

NOTICE OF PROPOSED RULEMAKING
REPEAL AND REPLACEMENT OF 1.12.9 NMAC

Pursuant to NMSA 1978, Sections 9-27-6(J) and 14-4-5.2, the New Mexico Department of Information Technology (DoIT) hereby gives notice of repeal and replacement of 1.12.9 NMAC, Project Certification of Technology Projects.

The repeal and replacement change the title of the Rule to *Certification of Information Technology Projects*; remove references to the no longer existing Information Technology Commission; update the statutory authority to refer to the New Mexico Department of Information Technology Act; remove several definitions not used in the Rule; add several new definitions; and update provisions delineating the information technology project certification process for executive agencies.

The purpose of the repeal and replacement is to update 1.12.9 NMAC to reflect the current information technology project certification process. 1.12.9 NMAC was enacted in 2005 – or two years prior to the creation of the Department of Information Technology in 2007 – and has not been updated since.

Pursuant to NMSA 1978, Section 9-27-6(E)(12), the Department of Information Technology Cabinet Secretary “shall . . . 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[.]” Further, Section 9-27-6(I)(5) authorizes “[t]he secretary [to] make and adopt such reasonable procedural rules as may be necessary to carry out the duties of the department . . . including . . . requirements for agency information technology projects and related plan, analysis, oversight, assessment and specifications.”

An electronic copy of this Notice and the full text of the proposed new rule 1.12.9 NMAC is available on DoIT’s website - <https://www.doit.state.nm.us/newsreleases.html> and on the New Mexico Sunshine Portal - https://statenm.secure.force.com/public/SSP_RuleHearingSearchPublic

Hard copies of this Notice and the full text of the proposed new rule 1.12.9 NMAC are available at 715 Alta Vista, Santa Fe, NM 87505.

Written comments may be submitted via email to epmo@state.nm.us and via regular mail to New Mexico Department of Information Technology, Attn: EPMO, P.O. Box 22550, Santa Fe, NM 87502-2550. Written comments must be received no later than 5 p.m. on December 30, 2021.

A public rule hearing will be held at 10 a.m. on January 4, 2022, via WebEx©. Members of the public may participate by:

videoconference –

<https://nmdoit.webex.com/nmdoit/onstage/g.php?MTID=ea6cb142b89af3807281f54af1a91287e>

event number: 2488 102 8056

event password: RXp3mJkSP83

telephone –

1-408-418-9388 / access code: 2488 102 8056

Any individual with a disability in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing should contact Diane Rivera, IT Project Manager, diane.rivera@state.nm.us or (505) 795-4644 at least seven (7) days prior to the hearing.

1.12.9. CERTIFICATION OF INFORMATION TECHNOLOGY PROJECTS

1.12.9.1 ISSUING AGENCY. Department of Information Technology.

1.12.9.2 SCOPE. This rule applies to certification of all information technology projects undertaken by executive agencies.

1.12.9.3 STATUTORY AUTHORITY. Sections 9-27-6(B)(5), (C)(12) - (14), (I), and (J).

1.12.9.4 DURATION. Permanent.

1.12.9.5 EFFECTIVE DATE. December 31, 2021.

1.12.9.6 OBJECTIVE. The purpose of this rule is to set forth executive agency information technology project certification responsibilities.

1.12.9.7 DEFINITIONS.

A. “Agency” means a state organizational entity of the executive branch, used interchangeably with department.

B. “Certification” means a process that releases project funds. The PCC certifies projects except as otherwise provided for in Section 1.12.9.13.

C. “DoIT” means the Department of Information Technology.

D. “EPMO” means the Enterprise Project Management Office within DoIT.

E. “Independent verification and validation (IV&V)” means the process of evaluating a system to determine compliance with specified requirements and the process of determining whether the products of a given development phase fulfill the requirements established during the previous stage, both of which are performed by an organization independent of the development organization.

F. “Information technology project” or “project” means the development, purchase, replacement, or modification of a hardware or software system.

G. “PCC” means the Project Certification Committee, an independent public body administratively supported by EPMO.

H. “TARC” means the Technical Architecture Review Committee within DoIT.

1.12.9.8 RESPONSIBILITIES OF THE PCC. The PCC shall have the following responsibilities:

A. Meet at least once every month. Meetings shall comply with the New Mexico Open Meetings Act, NMSA 1978, § 10-15-1 *et seq.*

B. Certify information technology projects that meet one or more of the following criteria:

(1) the project is required to undergo phased certification under the respective appropriation or grant;

- (2) the project is a subsequent or interrelated project to a previously certified project;
- (3) the cost of the project is equal to or exceeding \$100,000; or
- (4) the project impacts customer on-line access.

B. Develop procedural requirements on project certification, including documentation requirements, meeting specifics, timelines, and support services.

