

**SANTA FE COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**  
**SPECIAL MEETING**

**August 10, 2010**

- Harry Montoya, Chair – District 1
- Virginia Vigil – District 2
- Michael Anaya – District 3
- Kathy Holian – District 4
- Liz Stefanics – District 5



COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

BCC MINUTES  
PAGES: 41

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Deputy Maicella Alvarado Valerie Espinoza  
County Clerk, Santa Fe, NM

**NM Office of the State Auditor  
BCC Special Meeting  
County Commission Chambers  
County Administration Building**

**August 10, 2010**

**1:00 p.m. to 2:00 p.m.**

*Please turn off cellular telephones during the meeting.*

**Agenda**

**I. Call to Order**

**II. Roll Call**

**III. Approval of Agenda**

**IV. Special Acknowledgement of City of Santa Fe Officials & Staff**

**V. Special Presentation by Office of the State Auditor –  
NM State Auditor Hector Balderas &  
Steve Archibeque, CPA – Senior Audit Manager**

**VI. Discussion**

**VII. Adjournment**

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**SPECIAL MEETING**  
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**August 10, 2010**

This special meeting of the Santa Fe Board of County Commissioners was called to order at approximately 1:15.m. by Chair Harry Montoya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Roll was called by Deputy County Clerk Vicki Trujillo and indicated the presence of a quorum as follows:

**Members Present:**

Commissioner, Harry Montoya, Chair  
Commissioner Virginia Vigil, Vice Chair  
Commissioner Kathy Holian  
Commissioner Liz Stefanics  
Commissioner Mike Anaya

**Members Excused:**

[None]

Also present were City Councilors Rebecca Wurzburger, Chris Calvert, Rosemary Romero, Patti Bushee and City Mayor David Coss.

HELEN PERRAGLIO (Finance Department): I would first like to thank our State Auditor, Mr. Hector Balderas for allowing and accommodating our request, and his staff to give us this special presentation. We had one this morning for staff that was from 9:00 to 12:00 and it was very well attended, and we appreciate that. I would like to introduce Steve Archibeque who is a certified public accountant. He is the senior audit manager for the New Mexico Office of the State Auditor. He has 25 years of auditing experience, including six years as an internal auditor at the New Mexico Department of Transportation, and 19 years of financial auditing experience with the New Mexico Office of the State Auditor. Steve holds a bachelor's degree in accounting and an MBA from New Mexico Highlands University. He has been a certified public accountant since 1991. He is a member of the American Institute of Certified Public Accountants, the New Mexico Society of Certified Public Accountants and the Association of Government Accountants. Steve has extensive experience performing

financial audits of numerous state and local governments in New Mexico and is an expert in governmental auditing, accounting and financial reporting. So at this time I'll turn it over to Steve. Thank you.

CHAIRMAN MONTROYA: Okay. Thank you, Helen.

STEVE ARCHIBEQUE (Senior Audit Manager Office of the State Auditor):  
Mr. Chair, thank you very much, members of the City Council and members of the County Commission. Thank you very much for inviting us to speak here today regarding this most important topic.

First of all, I'd like to say Mr. Balderas was unable to attend; he did have a scheduling conflict and he's out of town but he sincerely apologizes for not being here to speak with you this afternoon.

My presentation [*Exhibit 1*] here today is going to be on the roles of the governing body and the consideration of fraud, waste and abuse. Our agenda – first of all I'd like to give you a brief overview about the Office of the State Auditor and then I'd like to discuss management's responsibilities and the auditor's responsibilities since they tie into the roles of the governing body. After that I'll give you a lot of statistics and some information and some tips and some procedures about occupational fraud and abuse and some procedures used to prevent and detect fraud, waste and abuse within your organizations. And last I wanted to briefly discuss the new Whistleblower Protection Act that is currently a law that is in effect.

First of all, the mission of the State Auditor is to provide a professional, unbiased opinion on the financial affairs of all agencies receiving public funds and to promote transparency and accountability for the citizens of New Mexico. The State Auditor's Office was created under the constitution of New Mexico by the State Audit Act under Chapter 12, Article VI of the New Mexico State Statutes. The State Auditor promulgates regulations to implement the State Audit Act and those are located in 2.2.2 of the New Mexico Administrative Code.

The Office of the State Auditor has about 34 FTE positions currently authorized by the legislature. However, we have about four or so vacancies. Five positions are in executive management, seven are working our administrative services division, six in our special investigations division, and 12 in our financial audit division. Our office receives firm profiles from CPA firms throughout the country to perform auditing services for state and local governments here in New Mexico. Our office reviews those firm profiles and ensures that the CPA firm complies with our requirements and our regulations to appear on our approved list of CPA firms.

Our office administers over 600 audit contracts for all of the annual audits of state and local governments throughout New Mexico. Our office conducts audits of state and local governments. We conduct annual financial audits. Last year for the fiscal year 09 we conducted the audit of the New Mexico Children, Youth and Family Department, the City of Albuquerque, Rio Arriba County, the Rio Arriba County Housing Authority and the Aging and Long-Term Services Department of New Mexico. We also conduct special audits and investigations as deemed necessary, and we also perform out of station engagements and agreed-upon procedures for state and local governments seeking those types of services.

Since there are roughly 78 CPA firms that conduct business through our office we

review the quality of the work performed by those CPA firms. All 600 or so annual audit reports are submitted to our office and we review those audit reports for compliance with generally accepted auditing, accounting and financial reporting standards, including the federal audit requirements. We also conduct quality control reviews of their audit documentation which are the working papers to report the audit procedures that they performed and the conclusions and findings reached and the opinions on your financial statements.

Two years ago the Office of the State Auditor implemented a fraud hotline for the state of New Mexico, which is managed by our special investigations division. It is open 24 hours a day, seven days a week and we have provided 1-800 numbers and our website for access to that fraud hotline. People can report anonymously or they can identify themselves, or they can still phone into our office, come into our office and report things directly in person or through correspondence. We've added a new section for special audits and examinations in our rural site visits and added information regarding our fraud line and how we manage it and administer cases received through the fraud hotline.

We've received over 400 tips through the fraud hotline and are currently managing over 200 cases received through the fraud hotline.

The State Auditor has also initiated what we call our at-risk designation program. We obtain information from all sources, we analyze all this information and we use it to determine which agencies and local governments in New Mexico are currently at risk. When we determine that an agency is at risk we will monitor them until they have fully complied with the requirements of the State Audit Act. We conduct risk assessments of these agencies. We consider all of the fraud hotline cases, all of the correspondence and notifications and referrals we have received from other agencies including prosecuting authorities, Attorney General's Offices, local police departments, etc. We review your annual audit financial reports for all the findings-related and internal control weaknesses, significant issues and material weaknesses and the opinion on your finance statements. And then through all of that information we determine whether an agency is at risk.

