time off, etc. should be appropriately identified.

Fraud assessments should be part of the risk identification process. The assessment of fraud risk should consider incentives and pressures, attitudes, and rationalizations as well as the opportunity to commit fraud. The assessment of fraud risk should consider risk factors relevant to its activities and to the geographic and political region in which the County operates. Plans should be implemented to mitigate identified risks and then monitor them.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-017F Lack of Established Practices for the Identification, Mitigation and Monitoring of Risks (Continued)

MANAGEMENT RESPONSE

Corrective Action(s): The current administration has made communication between the Commission, County Manager, and Departments a priority. The department heads are required to attend monthly commission meetings and inform the commission of the events transpiring in their departments. The overall culture of the County has converted to a more open and transparent organization and communications are being constantly and consistently tested and improved upon, in order for the Commission to make more informed decisions.

Responsible Party: County Commission, Management and all Departments

Due Date of Completion: Fiscal Year 2020

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-018F Violation of the Anti-Donation Clause of the NM State Constitution

CONDITION

The New Mexico State Constitution includes a safeguard of public monies referred to as the “Anti-Donation Clause”. The Clause explicitly prohibits governments from spending public funds to benefit specific individuals or entities. Public funds may NOT be used to help out (“aid a person”) family, community members, or entities. The County has violated the Anti-Donation Clause and has not designed and implemented specific controls to ensure the Clause is not violated in the future. We identified serious and specific instances of the County’s taxpayer dollars benefiting individuals during our testing:

Violations of the Anti-Donation Clause

Relationships shown in Relation to Former MVFD Fire Chief unless otherwise noted

Description	Name	Est. Amount
Approximate Amounts Overpaid on Wildland Fires:		
Former Payroll & Payments Clerk (Daughter)	[REDACTED]	\$ 8,144
Former Fire Administrator (Nephew)	[REDACTED]	6,808
Former MVFD Deputy Fire Chief (Son-in-Law)	[REDACTED]	6,017
Firefighter (Nephew)	[REDACTED]	5,767
Firefighter (Grandson)	[REDACTED]	550
Firefighter (Daughter)	[REDACTED]	50
Firefighter	[REDACTED]	5,983
Firefighter (Nephew)	[REDACTED]	3,325
Firefighter	[REDACTED]	120
Firefighter	[REDACTED]	9,355
Firefighter	[REDACTED]	93
Firefighter (Son-In-Law)	[REDACTED]	133
Firefighter (Son-In-Law)	[REDACTED]	1,354
Firefighter	[REDACTED]	1,617
Firefighter	[REDACTED]	874
Total		\$ 50,188
Certain Unsubstantiated Amounts Paid for WEX Gas Card:		
Former MVFD Fire Chief (Father of Former Payroll/Payments Clerk)	[REDACTED]	\$ 1,119
Former Fire Administrator (Nephew)	[REDACTED]	1,097
Former MVFD Deputy Fire Chief (Son-in-Law)	[REDACTED]	702
Firefighter (Son-in-Law, Husband)	[REDACTED]	477
Firefighter (Nephew)	[REDACTED]	28
Total		\$ 3,423

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-018F Violation of the Anti-Donation Clause of the NM State Constitution (Continued)

Unsubstantiated Amounts paid for Landscaping/Painting MVFD:

Firefighter (Son-In-Law)		\$ 360
Former Fire Administrator		1,512
Firefighter		216
Firefighter (Grandson)		1,644
Former MVFD Deputy Fire Chief (Son-in-Law)		318
Building / Landscaping Materials		3,523
Total		\$ 7,573

Amounts Paid for Unapproved Time Off:

Former Payroll & Payments Clerk (Daughter)		\$ 1,147
Certified Procurement Officer		3,253
Former Finance Director		1,018
Former MVD Clerk (2nd Cousin to [REDACTED])		4,762
Former Interim County Manager		16,557
Total		\$ 26,737

Unreasonable/Disallowed Purchases for or by Individuals:

Ladies Coats (Daughter)		\$ 319
Ladies Boots (Daughter)		\$ 34,207
Flooring - Reimbursed to County after discovery (Daughter)		\$ 1,537
Championship Rings - Reimbursed to County after discovery		\$ 2,600
Cases of Water (Daughter)		\$ 4,380
Candy Purchases (Daughter)		\$ 440
Personal Laptop for Payroll & Payments Clerk's Sister (Daughter)		\$ 1,101
Total		\$ 44,584

