Hewitt ennisknupp

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New Mexico Legislative Council Service

Independent Governance Review

of the New Mexico Finance Authority

November 2012

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Table of Contents

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Introduction

In July 2012 the general public became aware that the New Mexico Finance Authority (NMFA) had issued a "fake audit" for its 2010-2011 fiscal year.[1] The NMFA, Office of State Auditor (OSA), New Mexico Regulation and Licensing Department's Securities Division (SD) and Governor's office all took action as a result of the discovery. The legislative NMFA Oversight Committee (NMFAOC), with the approval of the New Mexico Legislative Council and through the Legislative Council Service (LCS), also took action, and contracted with Hewitt EnnisKnupp (HEK) to (A) review the scope of a "special audit" that PricewaterhouseCoopers (PwC) was to conduct for the OSA, and (B) evaluate the NMFA's governance and related internal policies and procedures and compare them to similar institutions (peers) or best practices. The report on the scope of the PwC contract is provided in a separate document.

HEK is a consulting firm headquartered in Lincolnshire, Illinois, with a wide array of clients including governmental bodies, non-profits, state and federal oversight entities, public retirement systems, state investment boards, corporate pension funds, endowments, and foundations. HEK is the largest firm of its type in the United States with clients having combined assets of nearly $2 trillion. We have 17 offices across the United States and over 250 consulting professionals. The Fiduciary Services practice within the firm, which was primarily responsible for this assignment, provides independent assessments, fiduciary and operational reviews and governance advice to its clients.

This report represents the work of HEK from August 2012 to November 2012 and includes its independent findings, analyses, conclusions and recommendations from a governance perspective. The review focused on the subjects in the preceding table of contents. It was not an all-encompassing examination or investigation of the NMFA, and should not be construed as an absolute guarantee that all of the NMFA's practices fully meet applicable standards.

This report provides reasonable assurance that the practices set forth in the findings are accurate. They are based upon information provided by third parties, including, but not limited to, the NMFA Board members and staff, outside consultants, former NMFA staff and others. Due to the scope and timeframe of this review, HEK did not independently verify all facts; however, we did request that key sources review the facts we relied upon for our analysis.

The opinions and recommendations expressed in this report reflect the independent professional judgment of HEK. No one associated with the LCS or NMFA attempted to

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[1] The NMFA's fiscal year runs from July 1 through June 30.

unduly influence the scope, findings, analyses, conclusions, or recommendations expressed in this report.

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Executive Summary

Hewitt EnnisKnupp was hired by the Legislative Council Service, on behalf of the NMFA Oversight Committee, to perform an independent governance review of the NMFA. Our assignment was to compare the governance practices and polices of the NMFA to those of peer organizations in other states and to best practices. We used information from the NMFA and other New Mexico agencies as well as independent research in our analysis. The NMFA gave us their full cooperation which we greatly appreciated.

Based on our analysis and best professional judgment, we have 25 recommendations which are more fully explained in the Report. We acknowledge that all of these recommendations cannot be addressed immediately. Some are easier to handle than others. Some are more impactful than others. To assist the NMFA in its review of the recommendations, we indicate with an asterisk (*) those that we believe deserve the Board's attention first.

	Recommendations	**Responsibility or Actions**	**Priority**
1	Cross-train staff in critical functions so that backups are available and staff rotations can take place.	Management	
2	Divide duties related to the preparation of the financial statements, audits and other high risk areas so that sound internal controls are maintained.	Management	
3	Promptly fill vacant executive positions with qualified individuals.	Management	
4	Increase management participation in the audit process.	Management with Board verification	
5	Perform a thorough assessment of the talent, staff levels and outside resources needed to handle each key function, particularly the accounting function.	Management	
6	Reassess the span of control for each of the executive functions.	Board and Management	
7	Evaluate and acquire new software applications that will provide sufficient functionality for the loan program and enhance the preparation of financial statements.	Management	

	Recommendations	Responsibility or Actions	Priority
8	Create a position description for the internal auditor that incorporates the requirements specified by the Institute of Internal Auditors.	Management to create and Board or Audit Committee to approve	*
9	Maintain reporting lines from the internal auditor to the Audit Committee or the Board.	Board	
10	Ensure the internal auditor attends all Audit Committee meetings, and meets regularly with the Board itself, in both open session and periodically in executive session.	Board	
11	Adopt a comprehensive Audit Committee charter.	Board and Audit Committee	*
12	Require the Audit Committee to have at least one member who is a financial expert.	Board policy or statute change	
13	Record official minutes of the Audit Committee meetings.	Staff on behalf of the Audit Committee	*
14	Have the Audit Committee approve the annual internal audit plan.	Audit Committee	
15	Establish specialized training sessions for Audit Committee members.	Internal and External Auditors at the direction of the Audit Committee	*
16	Develop a compliance mechanism for the existing audit policies.	Management	
17	Hold in-person entrance conferences, mid-audit conferences and exit conferences with the outside auditor during each audit cycle.	Audit Committee	
18	Discuss the feasibility and benefits of having independence and financial expertise requirements in statute for some or all of the Board members.	Board	
19	Consider expanding the authority for appointing Board members beyond the Governor’s office.	Board	
20	Enhance the orientations and continuing education sessions for the Board members.	Management	
21	Encourage the ex-officio members to improve the consistency of their attendance or their designees’ attendance at Board meetings.	Board	
22	Reassess the activities of the Board, the types of decisions it makes, its authority to delegate duties, and the information it receives for meetings.	Board , Legal Counsel, and Management	

	Recommendations	Responsibility or Actions	Priority
23	Consider adopting a more comprehensive set of governance documents.	Board and Management	
24	Engage in long range strategic planning for the organization.	Board and Management	
25	Establish annual work plans for the Board.	Board and Management	*

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Background of the NMFA

Programs

The New Mexico Finance Authority (NMFA) was created by the New Mexico Legislature in 1992 through the enactment of the "New Mexico Finance Authority Act" (Act). The Act states that the NMFA's purpose is to "coordinate the planning and financing of state and local public projects, to provide for long-term planning and assessment of state and local capital needs and to improve cooperation among the executive and legislative branches of state government and local governments in financing public projects." At the time of its creation it was to focus on providing low-cost financing for borrowers who could not cost-effectively access the tax-exempt bond market. The Act established the Public Project Revolving Fund (PPRF) as the main program through which the NMFA could provide that financing. The NMFA's function has expanded as a result of the addition of a significant number of new programs.

NMFA was set up as a public/private partnership. Officially it is a "public body politic and corporate, separate and apart from the state, constituting a governmental instrumentality." It is governed by an eleven member board, nine of whom are appointed by the Governor. No other board or agency of the State has control over the NMFA, although the NMFA does report to the NMFAOC and must comply with the Audit Act.

The NMFA's status as a governmental instrumentality allows it to operate outside the typical state processes – for example, it is not required to deposit its monies in the state treasury, and does not need to obtain permission from the Department of Finance and Administration in order to disburse construction loans and loan proceeds. Because it is not subject to the state's procurement or personnel laws, the NMFA also has the flexibility to obtain the necessary equipment, technology and staff to perform its function at the rate necessary to participate in the securities business.

Currently, the NMFA has at least some responsibility for twenty different types of programs, described below.

Public Project Revolving Fund (PPRF). Fiscal year created in law (Created): 1992; Fiscal year first project funded (Funded): 1995. The PPRF was created to provide financing to public entities for projects such as public buildings, infrastructure improvements, and police and firefighter equipment. The Government Gross Receipts Tax (GGRT) provides most of the financing to the PPRF. The PPRF makes loans to qualified governmental borrowers and replenishes the fund by issuing bonds that are secured by the loans.

Drinking Water Revolving Loan Fund (DWRLF). Created: 1997; Funded: 2000. The DWRLF was created to provide low-cost financial assistance to local New

Mexico authorities for the construction and rehabilitation of drinking water facilities in order to comply with the federal Safe Drinking Water Act requirements and improve and protect drinking water quality. The NMFA partners with the New Mexico Environment Department for the administration and oversight of the DWRLF. Federal grants provide most of the DWRLF funding.

In fiscal year 2009-2010, the NMFA received a special DWRLF capitalization grant through the American Recovery and Reinvestment Act of 2009 (ARRA) that has significantly different federally-imposed administrative requirements. As a result, the NMFA accounts for the AARA-funded DWRLF separately from the original program.

Local Government Planning Fund (LGPF). Created: 2002; Funded: 2003. The LGPF was created as a follow-on program to the WWPGF. The LGPF's initial purpose was similar to the WWPGF: to fund the proper planning of water and wastewater projects. The scope has been increased to allow the funding of water conservation plans, economic development plans, infrastructure plans and energy efficiency audits.

Water Project Fund/Water Trust Board (WPF/WTB). Created: 2001; Funded: 2003. The Water Project Finance Act created the Water Project Fund and the Fund's oversight entity, the Water Trust Board. The Act also gave the administrative responsibilities for the WPF/WTB to the NMFA. The WPF provides grants and loans to projects recommended by the WTB and authorized by the Legislature.

Acequia Project Fund. Created 2004; Funded: n/a. This fund allows the NMFA to provide grant funds for the planning and construction of irrigation projects.

Child Care Revolving Loan Fund. Created: 2003; Funded: 2009. The Child Care Revolving Loan Fund allows the NMFA to work with the Children Youth and Families Department to provide low-cost financing to licensed child care providers to fund improvements to their facilities.

Energy Efficiency and Renewable Energy Bonding Act. Created: 2005; Funded: 2009. The Act authorizes the NMFA to issue bonds backed by the State's Gross Receipts Tax to make loans to state agencies, universities and public schools to fund energy efficiency and renewable energy renovations at existing facilities.

New Markets Tax Credit. Created: 2006; Funded: 2009. The NMFA formed a qualified Community Development Entity called Finance New Mexico, LLC for the purpose of participating in the federal New Markets Tax Credit program. The program is intended to stimulate economic development throughout the State.

Water and Wastewater Project Grant Fund. Created: 1999; Funded: 2001. This was a limited program created for the purpose of providing grant funding to public water and wastewater projects. Without further appropriated funds there will be no more projects under the WWPGF.

Colonias Infrastructure Project Fund (CIPF). Created: 2010; Funded: 2012. The CIPF provides infrastructure and planning funding for New Mexico Colonias.

Local Transportation Infrastructure Fund (LTIF). Created: 2005; Funded: 2008. The LTIF was created to provide grants for transportation projects that are ineligible for federal funding and cannot get adequate funding from the Local Government Road Fund.