Once we determine an agency that is at risk we will issue a risk advisory letter to this agency. We will then perform site visits at these agencies and we will monitor these agencies and if necessary, perform special audits and investigations to follow up with the concerns and risk factors that we've identified.

Regarding our site visits, we do them for three primary purposes. One, for outreach, to establish open lines of communication with the Office of the State Auditor and these agencies, to discuss the requirements of the State Audit Act and the State Audit Act regulations, to discuss the availability of our fraud hotline to their agency in case they do not currently have one, and we also discuss the training needs of their staff and possibly the members of their governing body in areas of accounting, financial reporting, compliance, etc. We will then ask various questions, request various documentation to gain a general understanding of the agency, in particular management, how management operates and how the governing body operates. We will also gain an understanding of their internal controls over the following areas: safeguarding of assets; compliance with laws, regulations, contracts and grant agreements; what they've done to prevent and detect fraud within their

organization; we'll discuss in depth the status of their financial audits and what corrective action plan they have to correct all of the audit findings noted in any recent audits.

That concludes my brief overview of the Office of the State Auditor and our duties. Now I would like to discuss three areas pertaining to the annual financial audit and accounting and financial reporting, and again, compliance and internal controls. I'd like to discuss management's responsibilities first of all. The reason I'd like to do this, discuss management's responsibilities and the auditor's responsibilities, to review, that will lead into the roles of the governing body.

Management's first responsibility is to establish adequate internal controls over financial reporting and compliance, and this is over all of your agency account balances, whether they're assets, liabilities, fund balances, revenues, expenditures, other financing sources and uses, transfers. All of your budgets and any information presented in your notes to the finance statements or schedules, such as your schedule of expenditures of federal awards or your schedule of cash accounts and investments.

Management is responsible to comply with laws, regulations, contracts and grant agreements, especially those that have a direct and material effect on the determination of financial statement amounts. Then management is responsible to safeguard its assets and to protect them from fraud, waste and abuse. Management is responsible to detect fraud, waste and abuse within their organization. Management is responsible for the financial statements, including the contents of its management's discussion and analysis of all of the financial statements – balance sheets, net assets, statement of revenues and expenses, expenditures and changes in fund balances, all of your budgetary comparisons and schedules. Management is responsible for taking corrective action to resolve all of the audit findings noted in the audit report.

Now I would like to discuss what the auditor's responsibilities are. There's a little expectation gap as to what various managers and members of the governing body and citizens think about what auditors' responsibilities are. First of all, their main responsibility is to express an opinion on your financial statements as to whether they are fairly stated and in accordance with general accepted accounting principals. The auditor is also required to express an opinion on compliance with the requirements applicable to your major federal grantor programs. They are also required to comply with generally accepted accounting principals during the preparation of your finance statements if you hire them to do so, which most agencies in New Mexico do. They hire their CPA firms to prepare their finance statements, except for the City of Santa Fe. Santa Fe County is in real good shape with regard to their financial statements. They also are required to comply with generally accepted auditing standards and government auditing standards and the Federal [inaudible] Audit Act related to their major federal award programs.

The last two items – auditors are not required to express an opinion on internal controls, and they do not express an opinion on their internal controls. Also, auditors do not express an opinion on your compliance with laws, regulations, contracts and grant agreements. Again, they are only required to express an opinion on compliance with the requirements applicable to your major federal award programs. And last, one thing that's not mentioned here is auditors are not required to prevent or detect fraud; that is management's

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responsibilities. In regards to – a lot of people think that the auditors are required to at least detect fraud, and to a certain extent they are, so I wanted to just clarify exactly what their responsibility is.

In accordance with auditing standards, auditors are required to plan and perform audit procedures to detect material misstatements in your financial statements, whether they are caused by error or fraud. So that's an important distinction that I wanted to make to you.

Now that leads us in to the roles of the governing body, and of course you have very important roles as members of the governing body of the Santa Fe County and the City of Santa Fe. There are many important programs, activities and functions that serve the citizens of these communities. My presentation here to you today involves your role as members of the governing body as it pertains to accountability. First of all, your main role, obviously is to oversee the strategic direction of your organizations and to oversee the obligations related to accountability of your organizations. And you do this through observation, inquiry and analysis of all the information that is provided to you by management and other sources. You are required to oversee the financial reporting process, the subject matter, the programs that are under audit of course, and the internal controls over those programs, activities and functions, and compliance with those grant agreements.

The governing authority is also required to ensure that management is complying with the State Audit Act in hiring a CPA firm to perform an annual financial audit of your financial statements and submit that report to the Office of the State Auditor by the required due date. Santa Fe County has complied with that Audit Act; they did submit their audit report to our office by November 15, 2009. However, the City of Santa Fe this year was late in submitting the audit report to our office by the due date and I believe our office just released that report to the public yesterday, I believe. So hopefully, you as members of the City Council may take a look at those findings and the causes for that late audit report and determine what corrective action you feel that management needs to take to get the audit reports back on track like they have been over the last many several years.

Some additional roles of the governing body as it pertains to the annual financial audit. The CPA firm is required under auditing standards to communicate certain matters to members of the governing authority and to management and they make this communication through the form of an engagement letter. An engagement letter outlines all of the duties and responsibilities of management and the auditors and it's going to generally describe the audit procedures they are going to perform, so it's important to read that engagement letter to fully understand the scope of the audit, the management's responsibilities, and the auditor's responsibilities and what you can do to oversee that process. One of the main things that a governing body can do is to participate with the audit process, not just at the end of the audit when you may attend the exit conference to discuss the results of the audit, but more importantly at the beginning of the audit so that you can bring items to the auditor's attention that you would like them to review, audit or consider during the course of the annual financial audit.

It's also important to participate during the annual financial audit, possibly one or more members of the governing body, have meetings with the auditor to discuss the progress of the audit, any findings that the auditor has found to date, and any problems that

management is having with their producing their financial statements and they trying to meet that deadline established by the State Audit Act.

At least one member of the governing authority is required to attend the exit conference, and the exit conference is held by the auditor with members of management and the governing authority to discuss the results of the audit, to discuss the opinion on your financial statements, to discuss the opinion on compliance with your major federal award programs, to discuss any internal controls deficiencies, and also to discuss any findings pertaining to compliance with laws, regulations, contracts or grant agreements. And that also gives you the opportunity to comment about how the audit findings are written by the auditor. Sometimes audit findings are not written in a manner that complies with generally accepted auditing standards, and sometimes auditors do not provide enough information in those audit findings and sometimes auditors do not recommend adequate specific corrective action for management to correct those findings.

