



Michelle Lujan Grisham
GOVERNOR

State of New Mexico
Department of Finance & Administration
180 Bataan Memorial Building
Santa Fe, New Mexico 87501
Phone: (505) 827-4985
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www.nmdfa.state.nm.us

Deborah K. Romero
Cabinet Secretary

Record of Rulemaking – 2.20.2 NMAC

Pursuant to Section 14-4-5.4 NMSA 1978, this is the Department of Finance and Administration's record of rulemaking for the repeal and replacement of 2.20.2 NMAC, effective March 23, 2021.

Interested individuals can follow the below link to access a video recording of the virtual rule hearing conducted on February 26, 2021:

Webex meeting recording: Department of Finance and Administration Rulemaking Hearing - Virtual-20210226 1648-1

Password: JpWN3M9M

Recording link:

<https://nmdfa.webex.com/nmdfa/ldr.php?RCID=b25336afb3924ccb97b3057a03908ba7>

The Department did not rely on any technical information in formulating the final rule, nor did it receive any public comments on the rule.

**IN RE: THE MATTER CONCERNING
A PUBLIC HEARING REGARDING
PROPOSED CHANGES TO CERTAIN
RULES BY THE DEPARTMENT OF
FINANCE AND ADMINISTRATION**

**HEARING OFFICER MEMORANDUM
2.20.2 NMAC – New Mexico Administrative Code**

COMES NOW the undersigned, and upon designation by the Cabinet Secretary Designate of the New Mexico Department of Finance and Administration (“Department” or “DFA”), and hereby submits his Report of a public rule hearing on Friday, February 26, 2021, at 10:00 a.m. The rule hearing was convened at approximately 10:00 a.m. via WEBEX platform, and was concluded on the same day at approximately 10:40 a.m. The purpose of the rule hearing was to provide an opportunity to take public comment regarding proposed changes to the following rule:

Repeal and Replace

2.20.2 NMAC New Mexico Register

Due to the age of 2.20.2 NMAC, consistent with 1.24.11.19 NMAC, the entire rule must be repealed and replaced in order to amend it. Consideration of this amendment is consistent with Sections 9-1-5 and 9-6-5, NMSA 1978, which authorize the Department to promulgate rules to administer the duties of the Department and its divisions, and with the State Rules Act, Section 14-4-1 *et seq.* NMSA 1978.

Summary of Proceedings

The hearing officer identified those individuals who are affiliated with the Department and participants were identified by screen name and asked to identify themselves, their affiliation, if any, and whether they wanted to submit oral comments. There were four individuals who attended the hearing as it was in progress, three of whom were identified and one unidentified call-in user for a duration of less than, or about, one minute. Only one individual submitted public comment, including the introduction of an info-graphic relating to their oral comment, which was entered into the record and identified as Exhibit 19.

The rule hearing was audio and video recorded via WEBEX platform. A copy of the WEBEX recording of the hearing was used in the preparation of this Report. A copy of the WEBEX recording has been placed in the Record of Rulemaking.

The following exhibits were introduced and accepted into the record:

<u>Exhibit</u>	<u>Description</u>
1.	Affidavit of Publication and Legal Notice of this rule hearing published in the <i>Santa Fe New Mexican</i> on January 26, 2021.
2.	Affidavit of Publication and Legal Notice of this rule hearing published in Volume XXXI, Issue 23 of the <i>New Mexico Register</i> on December 15, 2020.
3.	Affidavit of Publication and Legal Notice of this rule hearing being rescheduled published in Volume XXXII, Issue 2 of the <i>New Mexico Register</i> on January 26, 2021.
4.	Proposed Replacement Rule Sections 2.20.2.1 NMAC through 2.20.2.10 NMAC, as published for public comment on DFA's website and published in Volume XXXI, Issue 23 of the <i>New Mexico Register</i> on December 15, 2020.
5.	Agenda for this hearing as posted on DFA's website.
6.	Notice of this hearing as posted on DFA's website.
7.	Notice of this hearing as posted on the New Mexico Sunshine Portal.
8.	Notice of this hearing as provided to the New Mexico Legislative Council via email on January 13, 2021.
9.	Notice of the originally scheduled hearing as posted on DFA's website.
10.	Notice of the originally scheduled hearing as provided to the New Mexico Legislative Council via email on December 15, 2020.
11.	Affidavit of Publication and Legal Notice of the emergency repeal and replacement of the rules published in Volume XXXI, Issue 17 of the <i>New Mexico Register</i> on September 15, 2020.
12.	Notice of the emergency repeal and replacement of the rules as posted on DFA's website.
13.	Notice of the emergency repeal and replacement of the rules as posted on the New Mexico Sunshine Portal.
14.	Notice of the emergency repeal and replacement of the rules as provided to the New Mexico Legislative Council via email on September 9, 2020.
15.	NMAC Transmittal Form for the emergency repeal of the rules dated August 25, 2020.
16.	NMAC Transmittal Form for the emergency replacement of the rules dated August 25, 2020.
17.	A clean version of the text of the proposed rules.
18.	Letter dated February 24, 2020 designating Dillon Fisher-Ives as the Hearing Officer for this hearing.

At the hearing, there was one additional exhibit introduced; being an info-graphic relating to the oral comment submitted by the Department's Deputy Cabinet Secretary, Renee Ward. This exhibit was accepted into the record and identified as Exhibit 19.

All of the above exhibits are hereby appended to this Report.

Notice of this rule hearing, as rescheduled, was published in the *Santa Fe New Mexican* on January 26, 2021 (Exhibit 1) and was also published in Volume XXXII, Issue 2 of the *New Mexico Register* on January 26, 2021 (Exhibit 3). Notice of the proposed amendments to this rule was originally published in Volume XXXI, Issue 23 of the *New Mexico Register* (Exhibit 2). From the date of publication of the notice of the rescheduled rule hearing, the public comment period for this rule hearing was 30 days. There were no individuals who provided written comment on the proposed repeal and replacement of 2.20.2 NMAC.

After announcing the floor open for comments during the hearing, the following individual gave comments:

Renee Ward, Deputy Cabinet Secretary, DFA

A summary of the oral comments received during the hearing is as follows:

Deputy Cabinet Secretary Ward highlighted the frequency and volume of certain documents processed by the Department and emphasized the importance of the need to modernize signature collection and document approvals, allowing the Department to conduct its work in more technology friendly and efficient environment.

No further comments or questions were made with respect to the repeal and replacement of this rule. A last request for comments or questions was made with respect to the repeal and replacement of this rule and, hearing no other comments or questions, the hearing was adjourned at approximately 10:40 a.m. and the record was closed.

Conclusion

For the reasons stated in the Recommendations, the comments received are well taken and fall within the scope of the current proposed repeal and replacement of the rule.


BE IT HEREBY RECOMMENDED that the Department of Finance and Administration make the following determinations:

1. That the hearing conducted and concluded on February 26, 2021 conformed with all applicable notice and procedural requirements under 1.24.25 NMAC;
2. That the Department of Finance and Administration, consistent with Sections 9-1-5 and 9-6-5, NMSA 1978, has the authority to adopt rule amendments concerning rules pertaining to the duties of the Department and its divisions;
3. That the Department of Finance and Administration ADOPTS the amendments as recommended in Exhibit 4, also being memorialized without track changes in Exhibit 17; and
4. That the Department of Finance and Administration consider making the repeal and replacement of this rule effective on March 23, 2021 and that the repeal and replacement of this rule be published in the *New Mexico Register* on March 23, 2021.