Local Government Transportation Fund (LGTF). Created: 2007; Funded: 2008. The LGTF is a limited program created to provide funding for specific local government transportation projects. All certified projects are projected to be completed in fiscal year 2012-2013.

Primary Care Capital Fund (PCCF). Created: 1994; Funded: 1998. The PCCF provides loans to small non-profit primary care clinics to allow them to expand their medical facilities.

Behavioral Health Capital Fund. Created: 2004; Funded: 2009. This fund provides low-cost capital to section 501(c)(3) non-profit behavioral health care providers in rural and underserved areas of the state.

Smart Money Loan Participation. Created: 2003; Funded: 2007. The “Smart Money” program allows the NMFA to purchase up to 49% of a bank’s loan to a business or non-profit corporation for economic development purposes.

Collateral Support Participation Program. Created: 2011; Funded: 2012. This program is similar to the Smart Money Loan Participation, but focuses on buying shorter term, smaller loan participations of up to 40% that may be subordinate to the bank financing.

Conduit Economic Development Bonds. Created: 2003; Funded: n/a. This program allows the NMFA to help for-profit and non-profit businesses access the national bond market.

Governor Richardson’s Investment Partnership (GRIP). Created: 2003; Funded 2004. The NMFA was named the agent for the New Mexico Department of Transportation in its issuance of over $1.5 billion in transportation bonds.

“Stand Alone” Bonds. These are bonds issued early in the NMFA’s history that were not issued through the PPRF but remain outstanding.

Recent Circumstances

In July 2012, the NMFA issued a press release stating that it had been misled into issuing a “fake audit” for its 2010-2011 fiscal year. Local and national news organizations reported on the fake audit and questioned whether money might be missing. When the fake audit came to light, several immediate steps were taken to investigate, evaluate and rectify the situation and to restore public confidence. Quick action was also necessary to preserve the NMFA’s favorable bond rating from Moody’s and its recently-upgraded rating from Standard and Poors,[2] the two leading rating agencies that are involved with municipal finance and public works projects. Without a valid audit, the NMFA could not issue PPRF bonds. Further, because the NMFA’s line of credit with Wells Fargo was suspended as a result of the fraudulent audit, the NMFA’s ability to make PPRF loans was restricted to making loans from the PPRF’s Contingent Liquidity Account.

Prior to announcing the fraudulent audit to the public, the NMFA staff contacted a specialist in crisis communications.[3] That firm made three recommendations to the NMFA: 1) immediately hire a law firm to conduct an independent investigation into what happened, and how to prevent it in the future; 2) retain a forensic investigation firm to determine if any money was missing; and, 3) develop a plan to quickly advise the public and the financial community regarding the facts surrounding the fraudulent audit.

Staff began discussions with an attorney[4] from a well-known national law firm[5] to have him conduct the independent investigation. NMFA management briefed the Interim Board Chair[6] on the fake audit and the proposed plan of action, and an Executive Committee meeting was called for July 12, 2012 to discuss the situation. The Executive Committee agreed that the plan to hire the law firm was appropriate, but did not take an official vote regarding the plan. Using the NMFA CEO’s emergency procurement authority,[7] the CEO entered into a contract with the law firm for that investigation. The attorney informed the NMFA that it would subcontract with a national accounting firm[8] for the forensic investigation into any missing funds.

Staff also worked with the crisis communications specialist on a press release to announce the discovery of the fraudulent audit and to advise the public of the steps that NMFA was taking to address the issue. That press release was issued on July 12.

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[2] The rating upgrade was granted for a GRIP bond issuance.
[3] Sard Verbinnen & Co., based in New York.
[4] Evan Barr, former federal prosecutor.
[5] Steptoe & Johnson.
[6] William Fulginiti was serving as the Interim Board Chair at the time.
[7] The NMFA Bylaws grant the CEO the authority to execute contracts, and the NMFA’s procurement policies provide specific authority for the CEO to enter into contracts in the event of an emergency that threatens the NMFA or one of the NMFA’s programs.
[8] KPMG.

Once NMFA announced the fraudulent audit to the public, several governmental entities took steps to address the problem, each in a different way and each within their realm of authority. The interim chair of the NMFA Board of Directors (Board) called an emergency meeting for July 16, 2012, to review the action plans developed by the NMFA staff. At that meeting the Board expressed unease at the NMFA being in charge of an investigation into its fraudulent audit and whether any monies were missing. The Board members were concerned that any entity hired by the NMFA to perform the investigation may not be viewed as independent, and the Board wanted to avoid the appearance of any conflict of interest.

The Board's next scheduled meeting was a special meeting called for July 18, 2012. Just prior to that meeting, the Governor appointed a new member to be the NMFA Board Chair.[9] At the meeting, the Board decided to terminate the contract with the national law firm and instead rely on the OSA's "special audit" for an investigation into the fraudulent audit and whether any monies were missing. The NMFA provided a suggested scope of work to the OSA. The OSA hired PricewaterhouseCoopers (PwC), a nationally known, well-respected public accounting firm, to assist in the OSA's completion of the special audit of the NMFA. PwC was to report its findings to the OSA, and the OSA would use that information in drafting the special audit.

One of the new Board Chair's other important actions was to replace the head of the NMFA Audit Committee, which occurred at the Board's special meeting on August 8, 2012.

The New Mexico Regulation and Licensing Department's Securities Division (SD) launched an investigation into the NMFA's activities. Their focus was on the fraudulent audit and the propriety of the NMFA's accounting for an approximately $43 million transfer from the NMFA to the State of New Mexico's General Fund over the course of three years. The SD executed a search warrant at the NMFA offices and seized thousands of pages of documents and emails in its investigation. The SD also conducted numerous interviews with NMFA staff, including with the NMFA's then-current Chief Operating Officer (COO) and the NMFA's former Controller.

The SD brought formal criminal charges against both the COO and the former Controller. The COO was charged as an accessory on eight counts of securities fraud and racketeering and on one count of conspiracy to commit racketeering. The Controller was charged with eight counts of securities fraud, four counts of forgery, and one count each of racketeering and conspiracy to commit racketeering. The Grand Jury ultimately declined to indict the COO, but did indict the Controller on the securities fraud and forgery charges.

[9] Nann Winter.

Finally, the NMFAOC, through the LCS, retained HEK to evaluate the scope of the OSA's special audit and review the governance and organizational structure of the NMFA, paying special attention to the external audit process. The LCS was very familiar with HEK's expertise and quality of work from previous engagements where HEK performed fiduciary audits of New Mexico's State Investment Council, Public Employees Retirement Association, and Educational Retirement Board on behalf of the LCS.

The ratings agencies of Moody's and Standard & Poor's both issued statements that they were reviewing the ratings they had previously given certain NMFA bonds, with the possibility of downgrading those ratings. Both placed the NMFA on "watch." Standard & Poor's later terminated its review without downgrading its rating. Moody's has extended its review, and has not made a decision as of the date of this report.

NMFA Response to Recent Circumstances

The crisis created as a result of the fake audit's discovery required a swift, accurate, and thorough response. Experts have opined that the three most important actions in response to a crisis are to: (1) provide a statement regarding the situation as quickly as possible after the public becomes aware of the crisis; (2) ensure that the statement is accurate; and (3) be consistent with all statements to the public.[10] Once the initial crisis statement has been issued, reputation protection and repair becomes important. The strategy to repair an entity's reputation should match the threat to the entity that might result from the crisis situation.[11]

The initial retention of a crisis management expert was a significant step toward mitigating the anticipated damage created by the fake audit. The three-pronged approach developed with the expert was consistent with best practices. The NMFA's press release advised the public of the situation and provided accurate information on what the NMFA intended to do at that time. Immediate discussions with the appropriate ratings agencies most likely helped mitigate damage resulting from the fake audit.

At the time the fake audit was discovered, no one knew if any funds were stolen or what effect the fake audit may have on the NMFA's finances or those of the State of New Mexico. The staff believed that hiring a national law firm that would subcontract with a national accounting firm to conduct investigations into the circumstances of the fake audit was consistent with those financial threats to the NMFA and the State.

The response however did not fully address the possibility of conflicts of interest. While the law firm's investigation was intended to be completely independent and

[10] "Crisis Management and Communications", W. Timothy Coombs, Ph.D (Oct. 30, 2007).
[11] *Id*.

free from any influence from the NMFA, the fact that the NMFA retained the law firm to conduct the investigation into the NMFA's actions poses a difficult conflict of interest issue. One possible option would have been to contact the New Mexico Attorney General's Office to either conduct the investigation or to retain an outside law firm to do so. That may have alleviated any apparent conflict issues.

There was also a conflict issue with the accounting firm that Steptoe proposed to use to conduct the forensic investigation because that firm also provided outsourced internal audit functions to the NMFA. Since the internal audit function typically has some responsibilities related to the external audit, the possibility existed that the firm's conduct regarding the internal audit services could have fallen short of professional expectations. Retaining the same firm to evaluate the internal audit function therefore presented a conflict of interest. The firm recognized the possible conflict and stated that it would internally separate the two functions, but the appearance of a conflict of interest still remained. A different accounting firm without an apparent conflict of interest would have been preferable.

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Approach to the Review of Governance and Organizational Structure

Our approach to this Review is from the bottom up in the New Mexico Finance Authority (NMFA) and reaches to outside entities with whom NMFA interacts with regard to its financial statements and audits. The Review starts with the NMFA management and the staffing, resources and activities they had responsibility for, including the internal audit function. The Review also extends to the policies and practices of the Board and its Audit Committee. Following that, the Review covers certain activities of the outside independent auditors and the Office of the State Auditor for the sole purpose of determining what NMFA policies and practices in relation to these two could be improved going forward.

For each of these individuals and entities we set forth the following.

- <u>Findings</u> that recite the pertinent facts as we understand them

- <u>Analysis</u> of roles, policies, procedures and practices compared to peer organizations and our knowledge of both common and best practices

- <u>Conclusions</u> based upon our professional and independent judgment

- <u>Recommendations</u> intended to strengthen the NMFA's governance

The peer organizations we use for comparison purposes are the following.

1. California Infrastructure and Economic Development Bank
2. Maine Municipal Bond Bank
3. Pennsylvania Infrastructure Investment Authority
4. Oregon Infrastructure Finance Authority
5. Indiana Bond Bank
6. Colorado Housing and Finance Authority

We selected these peers based upon our best professional judgment. We acknowledge that none of the peers is exactly like the NMFA. Some only have bonding responsibilities and in that way are similar to the Public Project Revolving Fund. Others have only direct loan responsibilities and are somewhat similar to several NMFA programs. While the peers do not have the same range of responsibilities as the NMFA, we believe that their operations are nonetheless useful for this review.