In accordance with auditing standards management is allowed and required to respond to the contents of those audit findings. So I'd encourage the members of the governing body to participate in the creation of those responses to all of those findings that are noted in the audit report.

Moving on to the next slide, some additional roles of the governing body. This involves the control environment of your organization and this is very important: To set the proper tone at the top. If a proper tone is set at the top then that flows pretty much all the way down through the chain of command throughout your organization. It promotes integrity and ethical behavior. It's good to review your code of conduct and your code of ethics to see if it's complete and thorough and covers areas pertaining to occupational fraud and abuse, conflicts of interest, related party transactions and hopefully mirrors at a minimum the requirements of the state's Governmental Conduct Act which is applicable to all state agencies, but it is not applicable to local governments here in New Mexico.

We'd recommend that you establish whistleblower policies and procedures, especially now that there is a new Whistleblower Protection Act that is currently in effect, and also ensure that fiscal policies and procedures and internal control activities are up to date and implemented and functioning as prescribed by management. If I may, does Santa Fe County have an Audit Committee as part of their governing body?

CHAIRMAN MONTOYA: Not per se, no.

MR. ARCHIBEQUE: Okay. Does this City of Santa Fe? Okay. Thank you. We would recommend that the governing body establish an Audit Committee or at least consider it. The Audit Committee would provide recommendations regarding the selection of the external auditor. The Audit Committee would consist of members of the governing body, some ex officio members, some members of the public – anybody who has some experience in finance, accounting and auditing. The Audit Committee would meet with the external auditor prior to commencement of the audit and during the audit. The Audit Committee could assist the governing body to interpret the annual audit report including the opinions and audit findings and recommendations, since some members of the governing body may not be too familiar with auditing and accounting and reporting standards.

The Audit Committee would review and monitor corrective action plans established



by management, would assist management with those corrective action plans and would assist in oversight of the internal audit function and make recommendations to the governing authority in all matters pertaining to the annual financial audits or any special audits or investigations that are conducted by the state or federal officials.

The next several slides I'd like to discuss occupational fraud. First of all I'd like to give you some statistics regarding a study that was conducted by the Certified Fraud Examiners Association earlier this year. According to the study a typical organization loses approximately five percent of its annual revenues to fraud. That translates to about \$2.9 trillion worldwide. The median loss was \$100,000 and 25 percent of those losses involved at least \$1 million. This was a study of 1843 cases where certified fraud examiners uncovered fraud in an organization. 32.4 percent of those cases were in government and public administration with a median loss of \$95,000.

Unfortunately, in 42 percent of the cases the organization recovered nothing after the fraud was discovered. The Office of the State Auditor, in 2009 completed an audit of the Jemez Mountain School District where we found that \$3.4 million was embezzled by the former business manager from 2002 through 2009. Again, unfortunately the school district was only able to recover \$250,000 through their insurance carrier which was the New Mexico Public School Insurance Authority. It did not look like much other than that is going to be recovered from the over \$3.4 million loss to the agency.

Fraud, waste and abuse have several adverse effects on your organization. Not only does your organization lose money and potential assets and resources it causes a lot of damage to your agency such as poor reputation, loss of public confidence, it adversely affects your status with creditors, grantors, legislators, oversight agencies, the general public. It could result in a loss of state or federal funding. If there's a public vote for any type of bond issue or tax rate increase that you would like to pass, it adversely affects staff morale and it overall distracts an agency from its mission. Unfortunately again, it creates increased oversight and regulation and additional burdens and more work for your employees to handle.

There are three different types of occupational fraud – asset misappropriation, corruption, and fraudulent financial statements. Those three I'd like to discuss a little more in depth with you. In this study, asset misappropriation schemes represented 90 percent of the cases causing a median loss of \$135,000. Corruption schemes represented 33 percent of the cases and almost double the median loss of \$250,000. Financial statement schemes only involved five percent of the cases but caused a median loss of more than \$4 million and those financial statement schemes are primarily pertaining to the private sector such as large corporations.

Asset misappropriation schemes pretty much relate to those that are in state and local government as well as public corruption. I'd like to discuss a few asset misappropriations of cash. Skimming of cash, write-off of accounts receivable, another way they collect cash from the customer but they don't record that they received the cash in the general ledger, and then they eventually write off the accounts receivable balance. So if you have accounts receivable from customers then that is possible for a fraud scheme like that to occur within your organization, without the necessary internal controls and safeguards in place.

Larceny and embezzlement is a huge problem here in New Mexico. Some of these

embezzlement cases don't involve a lot of money but with today's budget problems any loss is important. That involves the theft of cash, the theft of cash on hand, from a deposit. It also involved fraudulent cash disbursements.

Some additional schemes are billing schemes. That's where possibly somebody in your Finance Department or Accounts Payable Department colludes with one or more employees or possibly with a vendor or another business or a business owned by an employee or even a member of the governing body. They establish shell companies, write out checks to the names of those companies and checks are mailed to the addresses of those fake companies. Billing schemes involving personal purchases that benefit the employee but not the agency.

There are also payroll schemes related to cash disbursements. This occurred also at Jemez Mountain School District. She stole hundreds of checks out of their payroll account, wrote hundreds of checks out of the payroll account to herself and deposited those checks into her personal bank account and into bank accounts of her husband, her daughter and her daughter's boyfriend.

So today's computers and systems and the Internet and software programs it's very easy to reproduce checks and warrants and forged documents and things of this nature. Payroll schemes involving ghost employees – again, she made out checks to her relatives and charged them to the payroll account. Again, those were considered ghost employees, or just a regular employee who falsifies work on their time sheet, falsifies overtime requests, things of that nature. Abuse of their leave – taking leave but not reporting the leave on their time sheets.

Some additional fraudulent cash disbursements involved register disbursements. I don't know if you have any operations within your jurisdiction that involve cash registers but this is probably related to the retail industry. But it's easy to false-void and issue false refunds and then pocket the cash. There's also employee reimbursement schemes where they abuse their per diem mileage reimbursements or they request reimbursements for expenditures that they did not incur. Fictitious expenses – or also request multiple reimbursements for the same costs that they incurred.

And some other schemes involving fraudulent disbursements and check tampering. It's real easy to forge checks, forge makers' endorsements, alter the payees, conceal checks, steal checks or alter cancelled checks and alter bank statements. All of this occurred at the Jemez Mountain School District. So it's important to ensure that your Finance Department is up to date and current with all of their bank account reconciliations for all cash and investment accounts, that those bank account reconciliations are thoroughly and adequately performed, that the result of those bank reconciliations are reviewed and monitored by a supervisor, and that somebody other than the preparer of that bank reconciliation ensures that those bank statements on file are the original copy and that all of the cancelled checks, front and back, copies of the cancelled checks accompany those bank statements to also ensure that somebody is looking at the endorsements on the back of those checks to make sure that they agree with who the checks are made out to, where those checks were deposited, in what bank account, and also possibly somebody from the IT Department to match those addresses on the cancelled checks to the addresses of employees who work for your organization to see if you

could uncover any matches.