Dated: March 11, 2021

Respectfully Submitted,

Department of Finance & Administration
Bataan Memorial Building, Room 180D
407 Galisteo Street
Santa Fe, New Mexico 87501
Phone: 505-827-3881

By: 
Dillon Fisher-Ives
DFA Deputy General Counsel, designee for
DFA Cabinet Secretary Romero

APPROVED, AS RECOMMENDED:

By: 
Deborah K. Romero
DFA Cabinet Secretary

3/11/21
Date

APPROVED, WITH FOLLOWING MODIFICATIONS:

By: _____
Deborah K. Romero
DFA Cabinet Secretary

Date

REJECTED, FOR THE FOLLOWING REASONS:

By: _____
Deborah K. Romero
DFA Cabinet Secretary

Date

EXHIBIT 1

SANTA FE NEW MEXICAN

Founded 1849

DEPT OF FINANCE AND
ADMINISTRATION
407 Galisteo St Ste 190
Santa Fe, NM 875012646

ACCOUNT:	S13865	
AD NUMBER:	7810	
LEGAL NO	87944	P.O.#:
1 TIME(S)	204.00	
AFFIDAVIT	10.00	
TAX	18.06	
TOTAL	232.06	

AFFIDAVIT OF PUBLICATION

STATE OF NEW MEXICO
COUNTY OF SANTA FE

I, Shaundel Moya, being first duly sworn declare and say that I am Legal Advertising Representative of THE SANTA FE NEW MEXICAN, a daily newspaper published in the English language, and having a general circulation in the Counties of Santa Fe, Rio Arriba, San Miguel, and Los Alamos, State of New Mexico and being a newspaper duly qualified to publish legal notices and advertisements under the provisions of Chapter 167 on Session Laws of 1937; that the Legal No 87944 a copy of which is hereto attached was published in said newspaper 1 day(s) between 01/26/2021 and 01/26/2021 and that the notice was published in the newspaper proper and not in any supplement; the first date of publication being on the 26th day of January, 2021 and that the undersigned has personal knowledge of the matter and thngs set forth in this affidavit.

ISI 
LEGAL ADVERTISEMENT RESPRESENTATIVE

Subscribed and sworn to before me on this 27th day of January, 2021

Notary 

Commission Expires: 11/20/2024



OFFICIAL SEAL
Susan Larine Cahoon
NOTARY PUBLIC-STATE OF NEW MEXICO
My commission expires 11/20/2024

LEGAL # 87944

NOTICE OF PROPOSED
RULEMAKING

The State of New Mexico Department of Finance and Administration (hereinafter "DFA") hereby gives notice of a public hearing on proposed rulemaking on Friday, February 26, 2021 at 10:00 AM. The hearing will be held virtually via Cisco Webex online and via telephone, and comments will be received through the day of the hearing at 5:00 pm. The hearing is being held via internet and telephonic means due to the concerns surrounding Coronavirus and in accordance with Governor Michelle Lujan Grisham's Executive Order 2020-004, Declaration of a Public Health Emergency, and the March 12, 2020 Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19, as the same may have been modified and renewed from time to time.

DFA is holding the hearing to receive public comment regarding repealing and replacing 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments. Pursuant to Subsection E of Sections 9-1-5 and 9-6-5 NMSA 1978, DFA promulgates these rules to administer the duties of DFA and its divisions. Further legal authority for this rulemaking can be found in the State Rules Act, Section 14-4-1 et seq. NMSA 1978. Due to the age of 2.20.2 NMAC, the entire rule must be repealed and replaced in order to amend it.

Due to the Governor's declaration of a public health emergency, DFA issued an emergency amendment effective August 25, 2020 allowing for certain documents being submitted to DFA to be digitally, rather than just manually, signed. The emergency amendment also made associated changes to the form of submission of documents to DFA given the acceptance of digital signatures. The proposed amendment of 2.20.2.7 and 2.20.2.9 NMAC consists of continuing to accept digital signatures and the associated document submission requirements by

eliminating the public health emergency justification. Additionally, the amendment will update 2.20.2.10 NMAC to better reflect the current composition of state government and will clean up old formatting.

