Outlook

Re: Proposed Rulemaking: Repeal and Replacement of NMAC 1.12.5 and 1.12.9

From Pardo, David, DoIT <david.pardo@doit.nm.gov>
Date Thu 7/16/2026 8:22 AM
To Gonzalez, Mario, G., HCA <Mario.Gonzalez@hca.nm.gov>
Cc McKenzie, Tara, HCA <Tara.Mckenzie@hca.nm.gov>

Received, thank you.

NM DEPARTMENT OF INFORMATION TECHNOLOGY

David Pardo
Deputy General Counsel
https://www.doit.nm.gov/

From: Gonzalez, Mario, G., HCA <Mario.Gonzalez@hca.nm.gov>
Sent: Wednesday, July 15, 2026 4:54 PM
To: Pardo, David, DoIT <david.pardo@doit.nm.gov>
Cc: McKenzie, Tara, HCA <Tara.Mckenzie@hca.nm.gov>
Subject: Proposed Rulemaking: Repeal and Replacement of NMAC 1.12.5 and 1.12.9

Mr. Pardo,

Per the announcement of the proposed repeal of the rules related to IT projects, we've consolidated a summary of our comments for your review. We've combined them on this email for ease of reference:

Response to 1.12.9 Project Certification of Technology Projects

Our agency reviewed the revised NMAC 1.12.9 and submit the following comments for DoIT consideration. Of key importance to the HCA is control and oversight at a state level of IT contracts that are funded by federal matching funds for our medicaid, eligibility, child support, and other systems. Our contracts and projects must comply with the federal requirements to qualify for matching funds, which can be as high as 90% for development work.

Here are some of our comments:

Clarify if the "state CIO" is the DoIT Cabinet Secretary. This title, especially under IT contracts reviewed by our federal partners, clarifies the position as the highest state level IT oversight position. The reference in IT contracts may help in vendor management. Also, please consider capitalizing the word "State" when referencing the government of New Mexico in order to conform to the standard rules of grammar.

Validation and Verification. The terms are defined, but not used in the rule as defined, and may have been left over from the original text addressing IV&V.

Remove the reference to the old Information Technology Commission. The ITC was abolished around 2009 and is mentioned in the new code (7 times). It may be a consideration to reference

the Science, Technology and Telecommunications Committee. The reference still includes agencies submitting reports to the ITC.

Administrative process for large projects. The reduction of oversight threshold from 1,000,000 to 100,000 may create a large increase in certification work. Delays in processes may affect project budgets, project contracts, and federal funding cycles. This includes contract activity at the last quarter of the state fiscal year for federal fiscal year (for matching funding). Multimillion dollar projects normally would have extended agency controls. Consider the process for oversight if the agency has executive steering committees, federal preapprovals, or other extensive controls. This could be in the format of oversight of the agency documentation and processes.

Specify oversight of projects or contracts under $100,000. The new rule requires certification of projects over $100,000, high risk, or as requested by DoIT. Please address any requirements for smaller projects or what constitutes high risk. Also clarify authority when federal rules or standards may apply if the project is funded by federal partners.

Reference DoIT rather than office for clarity. The term "office" is used and the rule may be clarified for the general reader if DoIT is the base reference. This can help in revising contracts to clarify the oversight role of DoIT in the Agency/Contractor relationship.

Clarify risk and oversight criteria. Risk assessment by DoIT vs the Agency may create a conflict for high value contracts that require performance bonds. There is no formal requirement for performance bonds except as mentioned in the DoIT contract template. With the transition of procurement control to State Purchasing, DoIT may be best suited to determine guidelines to prevent conflict between the three agencies.

Create expedited certification options. Emergency reviews are removed, but in some cases contract negotiations pushed against known deadlines are to the benefit of the contractor or vendor. Since DoIT certification is required to get our contracts approved at SPD, an option for expediting certification that is either formal in the rule or organized in another manner at DoIT would be helpful.