Some other non-cash misappropriations involving the misuse of assets, and that's all types: city or county vehicles, heavy equipment, computers, supplies and inventory, personnel. We talked a little about larceny, but there's also non-cash larceny involving purchasing, your receiving functions. False sales and shipping again, are more related to the private industry, but also some larceny related to asset acquisitions and transfers of assets.

The next category is corruption and this involves illegally receiving bribes and gratuities and tips for performing your assigned function. It usually involves the procurement cycle, the procurement of goods and services, contracts with vendors for goods and services, construction projects, etc. It involves bid-rigging. Again, the procurement cycle, the purchasing of goods and services. Again, that involves collusion with one or more employees and a vendor or a business. It also involves the conflict of interest and related party transactions. I don't know if your conflict of interest policies allow related party transactions or disallow them but we would strongly recommend that you take a close look at your policy on related party transactions and strengthen that policy and hopefully disallow transactions with related parties such as employees, employees who own businesses and that conduct business with your agency, or members of the governing body who also own businesses and conduct business with the agencies that you oversee.

Now for fraudulent financial statements. Again, this is rather rarer in state and local governments, however, this did occur at the Jemez Mountain School District. Because of the large amount of cash that she embezzled she had to manipulate the general ledger and the accounting system to record those cash disbursements and charge them to some expenditure category, to some expenditure account. And within all of the funds, individual funds, special revenue funds, debt service funds, capital projects funds within the school district. So that involved the fraudulent financial reporting to conceal how those expenditures were recorded in the general ledger. That created some asset and revenue overstatements, there were some concealed liabilities and expenses, so those are very important issues to consider within your organization.

CHAIRMAN MONTROYA: Steve, we have about 15 minutes.

MR. ARCHIBEQUE: Okay. Sure. In the next few pages there are several other examples that I've gone over in some form or manner, so I pretty much covered those. I'd like to give you some more statistics on fraud methods. Corruption, out of all these cases corruption involved 32.4 percent of all of the cases, billing 24 percent of the cases, and employee reimbursement about 18 percent of the cases. Notice at the bottom, financial statement fraud only involved 2.8 percent of the cases so as you can see it's very rare in state and local governments.

The primary internal control weaknesses that caused or allowed these fraud schemes to occur were the lack of internal controls, 37.8 percent, the override of internal controls by management, 19 percent, the lack of management review, about 18 percent, and poor tone at the top, 8.4 percent, lack of competent personnel in oversight roles, about seven percent. One thing I'd like to point out that for lack of independent audit only 5.6 percent was the reason.

Fraud detection – it's normally detected by tips. Employee tips amounted to the largest reason of detection, 49.2 percent. Customers reported 17.8 percent of the schemes and

13 percent were reported anonymously, and the vendor reported 12.1 percent of these schemes.

Regarding more information on fraud detection – again, tips, 43.2 percent, management review or monitoring of your internal controls, 13 percent, internal audits uncovered 10.7 percent and only 6.5 percent by accident. And again notice the external audits only uncovered fraud schemes only 6.5 percent of the time. Some effective anti-fraud controls, they reduce the cost and the duration of the fraud schemes. Again, hotlines are important – 59.2 percent. Employee support programs, surprise audits, fraud training for staff members, some that we had this morning for the County staff resulted in median loss reductions of more than 50 percent. Finance statement audits, to the contrary, was among the least reduction in median loss.

The Certified Fraud Examiners felt that internal audits were most important. 60.8 percent of them thought that internal audits or fraud exams were most important in detecting fraud or limiting fraud. Management review, 50 percent, surprise audits, about 49 percent. A hotline 41 percent. Job rotation, mandatory vacation, 42 percent.

Some recommendations on fraud detection: Establish or use fraud hotlines, use our fraud hotline if you don't have one; implement whistleblower policies and mechanisms to help protect employees so they are more willing to report fraud; perform more internal audits and review higher risk areas and transactions. Even if you don't have an internal audit department or an internal audit staff you could assign staff with similar qualifications to perform those internal audit functions.

Communicate, again, concerns with the external auditors, both management and members of the governing body throughout the audit process, definitely encourage your employees to report fraud to all those involved and in accordance with the State Audit Act, management is responsible to immediately report illegal activity to our office as required by the State Audit Act.

To recognize fraud you kind of have to understand a little more about the perpetrators and if you have weak internal controls they have the opportunity to commit fraud. If you have the financial need, for example there's record bankruptcies, foreclosures, unemployment rates, layoffs, people are getting laid off or fired, there's the economic crisis, the housing recession, so there's lots of people that are in need or in a financial crisis so they need to commit fraud. Then also there's the rationalization or the lack of honesty and integrity of these employees, or just good old fashioned greed. So those three combined gives them the opportunity to commit fraud.

The warning signs of perpetrators – the number one is living beyond their means, and that was very evident with the former business manager at Jemez Mountain School District. They remodeled their house, they drove new cars, both of them, new motorcycles, Harley Davidson, they gambled a lot at casinos, and they bought a lot of gifts to their friends, families and the people that worked within the business office, so how could they afford all this? So this study found that 43 percent of the cases, those employees were living beyond their means.

Others were experiencing financial difficulties, like I mentioned, the need to commit fraud, 36 percent. And then you get an unwillingness of that employee to share duties there

may be a reason for that; they're trying to conceal something. Or a close association with a vendor or a business. That's extremely important, to instruct management to keep their eyes out for all of these items here is very important.

The profiles of perpetrators, more than half the cases were committed by those of the ages of 31 and 45. The median losses tend to rise with the age of the perpetrator because they had more experience with the organization or they're more educated as time goes by. They understand your internal control activities or the lack of internal controls, therefore they know how to perpetrate a fraud scheme. About 50 percent of the perpetrators were with the organization for more than five years, so it takes some time for them to understand that system. Only five percent were with the organization for less than one year. And obviously, losses tend to rise as the tenure of the perpetrator increased within your organization.

This was kind of interesting, I thought in this study: 6.7 percent had prior convictions on their record. 7.7 percent had been charged but not convicted. 9.5 percent were previously terminated or punished. So that tells me that the organization was not conducting adequate background checks of the employees before they were hired by the organizations. The genders, 57 percent male, 42 percent female, roughly the same median loss by gender. Men tend to steal more than women.

Fraud prevention. Basically to establish a perception of detection within your organization. Again, take a look at the control environment, the tone at the top, strengthen your code of conduct, your code of ethics. Do you conduct employ surveys about honesty and integrity? Most organizations don't. The Public Regulation Commission did last year and there were some interesting results out of those employee surveys that might be beneficial to members of the governing body or management.