Information from the NMFA staff and their external financial advisor[12] about organizations in other states that they considered to be peers and advice from the Council of Development Finance Agencies (CDFA) were useful as we determined which entities to use for comparisons. The CDFA is the primary

[12] Chip Pierce.

industry organization for finance agencies that have missions similar to that of the NMFA.[13]

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[13] "State Finance Agency White Paper", Jason Rittenberg (Council of Development Finance Agencies, December 2011).

NMFA Management

Findings

The overall management responsibilities for the NMFA rest with the Chief Executive Officer (CEO) who is selected by and reports to the Board of Directors. The CEO has the statutory authority to "direct the affairs and business of the authority, subject to the policies, control and direction of the authority."[14] As a result, the CEO is responsible for all of the day-to-day activities of the NMFA, including the organizational structure and reporting lines of the staff. The CEO also determines the staff number and compensation, but must obtain Board approval for both through the budget approval process. The Board has not denied a staffing level or compensation increase in the past three years.

Under the organizational structure in place at the time of the fake audit, which is shown Chart A, the Chief Operating Officer (COO) and General Counsel were the only two officers who reported directly to the CEO. The COO, in turn, was responsible for the supervision of five key executives: the Chief Financial Officer (CFO), Chief Administrative Officer (CAO), Chief of Programs, Chief of Water Resources, and the Chief Investment Strategist (CIS). Under the CFO was the Controller.

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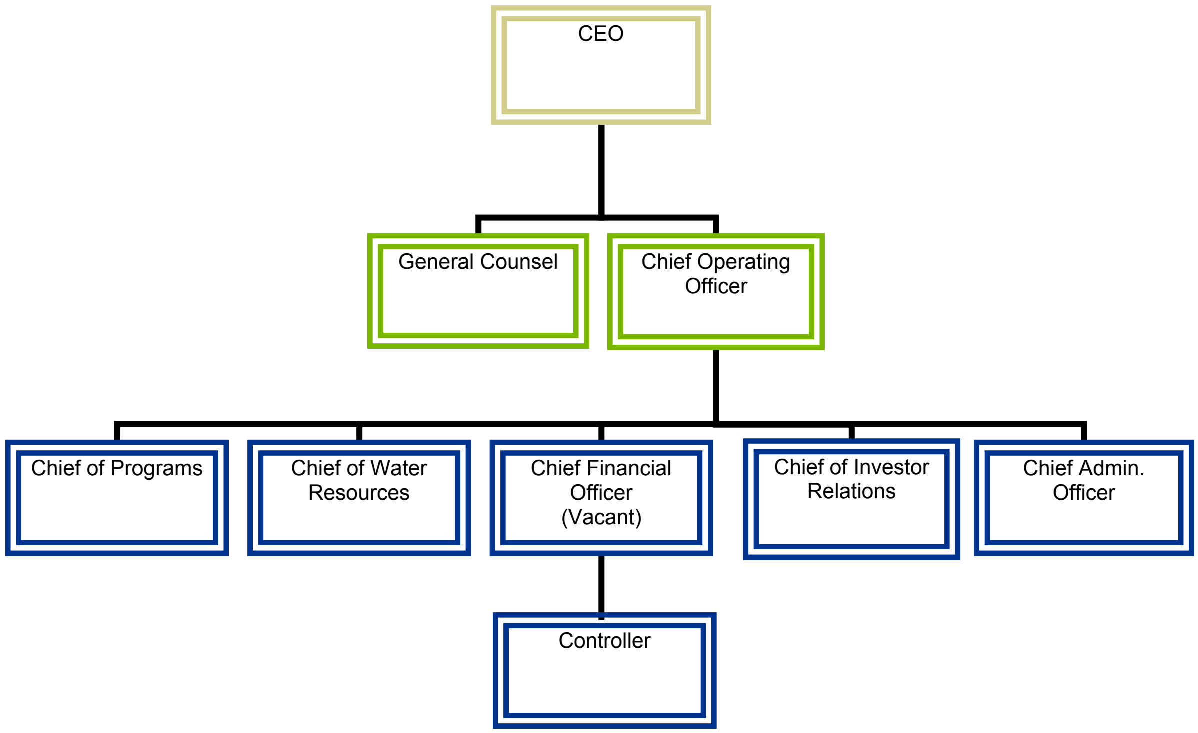
[14] NMSA § 6-21-4(F).

Chart A – Previous Organizational Structure

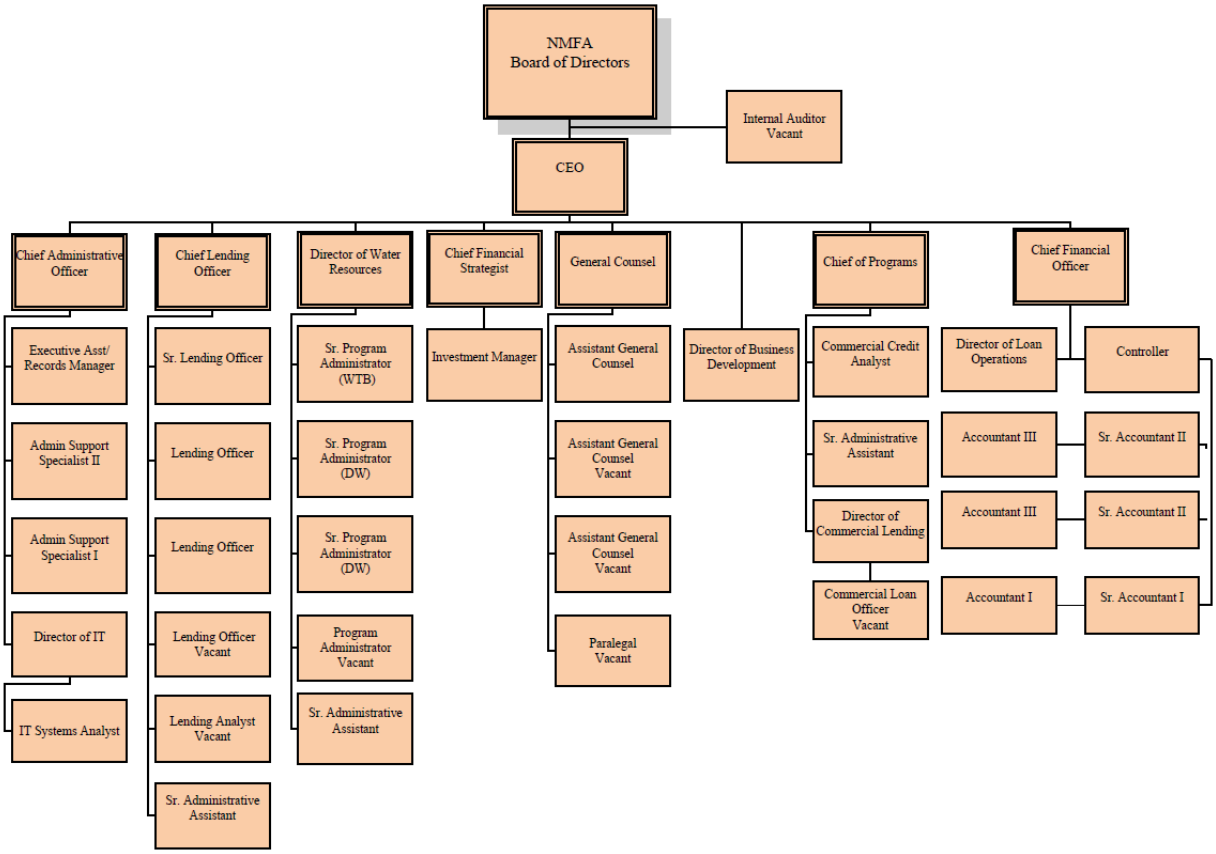


The CFO is responsible for coordinating and assuring the completion of the NMFA's annual audit and overseeing "all aspects of NMFA financial reporting including preparation of the annual and monthly financial statements."[15] The CFO also provides direct supervision to the Controller. The CFO position became vacant in January 2011 due to the promotion of the CFO to COO. The CFO position was intentionally left vacant until October 2012. With this change, the COO was expected to fulfill both the broader, agency-wide COO responsibilities as well as continue to provide supervision to the Controller in the absence of a CFO. Without a separate person acting as CFO during the entire time frame that the fiscal year 2010-2011 audit was to have been completed, the preparation for the audit was functionally assumed by the Controller.[16]

The interim CEO eliminated the COO position in October 2012. As a result, all NMFA officers, along with a new Chief Lending Officer position and the Director of Business Development, now report to the CEO as shown in the current organizational structure, Chart B, on the next page. The CEO went from having two direct reports to having eight, and essentially took on the direct reports the COO previously had.

[15] CFO position description in place at the time.
[16] Six accountants report to the controller.

Chart B – Current Organizational Structure



Some management practices, such as weekly management team meetings, occurred under both previous CEOs. However, some practices were different. The CEO who retired in July 2011[17] required management team members to submit written reports on the activities within their divisions, and had the management team regularly review tax and revenue reports and trends from the interim financial statements. The written reporting requirement was discontinued under the CEO who served from September 2011 through August 2012,[18] during which time the management team also stopped reviewing the tax and revenue reports.

Personnel policies, adopted in 2005, were essentially the same under both CEOs.[19] Those policies have not been updated since their adoption, although staff indicates they are currently updating them and adding several new policies.

The personnel policies require that all employees of NMFA are to be given performance evaluations annually on their anniversary date, and we understand that the policies are generally complied with in a timely manner. Both the manager and the employee complete evaluations of the employee's

[17] William Sisneros.
[18] Richard May.
[19] For example, policies related to work hours, whistleblower expectations and protections, overtime, compensation, benefits, and workplace conduct.

performance. The CAO is responsible for monitoring the managers' evaluations of their staffs and for reviewing any issues raised during the evaluation process.

The NMFA offers to pay for both necessary training, such as continuing legal education for its attorneys, and optional training for overall skill improvement. Managers throughout the organization receive training on how to manage and motivate their employees. Both in-person classes and webinars are available two or three times a year to educate managers on becoming more effective supervisors. We understand that staff also regularly takes advantage of training opportunities. By contrast, cross-training between positions has not been a priority at NMFA since September 2011, but was important under the prior CEO.

Full staff meetings are held infrequently. Typically they occur quarterly or, if necessary, as a result of some organizational change. Managers are expected to bring information back from management team meetings and disseminate it to their respective staff members.