Miscellaneous:

Missing Firetruck (Type 6) Reportedly given to Community Member (At cost, FMV Unknown)		\$ 81,545
Total		\$ 81,545

Grand Total from the Limited Information Available	\$ 214,052
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CRITERIA

All government purchases must be in the best interest of the County and taxpayers. Procurement must be followed, and all transactions must be exchange transactions. An exchange transaction is one where proper fair value is provided in consideration of the funds or asset given by the government. The County may not provide something of value (money, assets, time) to and individual or entity without something in exchange.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-018F Violation of the Anti-Donation Clause of the NM State Constitution (Continued)

For example, the County may not provide retired assets to community members without fair value compensation with equal opportunity for others to purchase this asset (i.e. an auction or other legal method of disposal). The County may not purchase goods or services at higher rates than market or pay for labor not performed and without proper opportunity given (procurement procedures) to others.

New Mexico Constitution Article IX, Section 14 states, “neither the state, nor any county, school, or municipality, except as otherwise provided in this constitution, shall directly or indirectly lend or pledge its credit, or make any donation to or in aid of any person, association or public or private corporation. A donation within the meaning of this provision is a “gift”, an allocation or appropriation of something of value, without consideration.” This section is commonly referred to as the “Anti-Donation Clause”.

EFFECT

The County unlawfully benefited individuals or organizations. Without controls implemented, violations of the public’s funds could occur again. These actions take the County’s taxpayer’s monies and provides it to certain families or other relationships to where those funds are not benefiting all the County’s taxpayers.

CAUSE

This is likely due to County employees’ and contractors’ choices to not follow the law (fraud, waste, and abuse of public funds). Due to collusion, lack of proper review, and conflicts of interest, there was a severe lack of accountability over payroll and payments.

RECOMMENDATION

We recommend the Commission, an Audit Committee, an Internal Auditor, Administration, and all other County Employees design and implement controls, communicate them to all employees, and then continually monitor compliance. All purchases should be reviewed using the above criteria. It is vital that employees and community members are empowered to anonymously report fraud, waste, and abuse (including constitutional and statutory violations) without fear of retaliation. This may be a cultural change the County needs. Trainings, accountability, and posting the OSA fraud hotline in numerous places are all important steps in the right direction.

MANAGEMENT RESPONSE

Corrective Action(s): The current administration is consistently monitoring processes from each department. Internal controls are being implemented, trainings are being conducted, and we will continue to consistently move towards improving these processes. The Commission will explore the fiscal impact to the County of an independent auditor, as well as the feasibility of an audit committee. Their purpose will be incorporated into these process and procedures to add another layer of internal control, or external, if you will. The County is committed to improving its processes and reputation, overall. In addition, the County will make sure that all required postings are made on a regular basis, including but not limited to the OSA fraud hotline, FSLA, Worker’s Comp, and OSHA requirements.

Responsible Party: County Commission and Management

Due Date of Completion: Fiscal Year 2021

EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020

2020-019F Other Risks Identified during the Forensic Procedures

CONDITION

During our procedures, we noted the following additional risks that were outside the scope of our engagement; however, we recommend the County follow up on:

- The County's June 30th external audits have been late, past the annual 12/1 deadline submitted as follows:
 - 2016 – 2/21/2017
 - 2017 – 12/4/2017
 - 2018 – 3/26/2019
 - 2019 – 4/7/2020

Late audits are a significant red flag to the Commission, Administration, and taxpayers that systems are not functioning well and immediate corrective action needs to be taken. Employees are not performing the Financial Close and Reporting processes and managing the other transaction cycles the way they should be.