Are fraud prevention goals incorporated into the employees' performance measures? Probably not. Something that management may want to consider. Has management established, implemented and tested to oversight process of the governing authority? Again, since the governing authority is required to provide oversight to management. And we talked about the audit committee. Some training programs about what constitutes fraud, that's the kind of information we're trying to reach out and discuss and inform agencies, communicate the adverse effects to the employees. Open lines of communication so employees can report fraud, waste and abuse to management and the governing authority, and hopefully establish a zero tolerance for fraud.

As far as reporting mechanisms, how they can report them – anonymous, use the fraud hotline, and they should be able to report fraud without fear of reprisal and inform employees that any reports, management will follow up and take corrective action as needed. Management needs to conduct risk assessments, especially of all of their cash receiving and cash disbursement locations and personnel and control activities, anything involving the procurement of goods and services, payroll, etc. It says all locations, not just here at the general office. Establish and implement anti-fraud controls. Fraud prevention – establish an internal audit department if you don't have one, at least an internal audit employee, or if you don't have an internal audit employee use qualified staff to perform audits of various transactions within your agency. Provide them with adequate resources to conduct those internal audits and give them the authority to operate independently and effectively without

any undue influence.

Regarding your hiring policies and procedures, I feel that's very important. Conduct past employment verifications, criminal and civil background checks, credit checks and drug screening, and education verification, and definitely reference checks.

And next I'd like to discuss the Whistleblower Protection Act. This was passed by the last legislature and is currently a state law. It applies to all state and local governments in New Mexico. Basically, the law states that an employer cannot retaliate against an employee for reporting incidences of illegal activity to management or oversight bodies or prosecuting authorities, or testifying or providing information, or being part of a hearing or an inquiry, etc. And it's also unlawful to retaliate against an employee who objects or refuses to participate in an illegal activity. The Whistleblower Protection Act defines what constitutes illegal activity, and that's a violation of a federal, state law, regulation, administrative rules such as the New Mexico Administrative Code, or any law of any political subdivision of the state, malfeasance in public office, gross mismanagement, waste of public funds, misuse of authority or any specific or substantial danger to the public

And finally, the Whistleblower Protection Act requires every public employer to post notices on the premises of the employer that sets forth the provisions of the Act. I asked the morning session if they had seen any of these notices within the premises of Santa Fe County and they just informed me, they indicated that they had not. So that's important for both your organizations to post these notices in various locations throughout the City and the County.

And last, there's some useful websites that I have here, mainly the State of New Mexico lists all of the agencies and departments of the state including our office and it has access to all of the state laws, regulations, federal laws and regulations, and also the constitution. Thank you very much for your time and I could entertain any questions that you might have.

CHAIRMAN MONTOYA: We probably have about ten minutes for questions and then we need to get started with our Commission meeting. I want to welcome the Mayor. Thank you Mayor Coss for being here, and Councilor Bushee. You missed the introductions, and Commissioner Stefanics. Mayor Coss.

MAYOR DAVID COSS: I want to also thank the County Commission for hosting this and having us today. I think it's been very useful. Just comparing notes with Councilor Romero I think that first thing we might want to do is create that Audit Committee as a sub-committee of the Finance Committee. I wanted to check on the status because I know the City has asked the Auditor's Office to help us with a special audit so if that hasn't started yet it seems like a good time to get the Audit Committee going so we can work with them hand in hand as we go through our records.

CHAIRMAN MONTOYA: Councilor Bushee.

COUNCILOR PATTI BUSHEE: That's was one of the notes that I had is is there any general timeline for the audit, and also, do you have recommendations for who makes up an Auditor's committee? The City always had an internal auditor. I don't know if we still have that. We never hear from them. But just generally how to make that happen, and I was reading that in Albuquerque they have an Inspector General and they have a whole new fraud hotline and I guess I wanted to see how effective those kinds of tools were and again,

the Audit Committee – who do they report to? Do they need to report to an internal auditor? Is there a position we should create? And then my final question was really about signs of bid-rigging, because those aren't something that we as a governing body would have any close encounter with really. So those are the kinds of questions I have.

MR. ARCHIBEQUE: Okay. Regarding the bid-rigging. It's a matter of them taking a look at how they comply with the State Procurement Code. Well, for the City, you're home rule, so in that case how management employees are complying with your policies and procedures or the procurement of goods and services that would require bids and those are normally large purchases of goods and services such as construction projects. You generally have to take a look at your segregation of duties with the procurement process to make sure that the same employee is not requesting a good or service, ordering a good or service, evaluating the bids or proposals, establishing the evaluation criteria, rating the proposals, request for proposals. And also receiving the goods and services, and then paying for the goods and services. Some of those duties definitely have to be segregated. But there's various techniques that management can take a look at. Primarily adequate documentation to support all procurement decisions, that they do comply with the policies and procedures, and that there's adequate segregation of duties.

Regarding your question about internal auditors and Audit Committees. Audit Committees are usually members of the governing body. There could be ex officio members such as maybe the head of the Finance Department, could be City Manager, County Manager. It could be a member from the community that has extensive experience in finance, accounting or auditing or the subject matter that you are concerned about. The Audit Committee obviously reports and makes recommendations to the Board. The internal auditor should report to the Audit Committee, or the internal auditor should report to the governing body. It's not recommended that the internal auditor report to management because of various reasons but giving the internal auditor the independence and the authority given to them by the governing authority to audit various aspects within your organization.

I don't have too much information about the fraud hotline and Office of the Inspector General. However, through these statistics it is shown that fraud hotlines are the most effective tool in reducing fraud and losses in an organization.

COUNCILOR BUSHEE: One follow-up on the Audit Committee. Is there a model? It looks like the job description, the purview they might have?

MR. ARCHIBEQUE: Sure. Hopefully there would be a CPA, one member that has experience of conducting fraud examinations, internal audits or annual financial audits. Somebody that has implemented and followed generally accepted government auditing standards, generally accepted auditing standards, and is very familiar with government accounting and financial reporting standards, laws, rules and regulations, including the federal compliance requirements applicable to your major federal programs. Somebody that has extensive experience auditing purchases and cash disbursements and has experience with capitalizing capital assets and inventories and anything that is susceptible to fraud. It's important for you to appoint somebody that has that type of experience to an Audit Committee. Plus there's other areas again that management or the governing body would be interested in in an internal auditor, following up with those issues related to economy and

efficiency audits, performance audits, not just fraud, waste and abuse, but economy, efficiency and performance audits.