Interested persons may provide data, opinion, or arguments, orally at the virtual public rule hearing on Friday, February 26, 2021 at 10:00 am. Members of the public may attend the Webex hearing on a computer, mobile device, or telephone. To access the hearing via the internet, go to webex.com; click "Join a meeting" on the menu at the top of the page; enter the following information when prompted to do so - meeting number 146 809 4756, password 3y7CVxs5rxD. Individuals who join through webex.com may also provide public comment through the chat function. To access the hearing via telephone, dial 1-415-655-0001 and enter the meeting number, 1468094756#, when prompted. The hearing will be recorded.

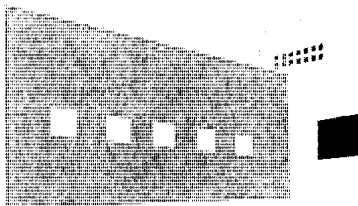
Interested individuals may also submit written comments during the Public Comment Period, which runs through February 26, 2021. Written comments may be submitted to Andrew Baranowski, General Counsel, DFA, via email at Andrew.Baranowski@state.nm.us, or via regular mail at 180 Bataan Memorial Building, 407 Galisteo Street, Santa Fe, NM 87501. All comments must be received by 5:00 pm on February 26, 2021.

If you are an individual with a disability who is in need of special assistance or accommodation to attend or participate in the hearing, please contact Andrew Baranowski by emailing andrew.baranowski@state.nm.us or calling (505) 670-2285 as soon as possible. DFA requires at least 10 days' advance notice to provide requested special accommodations.

Copies of the proposed rule may be accessed on DFA's website at: nmdfa.state.nm.us/, or obtained from Mr. Baranowski by emailing andrew.baranowski@state.nm.us or calling (505) 670-2285.

Pub. Jan. 21, 2021

EXHIBIT 2



NM Commission of Public Records

1205 Camino Carlos Rey
Santa Fe, NM 87507 US
(505) 476-7902

Invoice

BILL TO:

Department of Finance and
Administration
407 Galisteo St
Santa Fe, NM 87501

INVOICE #	DATE	TOTAL DUE	DUE DATE	ENCLOSURE
5216	12/15/2020	\$363.00	12/15/2020	

VOLUME

XXXI

ISSUE

23

P.O. NUMBER

34100-2101010004

DATE	DESCRIPTION	QTY	RATE	AMOUNT
12/15/2020	NM Register - 431902 Notice of Proposed Rulemaking, hearing date: 1/15/2021	121	3.00	363.00

Thank you for your business!

BALANCE DUE

\$363.00

NEW MEXICO
State Records Center and Archives



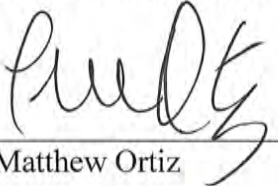
COMMISSION OF PUBLIC RECORDS

Your Access to Public Information

Affidavit of Publication in New Mexico Register

I, Matthew Ortiz, certify that the agency noted on Invoice # 5216 has published legal notice of rulemaking or rules in the NEW MEXICO REGISTER, VOLUME XXXI, that payment has been assessed for said legal notice of rulemaking or rules, which appears on the publication date and in the issue number noted on Invoice # 5216, and that Invoice # 5216 has been sent electronically to the person(s) listed on the *Billing Information Sheet* provided by the agency.

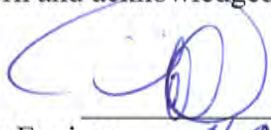
Affiant:

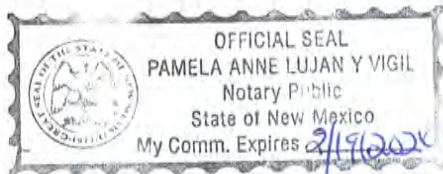

Matthew Ortiz

Subscribed, sworn and acknowledged before me this 16th day of December, 2020.