Analysis

The governance practice of having a CEO selected by the governing board is a fairly common and best practice. Since the NMFA Board is responsible for how the organization performs, having the ability to hire and, if necessary, terminate the CEO is important. It is interesting to note that three of the peer entities operate this way and three have executive directors that are appointed by the Governor.

The effectiveness of any organizational structure depends not only on the background and expertise of each of the executive staff, but also on whether essential functions are actually performed. While the COO was to absorb the CFO's functions during the period the position was vacant, it does not appear that all functions were actually performed. Without an acting CFO, the Controller was left without a direct supervisor as he worked on the fiscal year 2010-2011 audit.

An annual performance evaluation for all employees is not only a common practice in State government but also a regular practice among highly performing organizations.[20] It appears NMFA conducted annual evaluations but what is not clear is whether discussions during the evaluation process were meaningful to address employees' concerns about their workload and resources they needed to accomplish their assigned work. The best evaluation processes consider information not only from the manager but also from the employee. Allowing the

[20] "Performance Management Goes Beyond the Annual Form", by Rebecca R. Hastings (Society for Human Resource Management, undated).

employee to provide input on their accomplishments increases employee acceptance and ownership of the process, and also enhances communication.[21]

Some training of staff that took place at NMFA was undoubtedly beneficial, however, cross-training, especially in the critical areas of accounting, preparation of financial statements and interaction with the auditors seems to have been lacking.

Management involvement in annual financial audits is a basic required business practice. It is an organization's management that is responsible for producing the financial statements, not the auditors. The auditors only attest that the financial statements "present fairly, in all material respects, the financial position" of the audited entity.

The NMFA's personnel policies, though dated, are thorough. The only notable missing policy is a confidentiality policy, which staff has told us is being added to the personnel manual.

Conclusions

The NMFA Board's authority to hire and terminate the CEO is a sound governance practice that does not need to change. Having the CEO be responsible for the remainder of the staff is also in line with both common and best practices.

Cross-training of staff, particularly in critical areas such as accounting, deserves more attention. With high staff turnover and changes to the NMFA's responsibilities, this type of training is essential for efficiency and sound internal controls. Having only one employee, the Controller, solely responsible for the financial statements and audits is a poor management practice that creates unnecessary risk for the organization. Cross training, a more appropriate division of duties with internal controls in mind, and more management attention to the audit process would have decreased the risk of a fake audit being issued.

Allowing the CFO position to remain open for almost two years meant that the Controller was not closely supervised, which created an environment in which a fake audit could be produced.

[21] "Performance Management", by Elaine Pulakos (Society for Human Resource Management, 2004).

Recommendations

1. Cross-train staff in critical functions so that backups are available and staff rotations can take place
2. Divide duties related to the preparation of the financial statements and other high risk areas so that sound internal controls are maintained
3. Promptly fill vacant executive positions with qualified individuals
4. Increase management participation in the audit process

Staffing and Resources

Findings

Staffing numbers for the NMFA have not changed appreciably in the past five years; however, the NMFA's projects and activities have increased significantly.

Fiscal Year Ending	Assets	New Projects Financed	Projects Overseen[22]	Full-time Equivalent Employees	Projects Per Employee
2008	$2,359,348,746	210	695	36	19.31
2009	2,165,062,885	170	762	39	19.54
2010	2,048,010,433	167	850	39	21.79
2011	2,519,990,480	130	884	41	21.56
2012	2,593,343,003	144	998	37	26.97

For the past five years the NMFA staff turnover rate has averaged just over 23%. Staff turnover for fiscal year 2011-2012 was slightly over 35%. Almost half of the turnover in fiscal year 2011-2012 occurred during the time frame in which the external audit was to have been completed. A portion of that turnover was the result of the elimination of five positions at the direction of the CEO. Three of the affected employees were terminated, one employee voluntarily left for another position, and another employee was reassigned from the accounting department to the Colonias program. The CEO notified the Board of the reduction in staff at the October 2011 meeting, and stated it was a budgetary decision to remedy a projected deficit.

The NMFA personnel policies include provisions on the recruitment and selection process. The policies reserve the right to require skills testing, reference checks and a background check, but do not require them.

In addition to the two attorneys on staff, the NMFA also uses several outside law firms,[23] a financial advisor, and an out-sourced internal auditor which is covered in the next section of the report. The NMFA has considered adding one additional in-house counsel to provide support to the Water Trust Board efforts.

[22] Includes new loan and grant projects that fiscal year, as well as loans with outstanding principal, and loans and grants that have closed but are still in the disbursal stage.
[23] Virtue Najjar & Brown, PC, which functions as issuer's counsel for bond offerings, loan counsel for WTB and DWRLF and special counsel for NMTCs; Brownstein Hyatt Farber Schreck, LLP, which acts as the PPRF bond counsel, private loan counsel and state counsel for NMTCs; Sutin Thayer & Brown, PC, which acts as PPRF loan counsel and GRIP bond counsel;; Ballard Spahr, LLP, which acts as disclosure counsel and tax counsel; and Miller Stratvert, which provides employment law services.

The resources available to the staff include financial software applications for the general ledger system, a loan servicing system, and common spreadsheet programs. We understand that the loan servicing system is more of a database, and is not useful for the production of reports or calculations. The NMFA is in the process of upgrading the loan servicing system.

Analysis

The NMFA budget and staff levels are not subject to the State's budgetary and personnel requirements. It appears that the NMFA Board rarely denied a budget, compensation or staffing request made by the CEO. As a result, any limitations on staffing and resources would have been the decision of the CEO, within budgetary contraints.

Staff size from 2008 to 2012 did not keep pace with the growing assets and work load of the NMFA. In 2008, the NMFA had 36 employees and oversight responsibilities for 695 projects. In 2012, the NMFA had 37 employees and 998 projects. The total number of projects grew by 44%, but the staff only grew by 3%. The number of projects per employee grew by 40%.

Staffing levels are only part of the picture. Staff turnover is a factor as well in assessing the adequacy of qualified staff. The average turnover rate of NMFA is 23%, which is lower than the average private sector financial services industry turnover rate of 30%, but higher than the 16% average for state and local workers.[24] The turnover rate is also significantly higher than at the peer entities. Over the past three years the peers have averaged a staff turnover rate of less than 4%.[25]

Turnover can affect an organization in many ways. Increased costs for recruiting and training new employees are the most obvious results from turnover. However, turnover can also affect an organization in other ways that are more difficult to measure, including declines in productivity and employee morale.[26] When combined with a relatively level number of staff and an increasing workload, this amount of turnover was likely to have been detrimental to the organization.

The exact circumstances that allowed the Controller the opportunity to create the fake audit are unclear. The CFO vacancy likely had an impact, since the CFO has the overall responsibility to ensure that the audit is completed. The elimination of one accounting department position while the audit was being completed could have resulted in too few accountants to adequately perform the audit-related tasks. It is also possible that the Controller simply decided he would

[24] Federal Bureau of Labor Statistics.
[25] This is an average of five of the peers; one peer could not report specific turnover numbers.
[26] "5 Ways to Manage High Turnover", Eric Krell (Society for Human Resource Management, April 1, 2012).

not involve anyone else in the completion of the audit. In any event, leaving the entire audit project in the Controller's hands was not consistent with good management practices.

The outside law firms fill the typical roles of bond counsel, issuer's counsel, loan counsel, and disclosure counsel that NMFA and the peer organizations usually require. None of the outside law firms had a contractual duty to be involved with the audit.

Conclusions

The deployment of staff and outside resources was made by the CEO without limitations in statute or interference by the Board, although a projected budgetary deficit appears to have been the reason for the elimination of five positions during the time that the fiscal year 2010-2011 audit was being done.

The increased workload for staff, significant employee turnover, including a position within the accounting department, and vacant CFO position all could have contributed to the delegation of the audit completion to the Controller. Regardless of the reason, entrusting the completion of the audit to one staff person significantly contributed to the creation of the fake audit.

The current loan servicing software application is insufficient for the pace of report production and calculations necessary for the NMFA, although the NMFA is in the process of obtaining additional software to correct that deficiency.

Recommendations

5. Perform a thorough assessment of the talent, staff levels and outside resources needed to handle each key function, particularly the accounting function
6. Reassess the span of control for each of the executive functions
7. Evaluate and acquire new software applications that will provide sufficient functionality for the loan program and enhance the preparation of financial statements

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Internal Audit Function

Findings

The NMFA does not have a person on staffs who serves as the internal auditor. The NMFA elected to use an accountant from KPMG to perform the functions of the internal auditor position since October 2010, rather than adding an internal auditor to its staff. The contract states that KPMG will provide "internal audit professional services including but not limited to the following:

- Risk assessment and internal auditing procedures
- Compliance auditing
- Information technology auditing
- Investigative (forensic) auditing as and when required, and
- Ad hoc projects"

The contract states "it is expected that Contractor will execute the agreed-upon plan activities and report to the Audit Committee on a quarterly basis," but that the Audit Committee will determine the actual meeting frequency. KPMG met with the Audit Committee two times from October 2010 through October 2012, and with the Board one time.

During the course of its work, KPMG issued reports on its review of the NMFA's ethics and compliance policies and procedures and also on the NMFA's information technology disaster recovery plan. KPMG worked on a treasury and accounts payable project, but that project was not completed. KPMG also provided the NMFA Audit Committee with a 2012 internal audit plan. Neither the minutes nor the interview process provided any information on whether that plan was ever approved by the Audit Committee or Board.

The NMFA is currently in the process of terminating the contract with KPMG and hiring an in-house internal auditor.

Analysis

The contract between the NMFA and KPMG requires KPMG to perform its services "in conformity with the American Institute of Certified Public Accountants ("AICPA") Statement on Standards for Consulting Services." That standard requires consulting CPAs to establish a clear understanding about the responsibilities of the parties and the scope of services to be performed.

The Institute of Internal Auditors (IIA) also has requirements that cover internal audit services. The IIA imposes a number of duties on internal auditors, including:

- Assess and make appropriate recommendations for improving the client's governance processes
- Evaluate the effectiveness and help improve the client's risk management processes
- Assist the client in maintaining effective controls by evaluating the effectiveness of existing controls and promoting improvement to those controls
- Establish a scope of work that is sufficient to complete the objectives of the engagement
- Communicate any results to appropriate parties

IIA Internal Audit Standard 1110 states that the internal audit function must be independent from the rest of the organization. The IIA interpretation of that Standard states that "[o]rganizational independence is effectively achieved when the chief audit executive [(the internal auditor)] reports functionally to the board." A structure that requires the internal auditor to report to an audit committee composed of Board members is also acceptable.[27]

It appears that KPMG did not interact with the Board or the Audit Committee as we would have expected an internal auditor to do. Although KPMG did prepare an internal audit plan, it did not have the audit plan approved. We are unaware of recommendations they made or actions they took regarding the lack of internal controls, especially in the accounting area.