CHAIRMAN MONTROYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. I know we just have a few minutes. I just want to comment and maybe give direction on a couple of items. It seems to me the Whistleblower Act is all encompassing and probably – I've actually been texting with our Sheriff with regard to whether or not we need to narrow our approach to that to create an ordinance with regard to that. Local government on the County level does have the authority to use state statutes for these kinds of things but it seems to me that that is something that we can look at internally and fortunately through texting capabilities I've been able to communicate with our Sheriff in terms of doing that and we will be communicating with our Legal Department. I'm not sure whether we need to narrow it any more but I think one thing the County can do to respond quickly and appropriately after your presentation is we can post the Whistleblower Act signs, similar to, I'm thinking, the equal opportunity signs, so that's a quick remedy. We can work with HR to respond to that appropriately.

I also think the Audit Committee is something that can be looked at. I would ask Finance and our acting interim County Manager to come forth with a recommendation as to what would comprise our Audit Committee. And then with regard to detecting employees who are at risk for fraud or embezzlement, I think there's one area that's really critical to our community that I've actually experienced as in-house counsel to other agencies and that's gaming practices. When you see unusual gaming practices coming forth with an employee, that is actually another red flag with regard to at-risk for embezzlement and I didn't hear that as part of your presentation, but it truly is an experience we've all had. Thank you, Mr. Chair. Thank you for your presentation.

MR. ARCHIBEQUE: You're welcome.

CHAIRMAN MONTROYA: Steve, thank you. Appreciate you again taking the time. Would you introduce the staff that came with you from the State Auditor's Office?

MR. ARCHIBEQUE: Sure. We have Patrick Stewart, he's our chief investigator. He did a little presentation this morning for the County staff on our fraud hotline, our site visits, our address designation program, and a brief overview of what we do in our office. Next to him is Antonio Corrales. He is the chief of staff for the Office of the State Auditor, under the State Auditor, Hector Balderas.

CHAIRMAN MONTROYA: Okay. Thank you, Steve. And I'd also like to acknowledge the City of Santa Fe staff. Would you please stand, those of you who came this afternoon. I want to thank you for help in setting this up as well. And then County staff, I'd like to ask County staff to stand and be recognized as well. Everyone else. Thank you. Thank you, County staff for being here this afternoon as well. We will continue to work towards a lot of the things that you have suggested to us and I thank you for the instruction and direction and I think Commissioner Vigil said it well in terms of the Commission and where we need to move forward.

So, Councilors, thank you. Appreciate your being here this afternoon.



**ADJOURNMENT**

Chairman Montoya declared this meeting adjourned at 2:10 pm.


Approved by:

  
\_\_\_\_\_  
Board of County Commissioners  
Harry Montoya, Chairman

ATTEST TO:

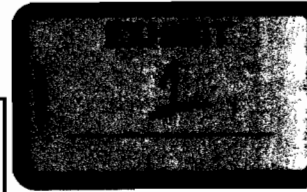
  
VALERIE ESPINOZA  
SANTA FE COUNTY CLERK

Respectfully submitted:

  
Karen Farrell, Wordswork  
227 E. Palace Avenue  
Santa Fe, NM 87501



SFC CLERK RECORDED 08/15/2010



## **“Roles of the Governing Body and the Consideration of Fraud, Waste and Abuse”**

**Presented By:**

**Steve Archibeque, CPA, Senior Audit Manager  
NM Office of the State Auditor  
August 10, 2010**

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## **Agenda**

- **Overview – Office of the State Auditor**
- **Management’s Responsibilities**
- **Auditor’s Responsibilities**
- **Roles of the Governing Body**
- **Occupational Fraud and Abuse**
- **Whistleblower Protection Act**

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## Mission of State Auditor

- To provide a professional, unbiased opinion on the financial affairs of all agencies receiving public funds; and
- To promote transparency and accountability for the citizens of New Mexico.

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## State Audit Act and Regulations

- Chapter 12, Article 6 NMSA and 2.2.2 NMAC
- Office of the State Auditor - Current staff of 30
  - 5 in executive management
  - 7 in administrative services division
  - 6 in special investigations division
  - 12 in financial audit division
- Process firm profiles (71+) and audit contracts (600+)
- Conduct audits of state and local governments
  - Annual financial audits
  - Special audits and investigations
  - Attestation engagements/agreed-upon procedures
- Conduct quality control reviews of audit reports
- Conduct quality control reviews of audit documentation

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## Fraud Hotline

- The State Auditor implemented a fraud hotline managed by the Special Investigations Division:
- [www.osafraud.org](http://www.osafraud.org)
- 1-866-OSA-3728
- 1-866-672-3728
- Available 24 Hours, 7 Days a Week
- Anonymous Reporting (or not)
- Phone, Internet and/or In-Person Reporting
- In 2009, a new section for special audits and examinations (fraud, waste and abuse) was added to the audit rule, Section 2.2.2.15 NMAC.

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## At-Risk Designation Program

- Monitor the status of late audit reports
- Conduct risk assessments of agencies
  - Fraud hotline cases
  - Correspondence, notifications and referrals
  - Review audit reports and findings
- Issue risk advisory letters to agencies
- Perform site visits at agencies
- Monitor the at-risk agencies
- Conduct special audits and investigations as deemed necessary

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## Site Visits

- Outreach:
  - Establish open lines of communication with OSA
  - Discuss requirements of 2.2.2 NMAC
  - Discuss the availability of our fraud hotline
  - Training needs
- Gain a general understanding of the agency:
  - Management and the governing body
- Gain a general understanding of their internal controls:
  - Safeguarding of assets
  - Compliance with laws, regulations, contracts and grant agreements
  - Prevention and detection of fraud
  - Status of financial audits
  - Corrective action plan for current audit findings

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## Management's Responsibilities

- Establish adequate internal controls over financial reporting and compliance.
- Compliance with laws, regulations, contracts and grant agreements.
- Safeguarding assets.
- Preventing and detecting fraud, waste and abuse.
- The content and accuracy of MD&A, financial statements, notes, and schedules in audit report.
- Implementing corrective action for audit findings.

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## Auditor's Responsibilities

- Express opinion on financial statements.
- Express opinion on compliance with the requirements applicable to the major federal award programs, if applicable.
- Comply with generally accepted auditing standards, rules and regulations.
- Prepare financial statements in accordance with generally accepted accounting principles, rules and regulations.
- Auditor's do not express an opinion on internal controls.
- Auditor's do not express an opinion on compliance with other laws, regulations contracts and grant agreements.

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## Roles of the Governing Body

- Oversee the strategic direction of the entity.
- Oversee the obligations related to accountability of the entity.
- Provide oversight through observation, inquiry, and analysis of reports and documentation.
- Oversee the financial reporting process, subject matter, or program under audit including related internal controls.
- The governing authority should ensure that management is complying with the State Audit Act and Regulations (2.2.2 NMAC).