C. Review and comment on agency information technology projects' consolidation efforts and opportunities.

1.12.9.9 PCC MEMBERSHIP.

A. The PCC shall consist of members appointed by the DoIT Cabinet Secretary.

C. The DoIT Cabinet Secretary shall serve as the Chair of the PCC. The DoIT Cabinet Secretary may designate a PCC member to serve as Chair in his or her absence.

D. No PCC member who is an employee of an agency seeking project certification, including a Cabinet Secretary, may vote with respect to that agency's project. For example, no PCC member who is a DoIT employee, including the Cabinet Secretary, may vote with respect to any DoIT projects subject to PCC certification.

1.12.9.10 CERTIFICATION PROCESS.

A. Generally. At a minimum, project certification shall be required at a project's initiation, planning, implementation, and closeout phases. The PCC may require additional certification phases, events, or deliverables based on the progress, complexity, risk, or size of the project. Project certification shall be required before funds can be released for any of the above certification phases. All contracts associated with a project subject to PCC certification must undergo DoIT procurement approval by submitting the contract to EP MO for review prior to execution and obtaining DoIT Cabinet Secretary's signature at execution. All required documentation, including forms and templates, will be specified and made available on EP MO's website.

B. Certification Request Categories. Requests for certification fall into one of the following four categories, each of which has specific certification requirements:

(1) Regular Requests. A request for certification and release of funds must be submitted for any of the four established project certification phases – initiation, planning, implementation, and closeout.

(2) Change Requests. A change request must be submitted for previously certified projects wherein a change in scope/budget/schedule is required.

(3) Retroactive Certification. In the rare instance where funding has been expended prior to a project being certified, the agency must seek retroactive certification by submitting a letter of justification in addition to the required request for certification. The letter must explain the circumstances necessitating retroactive certification.

(4) Combined Initiation/Planning Phase Certification. Under certain circumstances, agencies may request to proceed immediately to the Planning Phase as the first certification for a project. Circumstances may include, but are not limited to, no expenditures being required for the Initiation Phase; Initiation Phase requirements having been met during the appropriation or grant process; and/or subsequent related projects having included the Initiation Phase requirements for the current project. Combined certifications will be considered on a case-by-case basis.

(5) Emergency Certification. The PCC will make every effort to review projects in a timely manner. If at any time the PCC cannot convene, and a project faces significant time constraints and delay would pose major risks to the project, an emergency certification review may be requested. Emergency review should be limited to circumstances outside the control of the agency, and every effort should be made to work within the existing process. An agency seeking emergency certification must submit a written request justifying the need, along with a completed certification request, to EP MO electronically with notification of requested response timeline. All PCC members must be provided a reasonable opportunity to comment. No PCC member who is an employee of an agency seeking emergency certification of a project, including a Cabinet Secretary, may act as Chair and decide that agency's emergency certification request.

C. Project Certification Phases and Requirements.

- (1) Initiation Phase:** funding is requested for use in activities such as defining governance, stakeholders, project objectives, high level scope, approach/phases, project charter, conducting research and analysis, procurement planning, developing IV&V plan and contract; developing initial project management plan with rough order magnitude estimates. If technical solution has been selected, project must be presented to TARC prior to proceeding to Planning.
- (2) Planning Phase:** funding is requested for use in activities such as procuring project manager or business analyst services to assist with planning, defining, and baselining, scope, schedule, budget, quality metrics, requirements, business processes, procurement planning, communication plan, change management plan, risk/issue management plan, project management plan, technical planning, system design, security planning, business continuity/disaster recovery planning. IV&V consultant should be engaged early on during the Planning Phase. If TARC was not completed prior to planning because the technical solution was not yet selected, the project must be presented to TARC prior to proceeding to the Implementation Phase.
- (3) Implementation Phase:** funding is requested for use with activities such as project execution, tracking and managing actual work of the project/phase in accordance with plans, procurements (requests for proposals, contracts, etc.), contract and vendor management, build, buy, modify, configure, implement, testing, training, rollouts, and transition to operations. The project should have a qualified project management structure to manage, track, monitor and report on progress. IV&V consultant should be actively engaged in the project.
- (4) Closeout Phase:** requested at the completion of a project. All project work must be complete, project deliverables must be accepted, and all procurements paid.
- (5) Change Request:** requested anytime during the project and includes changes to baselined scope, schedule, budget, or other critical changes in the project, such as additional funds becoming available.
- (6) Monthly Project Status Reports:** Once a project is initiated, the project manager is required to report on the status of the project's key project indicators monthly. The report should include activities of the prior month and be submitted to EP MO on the 10th day of each month until the month after PCC Closeout of the project.
- (7) Updates:** normally requested by the PCC or Chair but may be provided by the agency at any time during the project.

