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Thank you for your comments regarding the proposed changes to NMAC 1.12.5 and 1.12.9.

Responses to Comments on 1.12.9 Project Certification of Technology Projects

The Project Certification Committee (PCC) rule is left over from the days of the Information Technology Commission (ITC). PCC was an advisory subcommittee of the ITC. Since the ITC no longer exists, but the rules have not been updated since the creation of DoIT, the PCC has continued to operate as an advisory committee to the DoIT Cabinet Secretary.

The intent of this rule change is to modernize the certification of state information technology projects, to comply with the DoIT Cabinet Secretary's statutory duty to "promulgate rules to ensure that information technology projects satisfy criteria established by the secretary and are phased in with funding released in phases contingent upon successful completion of the prior phase; [and] provide oversight of information technology projects, including ensuring adequate risk management, disaster recovery and business continuity practices and monitoring compliance with strategies for information technology projects that affect multiple agencies." § 9-27-6(11)-(12) NMSA 1978. "[I]nformation technology project" means the purchase, replacement, development or modification of a hardware or software system." § 9-27-3(E) NMSA 1978.

Ensuring that projects receiving any federal matching funds also comply with federal requirements will also be a key component in the continuing DoIT oversight of these projects. These rule changes do not vest the Department with any authority that does not exist under the current rules or statutes.

Clarify if the "state CIO" is the DoIT Cabinet Secretary. NMAC 1.12.1.7(D), which is not being amended, defines "CIO" as "the chief information officer." Pursuant to statute, the DoIT Secretary is the state CIO. "The secretary shall serve as the state's chief information officer." § 9-27-5(A) NMSA 1978.

Validation and Verification. The remaining definitions of "validation" and "verification" are left over from the current version of the rule.

Remove the reference to the old Information Technology Commission. The current statute (§ 9-27-10 NMSA 1978) states that all references to the ITC and related entities are now references to the Department of Information Technology (DoIT). The ITC is referenced throughout Title 1,

Chapter 12 of the Administrative Code. This rule update was not a complete overhaul of that Chapter, so references to the ITC were not updated throughout.

Administrative process for large projects. Under the current process, the PCC already hears projects between \$100,000 and \$1,000,000. Since July 2021, PCC has certified thirty-two projects ranging between \$100,000 and \$1,000,000. This includes one project from the Administrative Hearing Office, one project from the Board of Licensed Professional Engineers and Professional Surveyors, one project from the Children, Youth and Families Department, one project from the Department of Early Childhood Education, seven projects from the Department of Environment, one project from the Department of Finance and Administration, one project from the Department of Game and Fish, two projects from the Department of Health, one from the Department of Public Safety, one from the Department of Transportation, two projects from the Energy, Minerals and Natural Resources Department, one project from the New Mexico Medical Board, five projects from the Office of the State Engineer, three projects from the Office of the Superintendent of Insurance, one project from the Secretary of State, and three projects from the Taxation and Revenue Department. The purpose of the proposed rule change is to align rule requirements to better meet current practices.

Since the ultimate statutory authority and requirement for project certification lies with the DoIT Secretary, the intent of the proposed rule change is to do away with the cumbersome committee certification review and recommendation process for project certification and change to a more nimble and collaborative certification process that DoIT believes will reduce the administrative burden on agencies and DoIT.

Specify oversight of projects or contracts under \$100,000. The statutory duty of the DoIT Secretary to “provide oversight of information technology projects” does not have any dollar threshold or limit this requirement to projects that do not contain federal funding requirements. The DoIT Secretary retains authority to require certification of projects as necessary to meet statutory requirements.

Reference DoIT rather than office for clarity. NMAC 1.12.1.7(I), which is not being amended, defines “Office” as “the office of the chief information officer.” This term was left unchanged to maintain consistency with that existing definition.

Clarify risk and oversight criteria. The rule would require the agency to provide risk assessment by preparing “a written risk assessment report at the concept phase of the project, at the end of each project phase, and following the culmination of each development lifecycle phase, or more frequently for large and high-risk projects.” This language is unchanged from the current rule.

Create expedited certification options. The purpose of this rule change is to do away with the cumbersome committee-based process for project certification recommendations. Therefore, these changes should expedite all certifications by allowing ongoing certification reviews, rather

than waiting for committee meetings. Therefore, there should no longer be the need for emergency reviews, because all reviews will happen on a continuous basis.

Compliance with federal security requirements. State security requirements are not in conflict with federal requirements, and either meet or exceed those requirements. The statutory responsibility of DoIT is to verify compliance with state requirements.

Clarify the Appeal Process. The appeal language was not amended by the proposed rule change.

Evaluate Alignment with 1.12.5 Oversight of Information Technology Projects. The proposed rule change adds a new definition of “office project manager” to distinguish between the project manager for DoIT and the “agency project manager” which is the existing “project manager” under the current rule. “Project” and “project lifecycle” definitions are not changed. The definitions should be read consistently across Title 1, Chapter 12 of the Administrative Code.

Response to 1.12.5 OVERSIGHT OF INFORMATION TECHNOLOGY PROJECTS

Clarify the role and authority of the "Office Project Manager" under 1.12.5.7. The role and authority of the “office project manager” are consistent with the “responsibilities of the office” under 1.12.5.10.

Clarify " ... adherence to the best practices and standards of the office." The DoIT best practices meet or exceed federal standards and any conflicts with agency standards will be resolved at the executive level of the agency DoIT.

Clarify role or expectation of "Project director." Project director is an existing definition in the rule, that is unchanged.

DoIT access to deliverables per 1.12.5.9.A (3). DoIT follows agencies’ policies regarding access to agency records and any requirements pursuant to thereto.

Sincerely,



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