- Types of Funds – County employees need training on what types of funds they have and how they should be accounted for and where they should be accounted for in Triadic and in the audited financial statements. Requirements for state grants, fire marshal funds, wildland funds, etc. may not be clear.
- Timesheet Fraud – Many employees, oversight agencies, and our testing indicated to us that certain employees are frequently absent from work for a variety of personal reasons. It is important to remember that every minute paid is taxpayer funds for which there should be accountability.
- Unreported Leave – There were reports that leave their positions but never submit this on a form. Leave taken may not have been subtracted from balances in the timekeeping system.
- Supplies Inventory – We noted that there were no controls over the supplies inventory – a lack of segregation of duties and no records to indicate what was received, what was issued, and what the balances were.
- Security of Records – Records were missing from the offices and electronics that should have been maintained.
- Productivity While Working – We noted instances of employees playing games on County computers. The IT Department should be the Administrator and have only approved software on the computer with no allowance to add programs/apps. The County's internet should be filtered to prohibit social media, gaming sites, and other inappropriate site content.
- Fraud, Waste, and Abuse Hotline – It is critical that a hotline number is posted throughout the County and perhaps on other paperwork and in trainings. The New Mexico Office of the State Auditor has one on their website that is free and very effective. Employees should be encouraged to report any red flags or concerns without fear of retaliation. Many times, employees feel uncomfortable and think something is wrong for a long period of time before terminations.

CRITERIA

NMSA 1978 Section 13-1-158 (A) No warrant, check or other negotiable instrument shall be issued in payment for any purchase of services, construction or items of tangible personal property unless the central purchasing office or the using agency certifies that the services, construction or items of tangible personal property have been received and meet specifications.

Although these areas were generally outside the scope of our engagement, we noted other NM State Statutes and County Policies were violated and should be followed up on.

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-019F Other Risks Identified during the Forensic Procedures (Continued)

EFFECT

Without a risk assessment approach to identify potential risks applicable to the County, the County is vulnerable to errors and/or fraud. Without a proactive risk assessment, errors or fraud could occur and go undetected.

CAUSE

The County's approach to risk has historically been to rely on individuals to do their job, rather than focus on accountability for compliance with state requirements and the County's accounting policies and procedures.

RECOMMENDATION

It is recommended that the Commission, with an Audit Committee and an Internal Auditor, establish a practice for the identification of risks affecting the County. Mechanisms that should be in place to identify risks applicable to the County and financial reporting objectives include a) changes in operating, economic, and regulatory environments; b) participation in new programs and activities. The County should consider routine events or activities that may affect the County's ability to meet its objectives as well as non-routine events. We recommend developing forward looking mechanisms to provide early warning of potential risks relevant to all transaction cycles and preparation of financial statements. Any risks related to the ability to initiate and process unauthorized transactions, skim cash, submit late reports, not pay vendors, maintain a second set of books, etc. should be appropriately identified.

Fraud assessments should be part of the risk identification process. The assessment of fraud risk should consider incentives and pressures, attitudes, and rationalizations as well as the opportunity to commit fraud. The assessment of fraud risk should consider risk factors relevant to its activities and to the geographic and political region in which the County operates. Plans should be implemented to mitigate identified risks and then monitor them.

We also recommend monitoring office access and copier use along with security cameras, including backup recordings, in areas which cash is collected and counted.

Employees should be trained on what to do and who to call should they suspect inappropriate activity.

All equipment and supplies should have a designated, locked area with controlled access instead of being maintained in individuals' offices throughout the building. Inventory should be tracked (beginning balances, purchases, issuances, and ending balances) and counted monthly and approved.

MANAGEMENT RESPONSE

Corrective Action(s): The County will continue to improve upon its processes towards identifying potential risk. Multiple weaknesses have been identified in this audit and we believe that we have taken multiple positive steps towards correction thus far. We acknowledge that constant improvements need to be made and we are committing to moving in that direction. We are in the process of implementing surveillance in vital areas, and restricting access. The County will also develop a computer use and document retention policy. Staff will be trained and reminded of the types of funds and how to account for them, timesheet fraud, unreported leave, inventory, security of records, productivity and the fraud, waste and abuse hotlines and ways to report.

Responsible Party: County Commission, Management and all Departments

Due Date of Completion: Fiscal Year 2022

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-020F Travel Advances

CONDITION

During our review of travel advances, we noted several instances where the former Fire Administrator received travel advances and did not use a large portion of the advance (in one case most of a \$2,000 travel advance was not used). Most of the unused portion (expenses were only \$199) of the travel advance was subsequently paid back the with a personal check (in the amount of \$1,718) receipted through the Treasurer's office. There were no expenses to substantiate the \$83 difference. Therefore, it appears as though \$83 of the unused advance was not paid back. The accounting trail for the reimbursement of the advance was not timely and difficult to follow through the accounting system.

CRITERIA

Good accounting practices require timely payments of unused advances and a clear audit trail.