Notary Public:

My Commission Expires:


2/19/2024



1205 Camino Carlos Rey | Santa Fe, NM 87507 | nmcpr.state.nm.us

Hon. Hector Balderas
Attorney General

Hon. Brian S. Colón
State Auditor

Hon. Maggie Toulouse Oliver
Secretary of State

Debra Garcia y Griego
Department of Cultural Affairs

Kenneth Ortiz
General Services Department

Daniel Cordova
Interim Director, NM State Law Library

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that pursuant to Subsection A of 1.24.25.9 and 1.24.25.11 NMAC, the State of New Mexico Department of Finance and Administration (hereinafter “DFA”) will hold a rulemaking hearing on Friday, January 15, 2021 at 10:00 AM. The meeting will be held virtually via Webex. Members of the public may attend the Webex meeting on a computer, mobile device, or telephone. The videoconference’s Meeting ID and Password, video link, and telephone numbers are as follows:

Webex meeting scheduled: Department of Finance and Administration Rulemaking Hearing - Virtual
<https://protect-us.mimecast.com/s/YpjJCJ62pVTyMzxPHVZIik?domain=nmdfa.webex.com>

Meeting number (access code): 146 809 4756
Meeting password: 3y7CVxs5rxD

Friday, January 15, 2021
10:00 am | (UTC-07:00) Mountain Time (US & Canada) | 5 hrs

Start meeting

Tap to join from a mobile device (attendees only)
+1-415-655-0001,,1468094756## US Toll

Join by phone
+1-415-655-0001 US Toll
Global call-in numbers

Join from a video system or application
Dial 1468094756@nmdfa.webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join using Microsoft Lync or Microsoft Skype for Business
Dial 1468094756.nmdfa@lync.webex.com

If you are a host, click here to view host information.

Need help? Go to <http://help.webex.com>

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the meeting, please contact Andrew Baranowski at (505) 670-2285 by January 1, 2020, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. A copy of the agenda is also available on the DFA website and at the office of the DFA located at 180 Bataan Memorial Building, 407 Galisteo Street, Santa Fe, NM 87501. The agenda is subject to change up to 72 hours prior to the meeting.

Synopsis:

DFA will hold a hearing to repeal and replace 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments. Pursuant to Subsection E of 9-1-5 and 9-6-5 NMSA 1978, DFA promulgates these rules to administer the duties of the Department and its divisions. Further legal authority for this rulemaking can be found in the State Rules Act, Section 14-4-1 *et seq.* NMSA 1978. Due to the age of 2.20.2 NMAC, the entire rule must be repealed and replaced in order to amend it.

Due to the Governor's declaration of a public health emergency, DFA issued an emergency amendment effective August 25, 2020 allowing for certain documents being submitted to DFA to be digitally, rather than just manually, signed. The emergency amendment also made associated changes to the form of submission of documents to DFA given the acceptance of digital signatures. The proposed amendment of 2.20.2.7 and 2.20.2.9 NMAC consists of continuing to accept digital signatures and the associated document submission requirements by eliminating the public health emergency justification. Additionally, the amendment will update 2.20.2.10 NMAC to better reflect the current composition of state government and will clean up old formatting.

Interested individuals are encouraged to submit comments during the Public Comment Period, which runs from December 15, 2020 through January 14, 2021. Written comments may be submitted to Andrew Baranowski, General Counsel, DFA, via email at Andrew.Baranowski@state.nm.us. All written comments will be posted on DFA's website within three days of receipt. Interested persons may also provide data, opinion, or arguments, orally at the virtual public rule hearing on Friday, January 15, 2021 at 10:00 AM, or in writing as provided above.

Copies of the proposed rule may be accessed on the Department's website at <http://www.nmdfa.state.nm.us/> or obtained from Mr. Baranowski by emailing Andrew.Baranowski@state.nm.us or calling (505) 670-2285.

