

TITLE 2 PUBLIC FINANCE
CHAPTER 2 AUDITS OF GOVERNMENTAL ENTITIES
PART 3 BUDGET CERTIFICATION OF LOCAL PUBLIC BODIES

2.2.3.1 ISSUING AGENCY: State of New Mexico Department of Finance and Administration, Local Government Division.
[2.2.3.1 NMAC - N, 6/1/2008]

2.2.3.2 SCOPE: All local public bodies required to obtain budget approval from the local government division.
[2.2.3.2 NMAC - N, 6/1/2008]

2.2.3.3 STATUTORY AUTHORITY: Sections 6-6-1 through 6-6-19 NMSA 1978 and Section 9-6-5E NMSA 1978.
[2.2.3.3 NMAC - N, 6/1/2008]

2.2.3.4 DURATION: Permanent
[2.2.3.4 NMAC - N, 6/1/2008]

2.2.3.5 EFFECTIVE DATE: June 1, 2008 unless a later date is cited at the end of a section.
[2.2.3.5 NMAC - N, 6/1/2008]

2.2.3.6 OBJECTIVE: 2.2.3 NMAC codifies required budgetary and financial reporting by local public bodies to the local government division supported by timely audits as of the previous fiscal year submitted to the state auditor's office and the local government division. The intended result is to promote submission of budgets and reports to the local government division by local public bodies with documentation that provides assurance that the financial statements and position of the local public body have been audited in accordance with requirements of the New Mexico state auditor found in 2.2.2.1 through 2.2.2.14 NMAC, the requirements for contracting and conducting audits of agencies, ("the audit rule"). The purpose of coordinating the submission of audits timely from the previous fiscal year with the budget certification process is two-fold: 1) to allow for corroboration of items in the previous fiscal year audit with the budget and financial reports submitted to the local government division, and 2) to require correspondence and other documentation that can be maintained in a record for reference by government officials and the public.
[2.2.3.6 NMAC - N, 6/1/2008]

2.2.3.7 DEFINITIONS:

- A. "Account" means a double entry bookkeeping of assets, liabilities, income and expenses with debit and credit entries on ledger pages or other media which are posted to record a change(s) in value.
- B. "Conditional budget certification" means the certification of the budget of a local public body but with specified conditions requiring compliance by the local public body in order to receive budget certification and means that the local public body is operating without final budget certification, as defined by Subsection F of 2.2.3.7 NMAC.
- C. "Deficit" means any fund where its budget or financial reports reflect more expenditures than revenues and cash balances available to legally pay for them.
- D. "Emergency" means a natural or man made event that poses an immediate danger or threat to public health, welfare and safety.
- E. "Extenuating circumstances" means documented situations, conditions or events that hinder or delay a local public body from complying with the local government division's requirements and timelines for submitting budgets, financial reports and audits.
- F. "Final budget certification" means budget approval by a local government division official in accordance with Section 6-6-2 NMSA 1978.
- G. "Fund" means a group of related accounts that are self balancing within their group as defined by the government accounting standards board (GASB). A fund is not an account.
- H. "Local government division" is the division of the state of New Mexico department of finance and administration with budgetary and fiscal oversight responsibilities and authority over local public bodies.

I. "Local government division official" means any employee or public officer of the local government division of the New Mexico department of finance and administration.

J. "Local public body" means every political subdivision of the state which expends public money from whatever source derived, including but not limited to any county, incorporated municipality, or special district, land grants registered with the New Mexico secretary of state's office. Also under the definition are mutual domestic water associations, soil and water conservation districts, water and sanitation districts, watersheds, draws, medical clinics, hospitals, hospital districts, regional transportation districts, flood control authorities, natural gas associations, public improvement districts, and regional housing authority districts if required by the audit rule. [2.2.3.7 NMAC - N, 6/1/2008]

2.2.3.8 UNTIMELY ANNUAL AUDITS AND BUDGET CERTIFICATION:

A. Pursuant to Section 6-6-2 NMSA 1978, budgets shall be submitted by the local public body to the local government division. Receipt of the most current audit(s) that were required to be conducted and submitted for review per the New Mexico state auditor's required report due dates for the previous fiscal year(s) shall be confirmed by the local government division. The local government division, by letter to the local public body, shall inform the governing body of the local public body and other state public officers, elected and appointed, of the need for corrective action, in accordance with Subsection E of 2.2.3.8 NMAC by the local public body when previous fiscal year audit(s) have not been submitted. During the corrective action process, the local government division may grant conditional budget certification to the local public body.

B. The local government division shall identify and report to state public officers a list of local public bodies that have failed to contract with an independent public auditor for its annual audit. The identification shall include reasons why the local public body has failed to obtain an audit contract. The identification shall also report on whether or not a line item of the amount in the preliminary and final executed budgets has been included for the cost of the annual audit of the local public body.

C. When the cause of the delay is due to the independent public auditor's inability to complete the audit, the local public body will communicate this in writing to the local government division and to the state auditor.

D. When the cause of the delay is due to the inability of the local public body to make progress payments on the contract between the local public body and the independent public auditor, the local public body shall communicate this by letter to the local government division and to the state auditor. The local public body shall explain why progress payments have not been made, when they will be made and whether a shortage of funds exists.

E. Any necessary corrective action shall begin with a meeting and continue with follow up meetings if needed, between officials of the local public body and representatives of the local government division and the state auditor's office to consider any extenuating circumstances. The meeting(s) shall address the extenuating circumstances, including but not limited to, the documented reason(s) why the required annual audit has not been conducted or completed. A plan for corrective actions shall be developed and agreed to in writing by officials of the local public body, the local government division and the state auditor's office, and signed by all the parties. The local public body will report monthly to the local government division and to the state auditor's office on the progress of the corrective action plan, until the required annual audit is completed and the local public body receives budget certification or conditional budget certification if there are other issues or deficits in the budget which may necessitate conditional budget certification.

F. The local public body shall communicate in writing to the local government division and to the state auditor when it has completed its required audit(s) and the local government division shall certify the local public body's interim and final budgets upon confirmation by the state auditor's office that the required audit has been submitted to the state auditor's office for review and publication, unless there are other issues or deficits in the budget which may necessitate conditional budget certification.

[2.2.3.8 NMAC - N, 6/1/2008]

2.2.3.9 NON-COMPLIANCE BY LOCAL PUBLIC BODIES: If the local public body does not comply with this rule to bring its annual audit(s) into compliance with the audit rule as it pertains to timeliness of submission, the local public body may only receive conditional budget certification and final budget certification shall be withheld until the corrective action plan process set forth in Subsection E of 2.2.3.8 NMAC has been completed to the satisfaction of the local government division unless there are other issues which may necessitate conditional budget certification. In addition, the local government division may provide information regarding audits not in compliance with the audit rule as it pertains to timeliness of submission, to any funding entity, including but not limited to the legislature or the community development block grant council. The local government division will

take measures to ensure that enforcement of the rule does not hinder the delivery of financial resources in emergency situations, conditions or events.
[2.2.3.9 NMAC - N, 6/1/2008]

HISTORY OF 2.2.3 NMAC: [Reserved]