The internal auditor should also regularly meet in executive session with both the Board and the Audit Committee.[28] Doing so is "invaluable in providing all parties with a broad perspective on the company's financial reporting environment and the reporting culture, including whether controls are respected and complied with faithfully."[29] Although there are no official minutes from the Audit Committee meetings to describe what happened, we understand from staff that KPMG never met in an executive session with the Audit Committee or Board.

<u>Conclusions</u>

The scope of services for the outsourced internal auditor KPMG does not explicitly address all of the IIA requirements. To avoid uncertainty, the contract should have referenced the IIA's scope of services requirements and specifically stated that KPMG would comply with those requirements. That issue will be moot, however, when the contract is terminated.

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[27] "An organizational structure that has the internal audit team reporting directly to the audit committee contributes to the overall integrity of the internal audit function." "Audit Committee Brief" (AICPA, May 2010).
[28] "Knowledge Sharing to Deter and Detect Fraud", Cindy Fornelli and Michele Hooper (November 4, 2010).
[29] *Id.*

The internal auditor did not meet with either the Audit Committee or the Board on a regular basis or in any executive session.

Recommendations

8. Create a position description for the internal auditor that incorporates the requirements specified by the Institute of Internal Auditors
9. Maintain reporting lines from the internal auditor to the Audit Committee or the Board
10. Ensure the internal auditor attends all Audit Committee meetings, and meets regularly with the Board itself, in both open session and periodically in executive session

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NMFA Financial Audit Firm (Clifton Gunderson)

Findings

The NMFA Board hired Clifton Gunderson (now known as Clifton Larson Allen, but referred to in this report as CG) in 2009 to be the outside independent financial auditor for NMFA. The team proposed by CG was located in Baltimore, Maryland and no local auditors within New Mexico or the region were proposed. CG was selected through a competitive request for proposals (RFP) process. Five staff members evaluated the proposals, and submitted CG to the Board's Contract Committee for approval. The full Board approved the decision to hire CG.

As required by the Audit Rule,[30] for both fiscal years 2008-2009 and 2009-2010 the NMFA and CG executed the form contract required by the Office of State Auditor (OSA) and submitted it to the OSA for approval, which the OSA granted. The NMFA did not submit the contract for the 2010-2011 fiscal year to the OSA.

By requiring state agencies to use its contract form, the OSA can control the scope of work that external auditors agree to perform. That scope consists of "a financial and compliance audit" of certain financial statements and schedules of each state agency. It does not specifically include an assessment of an agency's internal audit function, but it appears to allow the agency to expand the scope of services. The form contract also includes various reporting requirements, including the requirement that the external auditor notify the State Auditor if the audit report will be late. The form contract requires the external auditor to conduct the audit in accordance with the Government Auditing Standards, OMB Circular A-133, and the Audit Rule. The Audit Rule requires the audit to be conducted in accordance with the AICPA Statements on Auditing Standards (SAS).

For fiscal years 2008-2009 and 2009-2010, CG provided an audit report on the NMFA's financial statements, a separate report on the NMFA's internal controls over financial reporting and compliance, and a separate report on the NMFA's compliance with certain federal program requirements. The report on the NMFA's internal controls over financial reporting and compliance stated that it was for the limited purpose of using it as a basis for "designing [CG's] auditing procedures for the purpose of expressing [CG's] opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the [NMFA's] internal control over financial reporting."

CG gave the NMFA an unqualified opinion of their financial statements for both fiscal year 2008-2009 and 2009-2010, which essentially means that the NMFA's financial statements fairly presented the financial position of the NMFA in all material respects. In the 2008-2009 audit report, however, CG noted two

[30] Audit Rule 2.2.2.8(B)(6) (2011).

deficiencies in internal control over financial reporting. The first deficiency involved misstatements that had a material effect on the NMFA's financial statements, which resulted in the restatement of prior period net assets.[31] The second deficiency was that the NMFA did not meet the OSA reporting deadline for the audit. CG noted the same deficiency – a late audit report – for 2009-2010. In its responses, management agreed with all three findings.

CG's involvement with the NMFA Audit Committee is summarized below.

Fiscal Year 2009-2010:	
August 2009	Initial presentation on fiscal year 2008-2009 audit
February 2010	Exit conference
May 2010	Presentation of final audit report
Fiscal Year 2010-2011:	
May 2011	Initial presentation on the fiscal year 2010-2011 audit that was not completed[32]
Fiscal Year 2011-2012:	
None	

CG submitted an engagement letter to the NMFA for the fiscal year 2010-2011 audit, which provided the scope of work and other parameters for the audit. The NMFA's CFO signed the letter agreeing to the audit services and fees. However, the required OSA form contract for the audit services was never submitted to the OSA for approval, as required by statute.

CG began the fiscal year 2010-2011 audit, and was paid the majority of the fee, $70,000, provided in the engagement letter.[33] The audit report was not ready by December 15, 2011, but CG failed to send the OSA a letter indicating the audit report would be late, as required by statute.[34] CG never completed the fiscal year 2010-2011 audit. We learned that one possible reason CG did not complete the audit was because it did not receive adequate information it requested from the NMFA staff. However, there is no indication that CG contacted NMFA management to discuss the lack of response from staff.

[31] The NMFA determined that it had mistakenly classified some of its funds as governmental funds, when in fact they were enterprise funds. In revising its financial statements to make that change, it discovered several other accounting errors that it corrected.
[32] CG did not meet with the Audit Committee regarding the fiscal year 2009-2010 audit.
[33] The Audit Act prohibits payments to external without the OSA's approval of the audit contract. NMSA § 12-6-14(A).
[34] The audit reports for fiscal years 2008-2009 and 2009-2010 were also late. CG did send a letter to the OSA regarding the late 2008-2009 audit, but did not send a letter regarding the 2009-2010 audit.

In June 2012, CG had a telephone conference with NMFA staff regarding the fiscal year 2011-2012 audit. All of the current and former staff members we spoke with who were present during that telephone conference asserted that CG did not mention the fact that the fiscal year 2010-2011 audit had never been completed during that call. It is our understanding that CG disputes that assertion. It was not until the NMFA staff specifically inquired about the fiscal year 2010-2011 audit in July 2012 that CG affirmed to the NMFA that it had not completed the audit for that fiscal year.

Analysis

The role of an external auditor is to examine an entity's financial statements to determine whether the statements are fairly stated and comply with Generally Accepted Accounting Principles (GAAP).[35] Pursuant to the AICPA Code of Professional Conduct, accountants are to perform their services with diligence and to the best of their ability. "Diligence imposes the responsibility to render services promptly and carefully, to be thorough, and to observe applicable technical and ethical standards."[36]

The Statements of Auditing Standards (SAS) govern the way external auditors perform their work. SAS Number 114 requires auditors to communicate with "those charged with governance." The NMFA Board and Audit Committee would both be appropriate governance entities for SAS purposes.[37] Auditors are also required to convey "timely observations arising from the audit" to the appropriate governance entity.[38]

Periodic meetings between the auditor and an audit committee, including at least one meeting in executive session per year, are also expected.[39] Finally, auditors are required to inform the appropriate governance entity of difficulties encountered during the audit, including delays in receiving information from management.[40]

CG's compliance with its professional requirements is questionable in regard to the fiscal year 2010-2011 audit of the NMFA's financial statements. Initially, CG failed to verify that its contract had been approved by the State Auditor for that audit.

CG also failed to provide written notification to the OSA when CG realized that the audit report would not be submitted by the December 15, 2011 deadline, as

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[35] http://www.sec.gov/investor/pubs/aboutauditors.htm.
[36] AICPA Code of Professional Conduct, Section 56.
[37] SAS No. 114.14 and 114.17.
[38] SAS No. 114.07.
[39] SAS No. 114.17.
[40] SAS No. 114.39.

required by the State audit rule.[41] CG would have been aware of that requirement from previous NMFA audit contracts.[42]

CG was not consistent over the past three years in the way it interacted with NMFA. After meeting with the Audit Committee three times in its first fiscal year, CG changed its approach in the last two fiscal years and only met with the Audit Committee one time. Another change was its reduced involvement with staff. CG did not contact NMFA management regarding staff's lack of response to CG's request for information for the 2010-2011 audit.

Conclusions

CG did not follow the same course of action that it did in previous years even though the scope of its work and deliverables had not changed.

A single meeting between CG and the Audit Committee in almost two years is not acceptable – at least once per year is the minimum, and between one and four meetings per year is optimal.[43]

CG should have contacted NMFA management if it did not receive the information it needed from staff to complete the 2010-2011 audit report.

Recommendations

It is beyond the scope of this review for HEK to make recommendations to CG. Recommendations to the NMFA found in other sections of this report address ways to improve the audit process.

[41] Rule 2.2.2.9(A)(5).
[42] For example, section 2(D) of the contract between CG and the NMFA for the fiscal year 2009-2010 audit specifically requires that notification.
[43] "Audit Committee Brief" (AICPA, May 2010).

Audit Committee

Findings

The NMFA Bylaws require the Board to establish the “areas of responsibility of Standing Committees.” The NMFA has an Audit Committee as a standing committee but no written committee charter defining its makeup, role or responsibilities. The Audit Policy, however, mentions some of the Audit Committee’s responsibilities, and staff has advised us that they are considering drafting a committee charter.

Three Board members, appointed by the Board Chair, serve on the Audit Committee. Currently, the Chair of the Audit Committee is a CPA who is a designee of a Cabinet Secretary. In the past the NMFA Audit Committee has not always had someone with financial expertise on it. Audit Committee members receive no special training regarding their function and responsibilities.

No written annual work plan exists indicating what the Audit Committee is to accomplish during the upcoming fiscal year and at what times during the year.

The Board adopted the audit policies in June 2009 that impose several requirements, including the following.

- Staff will maintain year-round communication with the independent auditors
- Staff will take all necessary steps to ensure that the OSA-approved contract with the independent auditor is approved prior to any work being performed by the auditors
- The Audit Committee will meet monthly with staff, and with external and internal auditors as appropriate, so that the auditors can bring any issues they may have to the Committee’s attention
- The Audit Committee will report to the Board on all matters it discusses in Committee meetings

Official written minutes were not kept of Audit Committee meetings before the fake audit was discovered. Accordingly, the only records of what occurred during the creation of the fake audit are notes kept by staff of the meetings, some meeting materials, and committee reports in the Board meeting minutes. Only three sets of meeting notes were available for us, and none of them provide information on the details of the Committee discussions, attendance or the meeting duration.