DFA will consider the following items of rulemaking at the hearing:

Repeal:

2.20.2 NMAC, New Mexico Administrative Code

Replace:

2.20.2 NMAC, New Mexico Administrative Code

Changes to the affected rule are reflected as follows:

TITLE 2 PUBLIC FINANCE
CHAPTER 20 ACCOUNTING BY GOVERNMENTAL ENTITIES
PART 2 EXECUTION OF CONTRACTS, VOUCHERS, PURCHASE ORDERS AND OTHER FINANCIAL COMMITMENTS

2.20.2.1 ISSUING AGENCY: Department of Finance and Administration.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.2 SCOPE: [RESERVED]
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.3 STATUTORY AUTHORITY: In order to ascertain the authority and legality of contracts, purchase orders, vouchers, travel vouchers and other financial commitments for departments and other state agencies, pursuant to Section 6-5-3 NMSA 1978, it is necessary to determine whether the person executing the contract has been properly delegated the authority to bind the department or state agency. In many instances there is no clear statutory power granted to an officer to sign on behalf of an agency. Generally the person who is ultimately responsible for the administration of the law has the implied power to execute legal documents for a state agency. Generally the power to execute may be delegated; however, some laws may require specific officers to execute contracts and vouchers on behalf of the agency. In such cases, no delegation is allowed by law.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.4 DURATION: Permanent.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.5 EFFECTIVE DATE: February 9, 2021, unless a later date is cited at the end of a section.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.6 OBJECTIVE: The various acts creating departments pursuant to the Executive Reorganization Acts generally provide that the secretary of the department is responsible to the governor for the operation of the department and shall delegate authority to subordinates as the secretary deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto. It is the purpose of this rule to set forth those individuals who may legally bind state agencies which must submit their contracts or vouchers to the department of finance and administration.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.7 DEFINITIONS: As used in this rule:

A. “authorized officer” means a public officer or employee who is required or permitted by law or by lawful delegation of authority pursuant to this rule to sign contracts, vouchers, purchase orders or other financial commitments on behalf of a state agency;

B. “contracts officer” means an employee of the department of finance and administration designated as contracts officer by the secretary of finance and administration;

C. “facsimile signature” means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of the authorized officer;

D. “signed” or “executed” means affixed with any of the following:

(1) the manual signature of an individual; and

(2) the facsimile signature of an individual;

(3) the electronic signature of an individual procured through a third-party document-signing service; or

(4) the name of an individual, typewritten on the signature line of a document using word processing software and accompanied with another writing confirming that individual’s approval of such document, including without limitation an e-mail to that effect.

E. “state agency” means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities, or institutions required to submit contracts or vouchers to the department of finance and administration for approval.

[Recompiled 10/1/2001; N/E & A/E, 8/25/2020]

2.20.2.8 EXECUTION OF CONTRACTS, VOUCHERS AND PURCHASE ORDERS - AUTHORIZED SIGNATURES:

A. The department of finance and administration will not approve any contract, voucher, travel voucher, purchase order or other financial commitment of any state agency required pursuant to [~~DFA rule 78-6 Amendment No. 1,~~] 2.20.3 NMAC and [~~87-1 Amendment No. 1,~~] 2.40.2 NMAC, to submit its voucher or contract to the department for approval unless the contract, voucher, travel voucher, purchase order or other financial commitment has been executed by an authorized officer of the agency.

B. The authority to execute contracts, vouchers, purchase orders, travel vouchers or other financial commitments may be delegated unless provided otherwise by law to any officer or employee of the state agency, but such delegation shall:

(1) be in writing;

(2) state whether the delegated power may be subdelegated to another officer or employee of the state agency;

(3) automatically terminate on whichever date occurs earliest;

(a) the date the term of office of the delegating secretary or other chief financial officer ends; or

(b) annually on June 30; and

(4) be on file with the contracts officer of the department of finance and administration (for contracts); and

(5) be on file with the financial control division of the department of finance and administration.