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## Roles of the Governing Body

- Review the engagement letter to understand the objectives of the audit and the responsibilities of management and the auditor.
- Participate with the audit process.
- A member of the governing authority is required to attend the exit conference for the annual audit (2.2.2.10 J NMAC).
- The governing authority should ensure that management is correcting the audit findings in a timely manner.

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## Roles of the Governing Body

- Set the proper tone at the top (control environment):
  - Promote integrity and ethical behavior.
  - Establish an effective code of ethics.
  - Establish effective conflict of interest policies and procedures.
  - Establish whistleblower policies and procedures.
  - Ensure that fiscal policies and procedures are up-to-date and implemented by management.

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## Roles of the Governing Body

- Establish an audit committee to:
  - Provide recommendations regarding the selection of the external auditor.
  - Meet with the external auditor prior to commencement of the audit and during the audit.
  - Assist the governing body to interpret the annual audit report including the opinion and the audit findings and recommendations.
  - Review and monitor corrective actions plans established by management.
  - Assist in the oversight of the internal audit function.
  - Make recommendations to the governing body.

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## Occupational Fraud

- Per the results of a study conducted by the Association of Certified Fraud Examiners (2010):
  - The typical organization loses 5% of its annual revenue to fraud.
  - This translates to a potential total fraud loss of more than \$2.9 trillion worldwide.
  - The median loss was \$100,000 and 25% of the losses involved at least \$1 million.
  - In a study of 1843 cases, 32.4% were in government and public administration with a median loss of \$95,000.
  - 42% of the organizations recovered nothing after the fraud was discovered.
- **SAO completed a special audit of the Jemez Mountain School District in 2009 and found that \$3.4 million was embezzled from 2002-2009.**

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## Adverse Effects of Occupational Fraud

- Fraud, waste and abuse of public funds causes other damages to your agency:
  - Poor reputation.
  - Loss of public confidence.
  - Adversely affects status with creditors, grantors, legislators, and oversight agencies.
  - Loss or decrease of funding.
  - Reduces public votes for a bond issuance.
  - Adversely affects staff morale.
  - Distracts an agency from its mission.
  - Increased oversight and regulation.

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## Types of Occupational Fraud

- Asset Misappropriation
- Corruption
- Fraudulent Statements

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## Types of Occupational Fraud

- Asset misappropriation schemes represented 90% of the cases causing a median loss of \$135,000.
- Corruption schemes represented just under 33% of the cases causing a median loss of \$250,000.
- Financial statement schemes represented 5% of the cases causing a median loss of more than \$4 million.

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## Asset Misappropriation - Cash

- Skimming
  - Unrecorded or understated sales
  - Write-off of receivables and lapping schemes
  - Refunds
- Larceny and Embezzlement
  - Cash on hand
  - Cash from the deposit
  - Fraudulent cash disbursements

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## Asset Misappropriation - Cash

- Fraudulent disbursements
  - Billing schemes
    - Shell company
    - Personal purchases
    - Non-accomplice vendor
  - Payroll schemes
    - Ghost employees
    - Falsified timesheets and wages

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## Asset Misappropriation - Cash

- Fraudulent disbursements
- Register disbursements
  - False voids
  - False refunds
- Expense reimbursement schemes
  - Mischaracterized expenses
  - Overstated expenses
  - Fictitious expenses
  - Multiple reimbursements

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## Asset Misappropriation - Cash

- Fraudulent disbursements
  - Check tampering
    - Forged maker
    - Forged endorsement
    - Altered payee
    - Concealed checks
    - Stolen checks
    - Altered cancelled checks

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## Asset Misappropriation - Noncash

- Misuse of assets
  - Vehicles
  - Equipment
  - Computers
  - Supplies and inventories
  - Personnel
- Larceny
  - Asset requisitions and transfers
  - False sales and shipping
  - Purchasing and receiving

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## Corruption

- **Illegal gratuities and bribery**
  - Invoice kickbacks
  - Bid rigging
- **Conflicts of interest**
  - Purchasing schemes
  - Sales schemes

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## Fraudulent Statements

- **Non-financial**
  - Employment credentials
  - Internal documents
  - External documents
- **Financial**
  - **Asset/Revenue Overstatements**
    - Timing differences
    - Concealed liabilities and expenses
    - Improper asset valuations

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### Other Examples or Indications of Fraud, Waste and Abuse

- Lack of a code of ethics or code of conduct.
- Lack of adequate conflict of interest policies and procedures.
- Transactions with related parties.
- Using restricted funds for other purposes.
- Fictitious employees, false timesheets, fictitious vendors and false invoices.
- Unnecessary or excessive travel, meals, entertainment, salary and benefits.

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### Other Examples or Indications of Fraud, Waste and Abuse

- Lack of segregation of duties.
- Excessive recording errors.
- Lack of bank account reconciliations.
- Missing records.
- Journal entries without supporting documentation.
- Management's override of controls.

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## Other Examples or Indications of Fraud, Waste and Abuse

- Contracting misconduct, including pre-selection of vendors and inappropriate sole sourcing.
- Not obtaining quotes for goods and services.
- Split purchasing to avoid complying with procurement laws and regulations (Section 13-1-125D NMSA 1978)
- No evidence that goods and services were received before they were paid for.
- Excessive contract amendments and change orders.
- Missing documentation for cash disbursements.
- Large amounts of purchases at the end of the fiscal year to avoid reversions.

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## Fraud Methods – Public Administration

- Corruption – 32.4%
- Billing – 24.4%
- Employee reimbursement – 18.2%
- Non-cash – 17%
- Larceny – 14.2%
- Check tampering – 13.6%
- Skimming – 13.1%
- Cash on hand – 11.9%
- Payroll – 11.4%
- Financial statement fraud – 2.8%
- Register disbursements – 2.8%

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## Primary Internal Control Weaknesses

- Lack of internal controls – 37.8%
- Override of internal controls – 19.2%
- Lack of management review – 17.9%
- Poor tone at the top – 8.4%
- Lack of competent personnel in oversight roles – 6.9%
- Lack of independent checks/audits – 5.6%
- Lack of employee fraud education – 1.9%
- Lack of clear lines of authority – 1.8%
- Lack of reporting mechanism - .6%

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## Fraud Detection

- Frauds are most likely to be detected by tips than by any other means.
- Source of Tips:
  - Employee – 49.2%
  - Customer – 17.8%
  - Anonymous – 13.4%
  - Vendor – 12.1%
  - Competitor – 2.5%
  - Perpetrator's acquaintance – 1.8%

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## Fraud Detection - Government

- Tips – 43.2%
- Management review – 13%
- Internal audit – 10.7%
- By accident – 6.5%
- Account reconciliation – 8.9%
- Document examination – 6.5%
- External audit – 6.5%
- Other (surveillance, notified by police, confession and IT controls) – 4.8%

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## Effective Anti-Fraud Controls

- Anti-fraud controls help reduce the cost and duration of fraud schemes.
- Hotlines were the control with the greatest associated reduction in median loss of 59.2%.
- Employee support programs, surprise audits and fraud training for staff members were associated with median loss reductions of more than 50%.
- Financial statement audits, the most commonly implemented control, was among the least reduction in median loss.