EFFECT

Unused travel advances effectively become a short-term loan to the employee. An unclear audit trail makes it difficult to ensure all processes were completed timely and appropriately.

CAUSE

Unused travel advances are paid back via a personal check. There is not a strong mechanism in place to ensure that travel advances are only provided up to the amount necessary and return of unused travel advances are timely.

RECOMMENDATION

We recommend that the policy and process for travel advances be reviewed and consideration be given using the payroll function to ensure that unused travel advances are taken out of the following paycheck.

MANAGEMENT RESPONSE

Corrective Action(s): The County is following the rules and regulations for mileage and per diem. When advances are applied for, close monitoring of the attendance and expenses is being conducted. Employees, as well as elected officials, are required to submit proof of attendance for each advance issued. If proof is not submitted, the payment is collected by Accounts Payable. The County will continue this process and monitor for consistency.

Responsible Party: County Management and Finance

Due Date of Completion: Fiscal Year 2020

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-021F Blanket Purchase Orders

CONDITION

The County uses purchase orders as an internal control in its purchasing process. Typically, a new purchase order is set up for each purchase. During our testing of purchases, we noted that blanket purchase orders were created and set up in the accounting system for purchases at a local restaurant (reportedly a related party to the former Payroll and Payments Clerk). A blanket purchase order allows for multiple purchases of a good or service. There were also similar blanket purchase orders open for a local auto parts store. During our procedures, we were unable to reconcile the County's payments to the local auto parts store via a confirmation with the local auto parts store.

CRITERIA

Purchase orders are set up in the accounting system as a budgetary control tool to prevent over expenditures by purchase and category.

EFFECT

A blanket purchase order allows for multiple purchases from the same vendor. The use of blanket purchase orders can reduce the effectiveness of the purchase budgetary control.

CAUSE

Management chose to use blanket purchase orders for convenience. The local auto parts store may not have retained their records completely.

RECOMMENDATION

We recommend that the County review its policies over the use of blanket purchase orders and ensure all purchases are for allowable County expenditures.

MANAGEMENT RESPONSE

Corrective Action(s): The process for Open PO's has changed. Open PO's are now issued on a monthly basis to vendors who are used frequently for parts, repairs, maintenance, or other tangible items. No open PO's are allowed for items such as food or rehab. Meals purchases are made on a case-by-case basis with separate PO's. Departments are required to request a new open PO for each month, and the Purchasing Department reconciles and closes at the end of each month.

Responsible Party: County Management and Purchasing

Due Date of Completion: Fiscal Year 2020

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-022F Electronic and Stamped Signatures

CONDITION

During our review of official County documents, we noted that that a former County Manager had signature stamps created for signing documents. Per discussion, with County management, the former County Manager used these stamps for two to three months and then left County employment. The former Payroll and Payments Clerk also used these same stamps from approximately February 2017 to July 2017 for the supervisor approval on her timesheet. We also noted that check signatures were prepared electronically from approximately January 1, 2016 to July 1, 2018.

CRITERIA

Due to the possibility of abuse, good accounting practices require a chain of custody control be maintained on signature stamps.

EFFECT

The signature stamps were used by an individual other than the individual authorized to sign. Time abuse may have occurred.

CAUSE

The former County Manager did not have control over the custody of the signature stamps.

RECOMMENDATION

It is our observation that the County does not have the transactional flow of documents that would require the County Manager or anyone in the County to use a signature stamp or electronic signatures. We recommend that County employees and Commissioners do not use signature stamps or electronic signatures.

MANAGEMENT RESPONSE

Corrective Action(s): The County is no longer allowing or issuing signature stamps or digital signatures. Original signatures are required on all purchasing documents, timesheets, and checks.

Responsible Party: County Management

Due Date of Completion: Fiscal Year 2020

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-023F Capital Asset Inventory and Certifications

CONDITION

During our review of capital assets, we noted annual state mandated capital assets inventory and certifications were not performed.

CRITERIA

Subsection A of Section 12-6-10 NMSA 1978 requires an annual physical inventory of equipment on the inventory list and certification of the same. The County does not have sufficient procedures to account for controls over capital assets. GASB 51 requires all intangible assets be recorded as well.

EFFECT

Non-compliance with state statute Subsection A of Section 12-6-10 NMSA 1978. Lists may be outdated and incomplete. Assets may be lost or stolen.

