



## **NMAA OSA Financial Compliance Memo**

October 2024

Acequias have a long history of collecting dues, managing money and maintaining financial records. As political subdivisions the fees we collect are considered public monies and we should meet the requirements of the Audit Act, Sections 12-6-1 through 12-6-14, NMSA 1978, and the Audit Rule, 2.2.2 NMAC. Section 2.2.2.16 of the Audit Rule which addresses small political subdivisions like acequias. The Audit Rule is issued by the OSA and is available at: [www.osa.nm.gov/auditing/financial-audits/audit-rule/](http://www.osa.nm.gov/auditing/financial-audits/audit-rule/). The application of the audit requirements to acequias was emphasized in 2013 by Executive Order 2013-006. The Order required a recipient of state funds to comply with the annual audit requirements.

In order to be eligible for state infrastructure funding such as; State Capital Outlay or the Acequia and Community Ditch Infrastructure Fund (ACDIF) through the Interstate Stream Commission, one of the prerequisites is to be in compliance with the Office of the State Auditor (OSA). As local political subdivisions of the state, this is already a legal requirement. Compliance must take place annually, either in the form of a “tier certification” stating your annual revenue or in an Agreed Upon Procedures (AUP) which can be described as a modified or mini audit. The OSA has a tiered system of compliance (please see their tier determination form for details). Once you have expended 50% or more of Capital Outlay or ACDIF you become tier 3 or above and the Agreed Upon Procedures require a contract with an Independent Public Accountant.

### **Steps to achieve financial compliance with the OSA:**

#### **1) Understand your compliance status:**

The first order of business is to understand your compliance status. Contact the OSA Small Political Bodies Assistance Program Office of the State Auditor by email at as of date of publish: [Manuel.Luna@osa.state.nm.us](mailto:Manuel.Luna@osa.state.nm.us) or reach out to OSA Small Political Bodies Assistance Program [www.osa.nm.gov/slbp/](http://www.osa.nm.gov/slbp/) for updated contact information. Questions to ask:

- a) Does our acequia have an OSA Connect Account?
- b) What is the compliance status of our acequia – what do we need to do to get into compliance?
- c) If you need to establish an OSA Connect account for your acequia you must send the following information:
  - Acequia Name (per the bylaws)

- Contact Name
- Title
- Phone
- Email
- Mailing address
- County
- Name of President / Chairperson
- Attach an electronic copy of your bylaws

## 2) Getting into Compliance:

Once you have an OSA connect account you need to ensure you are in compliance from 2010 through your last fiscal year. You will need to make a list of the annual revenue (including dues and excluding capital outlay funds, federal or private grants) for each year you are not in compliance. If your annual revenue is under \$50,000 a year you can quickly complete a tier 1 or tier 2 form (again see the tier determination form). OSA can advise on the details of how to complete the “tier certification form” online.

- a) If your acequia also spent 50% or more of the remainder / total of a Capital Outlay award any of those years, then you will **need to alert the OSA that you will need a tier 3 Agreed Upon Procedures (AUP - their language for a modified Audit)**.
- b) For acequias completing the tier certification forms, Manuel Luna can provide additional guidance and assistance, and NMAA can offer additional or complementary support).

## 3) Financial Support for AUPs:

If you know your acequia needs an AUP (aka tier 3 or above) your next steps include:

- a) Contact Manuel Luna immediately and advise him of the timeframe for when you will need an AUP and what tier.
  - i) Example - if your acequia receives a payment placing it over \$250,000 in annual revenue in 2024 and your acequia uses the calendar year as a fiscal year then you would let OSA know that you will need a Tier 6 AUP for 2024. OSA will evaluate your situation and determine if you are eligible to have the cost of your audit waived / covered by OSA funding.
    - (1) If so they will procure auditors for all the entities that are eligible and that an Auditor will complete your AUP.
    - (2) It is not guaranteed that the OSA can always cover the partial or full cost of an AUP, it depends on demand, the amount the legislature allocates and other variables.
    - (3) OSA can provide more detailed information on the requirements

for tiers 3-6.

ii) When your acequia receives and fully expends Capital Outlay or another qualifying state award, you will go back to your “usual” tier the following year.

iii) You are still required to stay in financial compliance with the OSA annual.

This should be completed within 5 months after the close of your acequia’s fiscal year.

**4) For additional assistance reachout:**

a) Manuel Luna [Manuel.Luna@osa.state.nm.us](mailto:Manuel.Luna@osa.state.nm.us) or 505-476-3800

[www.osa.nm.gov](http://www.osa.nm.gov)

b) Serafina Lombardi [Serafina@lasacequias.org](mailto:Serafina@lasacequias.org) or 505-995-9644

[www.lasacequias.org](http://www.lasacequias.org)

**OSA Takeaways**

Financial reporting OSA and compliance with the NM Open Meetings Act are important aspects of present day governance for acequias. The OMA and OSA bring a foundation of accountability and transparency into the work we do as caretakers of our acequias. It is our obligation to also care for the acequia funds by spending them wisely and to provide the most accurate information possible to parciantes. Additionally, staying in good standing with the OSA is a requirement for distribution of state funds like the ACDIF and Capital Outlay.