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## Importance of Controls in Detecting or Limiting Fraud

- Internal audits or fraud exams – 60.8%
- Management review – 50.3%
- Surprise audits – 49%
- Job rotation/mandatory vacation – 42%
- Hotline – 41.3%
- Rewards for whistleblowers – 36%
- External audit of ICOFR – 31.5%
- External audit of F/S – 27.9%

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## Fraud Detection

- Establish or use fraud hotlines.
- Implement whistleblower policies and mechanisms to help protect employees.
- Perform more internal audits and review high risk areas and transactions.
- Communicate concerns with external auditors.
- Encourage employees to report known or suspected illegal acts, fraud, waste and abuse to management, the governing body, auditors, oversight agencies, investigators and prosecutors.
- Management must report known or suspected fraud or other violations of criminal statutes to the State Auditor immediately as required by Section 12-6-6 NMSA 1978 and Section 2.2.2.10 K (3) NMAC.

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## Recognizing Occupational Fraud

- Opportunity (Weak Internal Controls)
- Need (Financial Crisis)
- Rationalization (Convincing Self) and lack of honesty and integrity

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## Warning Signs of Perpetrators

- The most common red flags are:
  - Living beyond their means - 43% of cases
  - Experiencing financial difficulties – 36%
  - Unwillingness to share duties - 22.6%
  - Close association with vendor - 22.1%
  - Wheeler-dealer attitude – 19.2%
  - Divorce/family problems – 17.6%
  - Irritability/suspiciousness/defensiveness – 14.1%
  - Addiction problems – 11.9%
  - Refusal to take vacations – 10.2%
  - Past-employment related problems – 9.3%
  - Complained about inadequate pay – 7.9%
  - Excessive pressure from within organization – 7.5%

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## Fraud Prevention

- Establish a perception of detection
- Review and establish a sound control environment:
  - How is the tone at the top?
  - Review and strengthen the Code of Conduct or a Code of Ethics for all of your employees/officials.
  - Do you conduct employee surveys about honesty and integrity?
  - Are fraud prevention goals incorporated into performance measures?
  - Have you established, implemented and tested the oversight process of the governing authority?
  - Does the governing body have an audit committee?

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## Fraud Prevention

- Training programs
  - What constitutes fraud?
  - Communicate adverse effects to employees
  - Open lines of communication
  - Establish a zero-tolerance policy
- Fraud reporting mechanism
  - How to communicate concerns
  - Anonymous reporting/fraud hotline
  - Report without fear of reprisal
  - Reports will be promptly evaluated

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## Profiles of Perpetrators

- More than half of all cases were committed by individuals between the ages of 31 and 45.
- Median losses tended to rise with the age of the perpetrator.
- Median losses rose in correlation with increased education levels of perpetrators.
- About 50% of all perpetrators were with the organization for more than 5 years; 40% between 1-5 years, less than 1 year - 5.7%.
- Losses tended to rise as the tenure of the perpetrator increased.

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## Profiles of Perpetrators

- More than 85% of perpetrators had never been charged or convicted for a fraud-related offense; 6.7% had prior convictions, and 7.7% had been charged but not convicted.
- 9.5% of the perpetrators were previously terminated and 8.1% were previously punished.
- Gender of perpetrators in US: 57%-m, 42%-f
- Median loss by gender in US: 167K-m, 82k-f

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## Whistleblower Protection Act

- Applies to all state and local governments in NM.
- An employer shall not take any retaliatory action against a public employee because the employee:
  - Communicates to the public employer (or a third party) information about an action or a failure to act that the employee believes in good faith constitutes and unlawful or improper act.
  - Provides information to, or testifies before, a public body as part of an investigation, hearing or inquiry into an unlawful or improper act; or
  - Objects to or refuses to participate in an activity, policy or practice that constitutes an unlawful or improper act.

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## Whistleblower Protection Act

- An unlawful or improper act means a practice, procedure, action or failure to act on the part of a public employer that:
  - Violates a federal law, a federal regulation, a state law, a state administrative rule or a law of any political subdivision of the state;
  - Constitutes malfeasance in public office; or
  - Constitutes gross mismanagement, waste of funds, abuse of authority or a substantial and specific danger to the public.
- The Whistleblower Protection Act requires every public employer to post notices on the premises of the employer that set forth the provisions of the act.

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## Fraud Prevention

- **Conduct risk assessments**
  - Proactively identify and mitigate risks
  - Assess all operations and locations (follow the money, assets and resources)
- **Establish and implement anti-fraud controls**
  - Segregation of duties
  - Use of authorizations and approvals
  - Physical safeguards
  - Job rotations and cross-training
  - Mandatory vacations

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## Fraud Prevention

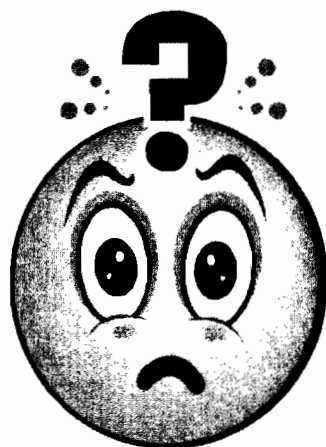
- **Internal audits**
  - Adequate resources?
  - Authority to operate effectively and independently without undue influence?
- **Hiring policies and procedures**
  - Past employment verifications
  - Criminal and civil background checks
  - Credit checks and drug screening
  - Education verification
  - Reference check

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## Useful Websites

- Office of the State Auditor ([www.osanm.org](http://www.osanm.org))
- State of New Mexico ([www.newmexico.gov/](http://www.newmexico.gov/))
- Governmental Accounting Standards Board ([www.gasb.org](http://www.gasb.org))
- OMB Circular A-133 ([www.whitehouse.gov/omb/circulars](http://www.whitehouse.gov/omb/circulars))
- Government Auditing Standards ([www.gao.gov/govaud/ybk01.htm](http://www.gao.gov/govaud/ybk01.htm))
- American Institute of Certified Public Accountants ([www.aicpa.org](http://www.aicpa.org))
- Association of Fraud Examiners ([www.acfe.com](http://www.acfe.com))

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***Any  
Questions?***

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**THANK YOU**

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