C. A written delegation of authority to execute contracts, vouchers, travel vouchers, purchase orders or other financial commitments may contain such limitations or conditions as the delegating authorized officer may deem appropriate.

D. No authorized officer shall delegate to any other person authority to sign the authorized officer’s signature.

E. Nothing in this rule shall prevent the use of facsimile, printed or typed signature of the secretary or chief financial officer on a copy of a contract, voucher, travel voucher, purchase order or other financial commitment.

[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.9 [ORIGINAL]-SIGNATURES REQUIRED [FACSIMILE SIGNATURES]:

~~_____ A. _____~~ The original and at least one copy] The two copies of every contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department shall be signed by an authorized officer. The department will retain at least one signed copy of every contract, voucher, travel voucher, purchase order or other financial commitment. Alternatively, agencies may submit a single electronic version, in portable document format (PDF) or a comparable format and in such a manner as the department may direct, of an executed contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department.

~~_____ B. _____~~ Except as provided in paragraph A of this section, all duplicate copies of contracts, vouchers, travel vouchers, purchase orders or other financial commitments required to be submitted to the department for approval may be executed with a facsimile signature in lieu of the original signature of the authorized officer.]

[Recompiled 10/1/2001; N/E & A/E 8/25/2020]

2.20.2.10 AUTHORIZED OFFICERS - DELEGATION:

A. The following public officers are authorized to execute contracts, vouchers, purchase orders and other financial commitments on behalf of the state agency under their control or supervision. Signatures must be on file at the financial control division of the department of finance and administration.

STATE AGENCY	OFFICER AUTHORIZED
office of the governor	governor
office of the lieutenant governor	lieutenant governor
office of the attorney general	attorney general
secretary of state	secretary of state
state auditor	state auditor
[state corporation commission	
public regulation commission	commission
[insurance department	superintendent of insurance]
state fire [marshall] <u>marshal</u>	state fire [marshall] <u>marshal</u>
transportation department	director
office of the superintendent of insurance	superintendent of insurance
state land office	land commissioner
state treasurer	state treasurer
department of agriculture	secretary of department
N.M. livestock board	executive director
[peanut commission	commission]
corrections department	secretary of department
children, youth and families dept.	secretary of department
public defender department	director
juvenile parole board	board
adult parole board	board
economic development [& tourism] department	secretary of department
[research and development Institute	director]
state fair commission	commission
state racing commission	commission
energy, minerals and natural resources dept.	secretary of department
state game commission	commission
department of game and fish	director
[public service commission	commission]
department of finance and administration	secretary of department
[commission on higher education	commission]
[office of cultural affairs	cultural affairs officer]
[committee on concerns of the	director]