The Audit Committee met eight times in fiscal year 2009-2010 and CG presented at three of those meetings, including the exit conference for the fiscal year 2008-2009 audit in February 2010 and the formal presentation of the completed fiscal year 2008-2009 audit report in May 2010.

During fiscal years 2010-2011 and 2011-2012 combined, the Audit Committee met six times: in January, May and August 2011, and in April, May and June 2012. The Committee only met with CG once during fiscal year 2010-2011, in May 2011, to give an update on the fiscal year 2010-2011 audit progress. The Committee did not meet with CG for an exit conference for the fake fiscal year 2010-2011 audit, and did not meet with CG at all in fiscal year 2011-2012.

The staff assigned to the Audit Committee has varied between the Controller and the COO, rather than the internal auditor. The internal auditor from KPMG attended only two Committee meetings from January of 2011 through June of 2012.

Analysis

Audit committees are commonplace today at financial institutions. In the private sector, the passage of the Sarbanes-Oxley Act of 2002 set forth standards and emphasized the importance of the audit committees' role. In the public sector, many entities with financial responsibility have followed the "spirit" of that federal law even though it does not technically apply to them because its tenets represent contemporary best practices and reduce organizational risk. It is interesting to note that only three of the six peers have audit committees, two of which are made up of board members and the other of staff.

That Act requires, among other things, that audit committees are to be composed completely of independent members of the company's board of directors,[44] and at least one person on the audit committee must be a financial expert. Independence is difficult to define in the NMFA environment but some parallels to the private sector are worth considering when the Audit Committee members are assigned. NMFA has no requirement that a financial expert be on the Audit Committee, and this is an important feature that many other public sector entities are embracing. If there is no financial expert on their boards, some entities are appointing a non-board member financial expert to their audit committees.

The size of the NMFA Audit Committee seems reasonable. It has three members and the average number of audit committee members for Sarbanes Oxley-covered entities is four.[45]

The best audit committees have a written charter to guide their activities.[46] The NMFA does not have an Audit Committee charter. A suitable one for the organization would include:

[44] Independent board members have no material relationship with the organization, and have never worked directly or indirectly for a customer or service provider of the organization.
[45] "2006 Audit Committee Research Report", Huron Consulting Group (2006).
[46] "Eight Habits of Highly Effective Audit Committees", John F. Morrow and Joan Pastor (Journal of Accountancy, September 2007).

- Purpose of the Committee
- Authority of the Committee (to take action, make recommendations, spend funds, etc.)
- Responsibilities and Duties
- Composition, Membership, and Chairmanship
- Special Training Requirements
- Terms of Service for Audit Committee Members
- Meeting Frequency and Expected Attendance
- Staffing for the Committee and Use of Outside Resources
- Reporting Requirements (to whom and how often)
- Frequency in Reviewing the Charter

Again, it is interesting that only one of the six peers has a written audit committee charter.

The purpose of an audit committee is to work with the outside auditors to make sure that financial statements are correct. Given the single interaction between the NMFA Audit Committee and the outside auditors in fiscal years 2010-2011 and 2011-2012, that purpose could not have been met. Part of an audit committee's responsibilities is also to monitor the internal audit function and approve the annual audit plan. The Audit Committee at NMFA did not perform those responsibilities.

The NMFA's audit policies require monthly meetings with staff, and a sufficient number of meetings with both the internal and external auditors to ensure adequate progress on their work. The NMFA Audit Committee met on average three times per year over the past two fiscal years. By contrast, the average number of meetings per year by audit committees of entities covered by Sarbanes Oxley is ten.[47] Audit committee meetings among peers vary greatly. One of the peer audit committees meets monthly, and has both entrance and exit conferences with its external auditor. The other two peer audit committees meet infrequently; one of them meets annually, and the other only meets as required to approve contracts.

In addition to a written charter, an annual work plan helps audit committees focus on fulfilling their responsibilities. The work plan sets forth, among other things, the schedule for meetings with both the internal and external auditors, executive sessions with the auditors without staff present, if requested,[48] and training sessions for committee members.

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47 "2006 Audit Committee Research Report", Huron Consulting Group (2006).
48 "Knowledge Sharing to Deter and Detect Fraud", Cindy Fornelli and Michele Hooper (November 4, 2010).

The lack of Audit Committee minutes memorializing discussions, member attendance, the adequacy and timeliness of the information considered, and the meeting duration prevents us from any further analysis of the Audit Committee's effectiveness.

<u>Conclusions</u>

The absence of an Audit Committee charter defining the Committee's responsibilities, membership requirements and meeting expectations is a governance issue.

The role of audit committees is crucial to the success of large financial institutions, and to adequately fulfill this role special training is useful. The NMFA Audit Committee members are not provided special training. Training could enhance the Committee's understanding of the financial information before it as well as the relationship it should have with the internal and external auditors.

The Audit Committee has been ineffective due to its failure to meet with the internal auditor and its failure to meet with the external financial auditors at the beginning, middle and end of the audit for fiscal years 2009-2010 and 2010-2011. The lack of monthly meetings also violated the NMFA's audit policies.

The three-member size of the Audit Committee is reasonable but it would be best if the Committee always had at least one member be a financial expert.

<u>Recommendations</u>:

11. Adopt a comprehensive Audit Committee charter
12. Require the Audit Committee to have at least one member who is a financial expert
13. Record official minutes of the Audit Committee meetings
14. Have the Audit Committee approve the annual internal audit plan
15. Establish specialized training sessions for Audit Committee members
16. Develop a compliance mechanism for the existing audit policies
17. Hold in-person entrance conferences, mid-audit conferences and exit conferences with the outside auditor during each audit cycle

NMFA Board Governance

Findings

The NMFA Board is comprised of eleven members. Six of those members are *ex officio*: the Secretary of Finance and Administration, the Secretary of Economic Development, the Secretary of Energy, Minerals and Natural Resources, the Secretary of Environment, the Executive Director of the New Mexico Municipal League and the Executive Director of the New Mexico Association of Counties. The *ex officio* members serve as long as they remain in the underlying office. All six *ex officio* members may appoint designees to attend meetings and vote in their place. The remaining five Board members are all appointed by the Governor, and must be residents of New Mexico. Their terms are for four years. One of the appointees must be the Chief Financial Officer of a New Mexico higher education institution, but other than that there is no statutory requirement for appointees to have any specific background or expertise. The five appointed members must be confirmed by the Senate.

The Governor appoints the Board Chair from among the appointed members. The Board members themselves elect the Board's other officers.

The responsibility of the Board is to administer the funds created within the NMFA as well as other legislatively-designated programs, and to oversee and direct the activities of the CEO.[49] The Board is also responsible for approving an operating budget for the organization which drives the number of staff and staff's compensation.

The Board meets at the call of the chair or whenever three members make a written request for a meeting.[50] For the past three fiscal years the Board has met from 13 to 14 times per year. The Board met nine times between July and September 2012.

Some Board members (or their designees) have attended 100% of the 30 meetings held between January 2011 and October 2012. Other Board members have attended significantly less. On average Board meetings have about 85% attendance.

Telephonic meeting attendance is allowed, and three of the members have attended telephonically more than 20% of the time. In general, 90% of attendance at Board meetings is in person, and 10% is by telephone.

The actual composition of the Board at the meetings varies depending upon whether *ex officio* members attend themselves or send designees or send

49 See, e.g., NMSA § 6-21-4(F) and 6-21-6.
50 NMSA § 6-21-4(G).

different designees. Three of the *ex officio* members send designees about half the time. Two of those members have sent three or more different designees.

At meetings the Board usually approves the agenda for the current meeting and the minutes of the previous meeting, receives reports from the Chair and the CEO, and then considers whether to approve the projects presented. At the end of the meetings the Board receives committee reports and sets the next meeting date. Special topics are inserted as necessary.

Board meeting agendas are initially created by the staff who serve the various Board committees and manage departments within the NMFA. The proposed agendas are reviewed by the CEO and the Board Chair. On the agendas action items are clearly discernable from the information-only items.

Meeting materials, which range from 250 to nearly 1,000 pages, are provided to the Board members four days in advance of the meetings. The vast majority of the meeting materials are related to projects for the Board's review and approval, including loans, grants and upcoming bond issuances.[51] Those materials typically include a one- or two-page summary of each project, followed by financial information and other supporting documentation. The Board also reviews the NMFA monthly financial statements at every meeting. Meeting length depends on the number of projects the Board is to review and approve, but they generally last between four and five hours.

State statute grants the Board "all powers necessary and appropriate to carry out and effectuate its public and corporate purposes . . . ."[52] Specifically enunciated powers include the power to create and amend bylaws and to adopt necessary rules. Proposed rules are subject to the review and approval of the NMFAOC. The NMFA bylaws provide specific authority to the Board to adopt necessary and appropriate policies.

In addition to the By-laws, the Board has adopted the following organizational policies.

- Audit Policies
- Accounting for Legislatively Authorized Programs and the Use of Interest Income from Funds Appropriated by the Legislature
- The Performance of Due Diligence Analysis by the Authority Before Initiating New Programs and Initiatives
- Management of the Public Project Revolving Fund Cash and Fund Balance

The Board has not adopted other governance polices that would govern its own actions, although there is a section on "Conflicts of Interest" in the NMFA bylaws.

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[51] For example, in the June 22, 2012 meeting materials, 918 of the 974 total pages are devoted to project information.
52 NMSA § 6-21-5.

The conflicts of interest provisions require NMFA Board members, officers and employees to disclose in writing any direct or indirect interest in any contract to which the NMFA is a party, and to refrain from participating in any action on that contract. There are two exceptions to the conflict provisions, however, which are "permitted interests": (1) interests in a banking institution into which the NMFA may deposit money or which may serve as a trustee or paying agent; and (2) acquisition of bonds issued by the NMFA, as long as the acquisition was through an arm-length transaction in the normal course of business.

The Board has not adopted a long-range strategic plan with a mission statement, core values, and goals and objectives for the organization. The strategic plans referred to in the 2010 and 2011 NMFA annual reports are essentially forecasts of future growth rather than multi-year strategic plans that identify the approach NMFA will take in handling the critical issues it faces. Likewise, the Board has not adopted annual work plans that influence the development of Board and Committee meeting agendas throughout the year.

Educational sessions for the Board members occur periodically. The most recent dedicated educational session, in June 2011 covered Board responsibilities, the programs administered, information on the bonding process, and governance. The Board also receives short educational sessions on different aspects of the NMFA's programs at each Board meeting. New Board members also receive individual briefings but no formal orientation program exists.