CAUSE

Capital asset inventories were not performed during our time scope and, therefore, the Commission was unable to certify the capital asset list.

RECOMMENDATION

We recommend Administration implement capital asset inventory procedures and ensure the Commission certifies the year-end inventory and capital asset listing by the Commission.

MANAGEMENT RESPONSE

Corrective Action(s): The County will start conducting annual capital asset inventories and they will be submitted to Commission for review and approval.

Responsible Party: County Purchasing and Finance

Due Date of Completion: Fiscal Year 2021

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-024F Capital Asset Records

CONDITION

During our review of capital asset records, we noted certain instances where vehicles existed but may not have been included in the capital asset records. During the 2018 capital assets inventory, certain assets were added to count sheets with incomplete information and therefore could not be appropriately cross checked to the County's capital asset listing (example: count sheets had incomplete Vehicle Identification Numbers or incomplete descriptions). Additionally, the detailed capital assets listing does not track the location where the capital asset is maintained.

Also, the asset identifier for one Fire Truck was reported as used in Wildland Fires through 2015. This asset identifier was changed and never used again. Upon inquiry of the current Fire Administrator, it was his understanding that the vehicle was auctioned off several years ago. We were unable to find evidence of any auction nor receipt of money for the Fire Truck.

Lastly, we were not able to obtain a detailed list of capital assets purchased with federal funds. Assets that are purchased with federal funds and subsequently disposed of require communication with the federal government prior to disposal.

CRITERIA

Good accounting practices require periodic capital asset inventory observations (the State of New Mexico mandates this occur at or near the fiscal year end). The inventory records should be sufficient to be able to identify the asset in a capital asset inventor and whether the capital assets were purchased with federal funds.

EFFECT

Capital assets may not be properly identified or accounted for.

CAUSE

Insufficient planning, documentation, and follow through on the annual inventory procedures and processes.

RECOMMENDATION

We recommend that the County revisit the procedures and processes for capital assets prior to the next scheduled annual capital asset inventory. We recommend the County cross reference both its New Mexico Motor Vehicle records and its annual list of vehicles submitted to the New Mexico Self-Insurers Fund to ensure that capital assets records for Vehicles is complete before it is submitted to governance for certification. We also recommend adding a "location" field in the capital asset records.

MANAGEMENT RESPONSE

Corrective Action(s): The County will incorporate procedures and processes for capital assets, including locations of all vehicles and correspondence with the assets insured through the New Mexico County Insurance Authority.

Responsible Party: County Management, Purchasing and Finance

Due Date of Completion: Fiscal Year 2021

**EXHIBIT 3
MORA COUNTY
FORENSIC AUDIT CONSULTING PROCEDURES
SCHEDULE OF FINDINGS AND RESPONSES (CONTINUED)
MAY 29, 2020**

2020-025F Controls Over Supplies Inventory and Sensitive Equipment

CONDITION

During our review of the controls and processes in place over sensitive equipment with a cost less than \$5,000, we noted that counts and tracking of these assets were not timely nor complete. We could not find evidence that missing or unlocated equipment was followed up on. We also noted that the supplies inventory purchases and usage was not tracked

CRITERIA

Good accounting practices require that consumable inventories have appropriate controls over them. Sensitive equipment (those types of equipment less than \$5,000 in original cost that could be easily converted to cash such as high-end boots, laptops, cameras, etc.) should also be tracked annually to ensure the equipment is still in the County's possession.

EFFECT

Without appropriated controls in place, supplies and sensitive equipment could be misappropriated.

CAUSE

Inadequate policies, procedures, and controls over sensitive assets and supplies inventory.

RECOMMENDATION

Supplies Inventory: We recommend the County implement procedures to track the delivery by location, usage and ending supply balances each month. This will allow for any unusual usage by location to be researched on a timely basis.

Sensitive Equipment: We recommend that the County implement strong procedures to ensure that sensitive equipment by location is inventoried at least annually and differences researched.

MANAGEMENT RESPONSE

Corrective Action(s): All County shipments are delivered to and accepted by the Purchasing Department. They are cross-referenced with requisitions and purchase orders and then allowed for pickup by the department heads. The County is also requiring an official acceptance form of specific sensitive equipment such as computers, tablets, and cameras.

Responsible Party: County Purchasing and Finance

Due Date of Completion: Fiscal Year 2021