D. Certification Process:

(1) Presentation to PCC. Agencies are required to make a presentation to the PCC not to exceed fifteen (15) minutes, followed by a questions-and-answers session with PCC members. The presentation's format is at the agency's discretion. The presentation should be made by the agency chief information officer with support from information technology staff and the business owner (an executive or program sponsor).

(2) PCC Vote. The PCC will vote on whether to certify the release of funds for the requested phase at the end of the presentation. If the PCC denies the agency's request, the PCC will notify the agency of the reasons for the denial and any recommended actions needed to be taken prior to resubmission of the project for certification.

(3) Approval. If the PCC certifies the release of funds for the requested phase, EPMO or the Chair will notify in writing the Department of Finance and Authority with a carbon copy to the agency.

(4) Contingent Approval. The PCC may grant contingent approval, where funds are not released until the agency demonstrates that it has satisfied all stated contingencies. Contingent approvals must include deadlines for the agency to comply with all contingencies.

(5) Denial and Appeal. If a request for certification for any phase is denied, the agency may appeal the PCC's decision by submitting a written intent to appeal to the Chair within five (5) business days of receipt of the denial. It shall be the responsibility of the agency to comply with the PCC agenda and meeting rules to present its appeal. Alternatively, the agency may resubmit its request for certification as outlined in these Rules after completing any additional steps recommended by the PCC.

1.12.9.11 IV&V

A. All projects subject to PCC certification must engage an independent verification and validation contractor unless that requirement is waived under 1.12.9.13. The IV&V contractor shall perform the following activities:

- (1) Prepare an initial risk assessment report at project inception. This assessment will include recommended mitigation activity to reduce the impact and probability of the identified risk;
- (2) Prepare an initial status report at project inception to disclose the effectiveness of project management and whether the documented project activities are meeting the objectives set forth by the project;
- (3) Prepare interim reports based on the phases as indicated within the project schedule. Included in the report will be an evaluation on whether product development requirements are being met, whether project management is effective, continuing risk analysis, and how the project is implementing previous recommended risk mitigation strategies;
- (4) Prepare a post-implementation assessment at project close to indicate whether project objectives were met based on the project's scope and acceptance criteria; and
- (5) Submit each risk assessment report, status report, interim report, and post-implementation assessment report to the agency CIO, the PM, and EPMO within five (5) business days of each deliverable due date as indicated on the project schedule.

B. An IV&V Template that sets the minimum requirements for the content of an IV&V report will be made available on EPMO's website.

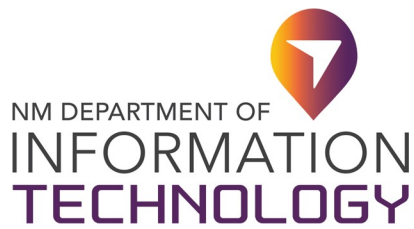
1.12.9.12 TARC. All projects subject to PCC certification must be approved by TARC unless that requirement is waived under 1.12.9.13.

A. Duties. The Technical Architecture Review Committee is a non-voting committee within DoIT. TARC's responsibilities are to ensure that the technical aspects of a project are adequately planned, completed, and documented and to verify that projects comply with DoIT Architectural Configuration Requirements. TARC works with EPMO to develop necessary forms, templates, and other review requirements.

B. Membership. The Deputy State CIO or his or her designee serves as the TARC Chair. The remaining TARC members are DoIT technical subject matter experts appointed by the DoIT Cabinet Secretary.

C. Meetings. TARC shall meet at least once every month. The TARC meeting schedule will be published on EPMO's website.

D. Agency Responsibilities. An agency seeking PCC certification must obtain TARC project approval at the appropriate phase. All documents required to be submitted to TARC will be made available on EPMO's website. The agency shall submit all required documentation to EPMO for initial review and feedback. Once all required documentation is finalized, the agency shall submit it to TARC



Michelle Lujan Grisham
New Mexico Governor
Raja Sambandam
Acting Cabinet Secretary & State CIO

via EPMD at least three business days prior to the next scheduled TARC meeting. TARC may submit written questions to the agency prior to the meeting. At the meeting, the agency must make a presentation to TARC addressing the project's technical aspects and must answer any questions posed prior to or at the meeting. An agency presenting a project to TARC may be represented by the agency chief information officer or information technology lead and other technical experts on the project.

E. Decision. The TARC Chair will make a final decision on whether to approve a project with input from TARC members.

1.12.9.13 WAIVER PROCESS. The PCC may create processes for agencies to request waivers of PCC certification, TARC review, and/or IV&V requirements. The process to be followed and any required documentation will be specified and made available on EPMD's website. No PCC member who is an employee of an agency seeking a waiver, including a Cabinet Secretary, may participate in the decision process with respect to that agency's waiver request.