Analysis

The NMFA Board is larger than most of the peers, although this has not been raised as a problem for the organization. Among peers, the mean board size is 7.3, and the median is 6. The "optimal" board size is subject to debate. Large boards can prolong discussions without adding value and stall decision-making. They can also make it difficult to have a board with no conflicts of interest. On the other hand, small boards can lead to "group-think" and less diverse views in the deliberative process.

Of the eleven members on the NMFA Board, 82% are appointed by the Governor in some way. Having a significant number of governor appointees on the board is common among the NMFA peer group. On average, 64% of the peer board members in other states are appointed by their governors.[53] The Governor does not, however, appoint the NMFA CEO, which helps to mitigate the risk of undue influence over the day to day operations of the agency.

In recent years the issue of board member independence has gained increasing attention among public sector and quasi-public boards of financial organizations.

[53] The percentage of board members appointed by the Governor for the peer entities is: California, 60%; Indiana, 86%; Maine, 60%; Oregon, 67%; Pennsylvania, 38%; Colorado, 73%.

This is due, in part, to passage of the federal Sarbanes Oxley Act[54] which led major American stock exchanges[55] to require listed companies to have boards with a majority of the board members being independent. The purpose of the requirement was to reduce conflicts of interest and enhance the accountability and transparency of those companies. The Act also requires all members of covered entities' audit committees to be independent. If an independence requirement cannot be achieved for some or all of the Board then conflicts of interest and disclosure polices become even more important.

As with the issue of board member independence, board member expertise has also been a recent issue for other public sector boards that handle sizable financial transactions. Because of the complex financial matters that come before the NMFA Board, having board members with financial backgrounds and expertise would be beneficial and make it easier to have an Audit Committee with at least one financial expert.

Assembling a board with independent members who have relevant financial expertise, congruent with the Sarbanes Oxley standards and the direction other public entities are taking, is difficult but not impossible. The likelihood of finding qualified individuals who are willing to dedicate a significant amount of time to serve on the NMFA Board may be greater if the appointments could be made by others in addition to the Governor. Members of the Legislature, for example, may be able to "cast a wider net" to find the most qualified Board members throughout New Mexico.

Board members who are *ex officios* commonly use designees to serve in their place. Fifty percent of the peers allow certain board members to send designees, all of whom are allowed to vote. The fluctuation in attendance at meetings between *ex officios* and designees or different designees has caused considerable strife on other public sector boards across the country and falls short of best governance practices.

The number of Board meetings is slightly more than we would have expected but not unusually high. The number of meetings has increased since the discovery of the fake audit, which is understandable.

[54] Sarbanes Oxley does not apply to governmental entities like the NMFA.
[55] NYSE, NASDAQ and AMEX.

Calendar Year	Number of Board Meetings
2009	13
2010	13
2011	15
2012 (through October 1)	15
2012 (from audit discovery through October 1)	9

With this number of board meetings it is a challenge for Board members to attend all meetings in person; however, this is a best practice. Attendance by teleconference can make meetings inefficient because people can be more distracted or less engaged in discussions. More troubling than this, however, is the disruption caused when intermittent member attendance is combined with different designees attending the meetings. This lack of continuity makes it difficult to achieve the cohesiveness that is optimal for a governing board. In addition, because Board members have a responsibility to make sound decisions, regular and consistent attendance would help them acquire and retain information and build on discussions from previous board meetings when making decisions.

Orientation sessions with a structured curriculum for new board members and continuing education sessions for all board members are also best practices. Orientations for NMFA Board members and their designees could be improved beyond the in-person briefings that currently take place.

Public boards commonly adopt governance documents to create a strong culture of integrity and to guide the actions of the individual board members and the board as a whole. The most common governance documents include committee charters, board member position descriptions, and policies on audits, conflicts of interest, ethics or standards of conduct, new board member orientation, ongoing education, communication, strategic planning, board self-evaluations, succession planning, and travel and expense reimbursement. NMFA has some, but not all, of the governance documents that would be useful.

Well-organized boards often have one comprehensive document or a manual that contains all of their governance documents for easy reference, and they update policies on a set schedule. NMFA could benefit from this governance practice as well.

The volume of the Board meeting materials is excessive. Currently, the written materials appear to contain more data than a governing board should need and less information about the internal operations than a board should have. Much of the data seems to be the type of information the staff uses when analyzing projects. The concern with the volume and type of materials is not just the inefficient use of Board time it may cause but also the risk it places on Board members. They may be presumed to have read all the information when, in reality, they believe they have delegated the analysis of details to the staff. A thorough discussion of the Board's governing role and its ability to delegate duties to staff should lead to a clearer picture of what information the Board needs for meetings. The type and volume of information will determine how much time the Board members need for their advance preparation.

Long-range strategic planning, a common and best practice, engages boards and staffs in a regular assessment of an organization's strengths, weaknesses, opportunities, and threats. Planning is a systematic way to evaluate critical issues, set priorities, and measure results. In addition to long-range planning, having annual work plans established by the NMFA Board would be beneficial in making sure that important and recurring activities (such as the annual audit) are scheduled on Board meeting agendas and not overlooked.

Conclusions

The NMFA Board is larger than the boards of peers; however, this does not appear to present any problems for the NMFA.

Board member independence and financial expertise are not required but these requirements, at least for some portion of the Board, may improve the Board's ability to fulfill its governing and oversight role. Finding enough qualified individuals to serve on the Board may be more achievable if the ability to make appointments is expanded beyond the Governor's office.

Overall attendance at Board meetings is reasonable and even commendable given the high number and length of meetings. What is problematic is the lack of consistency among the individuals actually attending the meetings (*ex officio* members rotate with their designees and often send different designees).

Due to the complexity of the NMFA's internal operations and responsibility for a variety of financial programs, both orientation and continuing education sessions could be enhanced and more comprehensive.

A review and update of the Audit Policies are warranted and consideration of additional governance documents deserves the Board's attention.

The content of the Board meeting materials could be greatly reduced and improved to empower the Board with the type of information it needs to fulfill its role as a governing body.

A collaborative strategic planning process with the Board and staff and the adoption of annual work plans for the Board would keep the Board focus on the most important topics.

Recommendations

18. Discuss the feasibility and benefits of having independence and financial expertise requirements in statute for some or all of the Board members
19. Consider expanding the authority for appointing Board members beyond the Governor's office
20. Enhance the orientations and continuing education sessions for the Board members
21. Encourage the ex-officio members to improve the consistency of their attendance or their designees' attendance at Board meetings
22. Reassess the activities of the Board, the types of decisions it makes, its authority to delegate duties, and the information it receives for meetings
23. Consider adopting a more comprehensive set of governance documents
24. Engage in long range strategic planning for the organization.
25. Establish annual work plans for the Board

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State Audit Process

Findings

The New Mexico Audit Act[56] requires every state agency, specifically including the NMFA, to have a financial audit performed every year. That audit can be performed by the State Auditor, OSA personnel, or an independent auditor that has been pre-approved by the OSA. If an agency uses an independent auditor, the agency must use the State Auditor's form contract for the relationship. Once the agency and the independent auditor have signed the contract, the State Auditor must review and approve the contract in writing. The due date for submission of contracts to the OSA for approval is June 1.

According to the 2011 Audit Rule[57] which was in effect during the time frame of the fake audit, even if an agency and an independent auditor agree to a three-year proposal to provide auditing services, any resulting contract can only be for one year. The contract can have the possibility of two one-year extensions, but the State Auditor must review and approve every extension. The deadline for submission of a proposed contract or extension to the OSA is June 1 prior to the end of the fiscal year.

The Audit Rule also requires the independent auditor to prepare a written and dated engagement letter at the beginning of each fiscal year's audit describing the scope of work and proposed timeline for completion of the audit and send it to the OSA along with a list of client-prepared documents.[58]

The due date for an independent auditor to submit an audit report to the OSA for a state agency, including the NMFA, is December 15. If the independent auditor determines that the report will be late, the Audit Rule requires them to notify the State Auditor and the oversight agency[59] of that fact in writing. The notice must include a statement of why the report will be late and when the independent auditor expects to submit the report. The notice must also include a concurring signature by a representative of the agency being audited.

Agencies that fail to submit their audit report by the December 15 deadline are designated as "at risk", and are placed on an "at risk" list that is distributed to the state agencies. The OSA's "at risk" designation has been in place for a number of years, and was codified in the 2012 Audit Rule. That Rule states that the OSA will place the name of each state agency that fails to submit its audit report within 90 days of the specified due date on the list on April 15th.[60]

[56] NMSA § 12-6-1, *et seq.*
[57] Rule 2.2.2.8(B) (2011).
[58] Rule 2.2.2.8(L) (2011).
[59] The Department of Finance and Administration is the oversight agency for state agencies, and the OSA has affirmed that includes the NMFA.
[60] Rule 2.2.2.17(B)(1) (2012).

Once an audit report is complete, the independent auditor must hold an in-person exit conference with the agency's top management. The date of the exit conference and the names of those attending must be on the last page of the report.[61]

The NMFA and CG had executed contracts approved by the OSA for both the fiscal year 2008-2009 and fiscal year 2009-2010 audits. However, the contract for the fiscal year 2010-2011 audit was never submitted to the OSA, and the OSA did not approve a contract between the NMFA and CG for that audit.[62] The OSA reports that it informed the Department of Finance and Administration (DFA) that the NMFA had not submitted the contract for approval. The OSA also added the NMFA to the list of agencies that had not yet submitted an audit contract for approval.

CG began working on the fiscal year 2010-2011 audit, but did not complete it. Further, CG did not submit the required letter notifying the OSA that the audit would not be submitted by the December 15 deadline, and did not submit a letter for the NMFA executive staff to review and sign.[63]

Instead of completing the audit, the NMFA's Controller modified CG's previous audit report to look like it was the fiscal year 2010-2011 audit report, and submitted it to the Board for its review and acceptance. The fake audit was not submitted to the OSA, but it was distributed to other interested parties and posted on the NMFA website as the official audit. The final page of the fake audit stated that there was an exit conference on December 10, 2011,[64] and listed six attendees, including three Board members, the CEO, COO, and a CG representative.

The OSA notified the NMFA CEO in May 2012 that the NMFA was added to the "at risk" list that month because the OSA had not received the audit report. The CEO asked the Controller why the NMFA was going to be put on the "at risk" list if the report had already been submitted to the OSA, which was the CEO's understanding at that time. The Controller responded that the OSA was incorrect, and that he would contact them to correct the mistake. The Controller resigned in June 2012, before the fake audit was discovered.