Compliance with federal security requirements. The rule requires that agencies create project plans that include security planning consistent with state requirements. Since federal agencies also apply federal security requirements to state contracts, we'd suggest an adjustment to allow for consistency with state requirements or federal requirements, whichever are more stringent.

Clarify the Appeal Process. The rule still indicates that an agency can appeal certification denials (which equate to funding denial) to the ITC if there are conflicts between the agency and DoIT. Address a correction and how an appeals process may work.

Evaluate Alignment with 1.12.5 Oversight of Information Technology Projects. Evaluate the consistency of references between 1.12.5 and 1.12.9.

Consider aligning the definitions between the two rules. Here are some items to consider:

1. Between the two rules, there are references to agency project manager, office project manager, lead project manager, and contract project manager. 12.9 doesn't define a project manager. 12.5 defines the project director, office project manager, and lead agency project manager. 12.5 references a contract manager with no definition.
2. 12.9 defines "qualified" project manager based on experience. 12.5 defines qualified extensively and should be included in 12.5 for consistency.
3. 12.5 defines "product life cycle" and 12.9 defines "project lifecycle." It would be clear if project were used for both.

4. 12.5 defines a project as per the PMBOK. 12.9 defines "Information Technology Project" which is more applicable. The IT version may better apply.
5. 12.5 defines office as the State CIO office. 12.9 discusses office but has no definition of it.

Response to 1.12.5 OVERSIGHT OF INFORMATION TECHNOLOGY PROJECTS

Our agency reviewed the revised NMAC 1.12.5 OVERSIGHT OF INFORMATION TECHNOLOGY PROJECTS and are submitting the following comments for DoIT consideration. Of key importance to the HCA is control and oversight at a state level of IT contracts that are funded by federal matching funds for our medicaid, eligibility, child support, and other systems. Our contracts and project comply with the federal requirements to qualify for matching which can be as high as 90% for development work.

General DoIT Direct Oversight. Of separate concern is the introduction of the DoIT "office project manager" with oversight and control authority of agency projects. The text implies there could be more direct control (1.12.5.7) in certain situations. Our federally funded IT projects may include our project manager, a federal representative under new agile approval rules, IV&V reviewer (per some federal requirements), and contracted vendor project manager. Under this format, our project manager and our agency retain control consistent with federal expectations. The DoIT Office Project Manager now creates an authority issue – will the DoIT OPM have authority per the rule to override our project manager? "Works with…" can be ambiguous. Also, our larger projects include directives from executive steering committees. In some cases, our Cabinet Secretary and Deputy Cabinet Secretaries directly participate in IT projects. In other cases, our contractors are clear to point out contract terms and conditions relating to control of projects.

Clarify the role of the "Office Project Manager" under 1.12.5.7. The term "working with" must be clarified to determine the authority of the office project manager over an agency project. This is particularly important if decisions made by DoIT contradict directives our agency may receive form our federal partners in their oversight of federally funded projects. For large agency projects, will this PM be a dedicated full-time resource or part time role?

Clarify authority of the "Office Project Manager" under 1.12.5.7. The role includes authority: Must be familiar with project scope and objectives, as well as effectively coordinate the activities of the team. The rule that the DoIT Office Project Manager would "…effectively coordinate the activities of the team" may conflict with agency oversight of its employees and possible collective bargaining agreements.

Clarify "…adherence to the best practices and standards of the office." Clarify how the agency is to proceed if the DoIT best practice conflicts with agency policies or federal oversight standards.

Clarify role or expectation of "Project director." Under definition "J) Project director," the role stands alone without any reference within the agency. Director at the agency level implies similar authority to the division director or in our case the agency CIO.

DoIT access to deliverables per 1.12.5.9.A (3). Note that access to deliverables which contain PHI, FTI, or other PII may require DoIT staff to participate in security and privacy agreements to allow access.

Sincerely,

Mario Gonzalez

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