[61] Rule 2.2.2.10(J) (2011).
[62] CG did send an engagement letter to the NMFA for fiscal year 2010-2011 auditing services, which the former COO executed.
[63] CG also did not submit a letter to the OSA regarding the late fiscal year 2009-2010 audit report. CG did submit a letter to the OSA regarding the late fiscal year 2008-2009 audit report.
64 December 10, 2011 was a Saturday.

Analysis

For a New Mexico agency that uses an independent auditor for its financial audit, the audit process involves three parties that are responsible to ensure the timely issuance of the audit report: the OSA, the agency, and the independent auditor. The New Mexico Audit Act and the Audit Rule also require all three to be involved in the initial contracting process. None of the three were involved in contracting for the 2010-2011 audit.

Pursuant to the Audit Rule, if the audit report is going to be late, the independent auditor and the agency are to jointly notify the OSA. Neither the independent auditor nor the NMFA notified the OSA of this for the 2010-2011 audit. If the audit report is late, the OSA's practice was to place the agency on the "at risk" list, which was done in May 2012. If the parties all perform as required, the involvement of the three different entities provides a safeguard against the issuance of a fake audit.

This process is significantly more involved than what occurs with four of the six peer entities. Three of the peers reported that their state auditors did not have any involvement in their external audits. Another peer reported that the only involvement by the state auditor was the inclusion of their audited information in the state's annual comprehensive annual financial report.

One of the peers reported that their state auditor performs their audit every year. The final peer reported extensive involvement by the state auditor who is a statutory member of that peer's board, and is the chair of its audit committee.

Conclusions

The Audit Act and the Audit Rule establish a reasonable procedure to ensure the timely submission of audit reports and the monitoring of the status of reports that are late. The likelihood of the fake audit being issued would have been greatly reduced if the steps in the Audit Act and the Audit Rule had been followed.

Recommendations

Recommendations for the NMFA are contained in other sections of this Report.

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Interviews:

New Mexico Legislative Council Service
Raul Burciaga, LCS Director
Doris A. Faust, Assistant Director for Drafting Services
Tom Pollard, Legislative Fiscal Analyst
Lisa Sullivan, Staff Attorney

NMFA Board and Committee Member(s)
Nann Winter, Board Chair
Secretary Tom Clifford, Department of Finance and Administration
Ricky Bejarano, State Controller

NMFA Staff
John Gasparich, Interim Chief Executive Officer
Dora Cde Baca, Chief Administrative Officer
Robert Brannon, Controller
Marquita Russel, Chief of Programs
Mike Zavelle, Chief Financial Strategist

Office of the State Auditor
Hector Balderas, State Auditor
Evan Blackstone, Office of State Auditor
Carla Martinez, Office of State Auditor

New Mexico Regulation and Licensing Department's Securities Division
Daniel Tanaka, Securities Division Director

PricewaterhouseCoopers
Charles Reddin, Partner
Peter Brown, Partner

KPMG
Cynthia Reinhart, Partner

Former NMFA Employees
Rick May, Former NMFA CEO

Documents Received:[65]

- NMFA bylaws Financial statements (FY 2009)
- NMFA Act Article 21
- Audit Act
- Code of conduct for NMFA employees
- Operating Budget and Annual Report (2012)
- Standard operating procedures
- Organizational chart (October 2012)
- Policies and Rules and Regulations
  - Investment policy (August 2011)
  - Rules and regulations governing the public project revolving fund program (2010)
  - Rules and regulations governing the economic development bond program (2009)
  - Personnel policies
  - Board refinancing policy
  - Debt management policy
  - Derivatives policy
  - Economic development bond management policies
  - Investment policy
  - Loan management policies
  - New markets tax credit program policies and procedures
  - Lending and credits policies
  - Post-issuance compliance procedure and policy
  - Private placement bond policy
  - Procurement, contract, and reimbursement policies
  - Publicly distributed bond issuance and underwriter policy
  - Water Project fund project management policies
  - Business travel policy
  - Drinking water executive loan fund
  - Energy efficiency and renewable bonding act
  - Corporate governance responsibilities of NMFA Board of Directors
  - Financial management policies (including audit policies)
- Ethics and Compliance Policy Review (2011)
- IT Disaster Recovery Review (2011)
- Drinking Water State Revolving Fund Act program matrix
- Public project revolving fund key rating factors (FY 2011)
- Budget
  - NMFA Budget (2010-2011)
  - Annual Report (2010-2012)
  - Activity charts (2013)

[65] We evaluated all of the documents within this list, but concentrated on the documents we determined were most relevant to the purpose for our review.

- Board meeting agendas (2009, 2010, 2011, 2012)
- Board meeting minutes (January 2009 – August 2012)
- Board meeting schedule (FY 2012-2013)
- Board meeting materials
- Board attendance (2009-2012)
- Financial Board package (July 2012)
- Board financial statements package (March 2012)
- Financial statements (FY 2009 and FY 2011)
- Summary of pre-paid loans with 10-year call bonds
- Audit Committee package (April and May 2012)
- Audit Committee meeting notes (January 2011)
- Approved audit firm list (August 2012)
- Audit conveyance process
- Audit production process
- Audit Rules 2011 and 2012 (February 2011 and February 2012)
- Audit Rule 2012 training presentation
- Summary of changes to Audit Rules (2011 and 2012)
- State Auditor At Risk Designations (October 2011 – November 2012)
- Responses to the fake audit
- 13 point plan (December 2010)
- KPMG audit plan
- KPMG presentation on the audit plan
- Memo on child care facility loan act
- Conduit Bond Rules and Regulations (2009)
- Committee Responsibilities from Rules and Policies Governing NMFA Programs
- Oversight committee minutes and materials (2010 - 2012)
- Oversight committee statutes
- Standing Committees
  - Committee list
  - Duties
- CDFA white paper (December 2011)
- PPRF entity loan payments flow chart
- Senior lien public project revolving fund revenue bonds memo (April 2012)
- Biographies
  - Barbara Brazil
  - Blake Curtis
  - Gary Bland
  - Brett Woods
  - Ron Curry
  - Dave Martin
  - Edward Smith
  - Joy Esparsen
  - Rhonda Faught

- Stephen Flance
  - Ed Garcia
  - Paul Gutierrez
  - Rick Homans
  - Jerry Jones
  - James Jiminez
  - John Bemis
  - Jon Barela
  - Marcos Gonzales
  - Lonnie Marquez
  - Katherine Miller
  - Nann Winter
  - Joanna Prukop
  - Craig Reeves
  - Denise Kay Baker
  - Daniel R. Silva
  - Terry White
  - Tom Clifford
  - William Fulginiti
  - Bill Sisneros
  - Jerry Trojan
  - Greg Campbell
  - John Duff
  - Rick May
- Job descriptions
  - Chief Executive Officer
  - Chief Operating Officer
  - Chief Financial Officer
  - Controller
- Compensation history
- Contracts
  - KPMG (October 2010)
  - Clifton Gunderson (July 2010 and May 2011)
  - Ballard Spahr, LLP
  - Brownstein Hyatt Farber Schreck, LLP (January 2012)
  - Kutak Rock, LLP (January 2012)
  - Sutin Thayer & Browne, PC (January 2012)
  - Virtue Najjar & Brown, PC (2012
  - Steptoe & Johnson, LLP (July 2012)
  - Cooney, Watson and Associates, Inc. (February 2012)
  - PriceWaterhouseCoopers, LLC (September 2012)
- John Duff Chief Operating Officer promotion memo (January 2011)
- Clifton Gunderson 2011 Engagement Letter

- Management letters for fiscal years 2008-2009 and 2009-2010
- Employee turnover (2008-2012)
- NMFA platform (2009)
- Press release statement regarding reported financial results (FY June 30, 2011)
- NMFA Loan Administration Review by Edwards & Associates (October 2010)
- Oath of office
  - Blake Curtis (2011 and 2012)
  - William Fulginiti (2009)
  - Paul Gutierrez (2009)
  - Jerry Jones (2011)
  - Lonnie Marquez (2008)
  - Terry White (2011)
  - Nann Winter (2012)
- Job satisfaction and engagement (2011)
- Executive order concerning annual audit contracts between independent public accountants and state agencies under the office of the Governor (2012)
- Greg Campbell interview (July 2012)
- Statement by oversight committee (July 2012)
- RFP for external auditor (August 2012)
- Richard May letter to James Noel and Peter Brown of PriceWaterhouseCoopers (October 2012)
- Setting the Record Straight from the Legislative Oversight Committee Hearing (October 2012)
- Memo from Richard May re: material for special board meeting (September 2012)
- Richard May's presentation to the NMFA's Executive Committee (September 2012)
- Peer information
  - California Infrastructure
  - Colorado Housing and Finance Authority
  - Indiana Bond Bank
  - Maine Municipal Bond Bank
  - Oregon Infrastructure Finance Authority
  - Pennsylvania Infrastructure and Investment Authority

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Peer Information:

	California	Indiana	Maine	Oregon	Pennsylvania	Colorado	NMFA
Staff Turnover	11%	0	0	2%	5%	"normal"	23%
Executive Turnover	17%	0	10%	0	0	"normal"	12.50%
Who hires the Executive Director/CEO?	Governor	Board	Board	Governor	Governor	Board	Board
Audit Committee	Yes	Yes	No	No (do have internal audit committee)	No	Yes - robust	Yes
Audit Committee Charter	No	No	n/a	n/a	n/a	Yes	No
Audit Committee Composition	Staff	3 Board members	n/a	n/a	n/a	Board	Board Members
Audit Committee Meeting Frequency	contract approval only	annually	n/a	n/a	n/a	monthly	when directed by Chair
Outside Legal Counsel	Yes	Yes - 100%	Yes - 100%	Yes	Rarely	Yes	Yes
State Auditor Involved in External Audit?	Yes, minimally	No	No	Yes - performs audit	no	Yes - sits on Board and is chair of audit committee	Yes
Board Size	5	7	5	3	13	11	11
Number of Board Members Appointed by Governor	3/5	6/7	3/5	2/3	5/13	8/11	9/11
Percentage of Board Members Appointed by	60%	86%	60%	67%	38%	73%	82%

	California	Indiana	Maine	Oregon	Pennsylvania	Colorado	NMFA
Governor							
Board Member Designees	Yes	No	Yes	No	Yes	No	Yes
Designees Vote	Yes	n/a	Yes	n/a	Yes	n/a	Yes
Agency Subject to State Personnel or Procurement Laws	Not for some procurement; yes for personnel	No, but do mirror them	No, but ex officio members do put pressure on them to follow	Yes	Yes	No	No