Handicapped]	
general services department	secretary of department
state personnel board	director
<u>state personnel office</u>	<u>director</u>
[health & environment department]	secretary of department]
<u>[health] department of health</u>	<u>secretary of department</u>
<u>[environment] department of environment</u>	<u>secretary of department</u>
<u>[state highway &] transportation department</u>	<u>secretary of department</u>
human services department	secretary of department
commission on the status of women	commission
[state agency on aging]	director]
[office of Indian affairs]	commission on Indian affairs]
department of [labor] <u>workforce solutions</u>	secretary of department
department of public safety	secretary of department
taxation and revenue department	secretary of department
commission for the blind	commission
crime stoppers commission	commission
crime victims reparation commission	commission
[state department of] <u>public education department</u>	<u>[superintendent] secretary of department</u>
division of vocational rehabilitation	director
state investment council	state investment officer
department of military affairs	adjutant general
state commission of public records	state records administrator
regulation and licensing department	superintendent
interstate stream commission	commission
office of the state engineer	state engineer
[NM veteran service commission]	commission]
institutions of higher education	boards of regents or controllers
miners hospital	board
<u>department of cultural affairs</u>	<u>secretary of department</u>
<u>office of African American affairs</u>	<u>executive director</u>
<u>tourism department</u>	<u>secretary of department</u>
<u>Indian affairs department</u>	<u>secretary of department</u>
<u>veterans' services department</u>	<u>secretary of department</u>
<u>aging and long-term services department</u>	<u>secretary of department</u>
<u>public education commission</u>	<u>commission</u>
<u>higher education department</u>	<u>secretary of department</u>
<u>department of information technology</u>	<u>secretary of department</u>
<u>homeland security and emergency</u>	
<u>management department</u>	<u>secretary of department</u>
<u>state ethics commission</u>	<u>commission</u>
<u>early childhood education and care department</u>	<u>secretary of department</u>
<u>all executive departments not otherwise listed</u>	<u>secretary of department</u>
<u>all commissions</u>	<u>commission</u>
all boards	board
<u>all other state agencies not otherwise listed</u>	<u>as provided by applicable law, regulation, or governance</u>
<u>documents</u>	
[youth authority children, youth and families dept.]	secretary of department]
LEGISLATIVE BRANCH	
legislative council service	director
legislative finance committee	committee
legislative school study committee	chairman of committee
all other vouchers	director
JUDICIAL BRANCH	
supreme court	chief justice
compilation commission	secretary of commission

building commission
director, administrative office of courts
court of appeals
district courts
magistrate courts
district attorneys
judicial standards commission
judicial council

commission
supreme court
chief Judge
presiding judge
director, administrative office of the courts
district attorney
executive director
council

B. If the authorized officer set forth in Subsection A of this section is a board or commission, the power to execute contracts, vouchers, purchase orders or other financial commitments may be delegated by a majority of a quorum of the board or commission acting in accordance with the provisions of law.
[Recompiled 10/1/201; 8/25/2020]

HISTORY OF 2.20.2 NMAC:

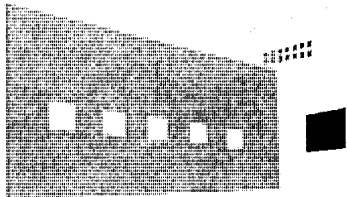
Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

DFA 78-5 Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, 6/30/1978.

DFA 78-5, Amendment No. 1, 12/20/1989.

History of Repealed Material: 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, repealed to amend as emergency Sections 7 and 9, effective August 25, 2020.

EXHIBIT 3



NM Commission of Public Records

1205 Camino Carlos Rey
Santa Fe, NM 87507 US
(505) 476-7902

Invoice

BILL TO

Department of Finance and
Administration
180 Bataan Bldg.
407 Galisteo St
Santa Fe, NM 87501

INVOICE #	DATE	TOTAL DUE	DUPLICATE	ENCLOSURE
5305	01/26/2021	\$75.00	01/26/2021	

VOLUME

XXXII

ISSUE

2

P.O. NUMBER

34100-2101010004

DATE	DESCRIPTION	QTY	RATE	AMOUNT
01/26/2021	NM Register - 431902 Notice of Rescheduled Hearing, hearing date: 2/26/2021	25	3.00	75.00

Thank you for your business!

BALANCE DUE

\$75.00



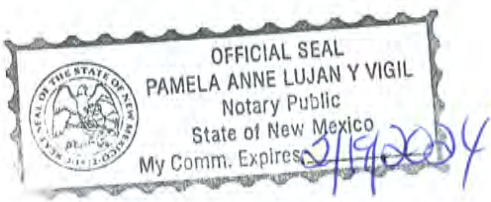
Affidavit of Publication in New Mexico Register

I, Matthew Ortiz, certify that the agency noted on Invoice # 5305 has published legal notice of rulemaking or rules in the NEW MEXICO REGISTER, VOLUME XXXI, that payment has been assessed for said legal notice of rulemaking or rules, which appears on the publication date and in the issue number noted on Invoice # 5305, and that Invoice # 5305 has been sent electronically to the person(s) listed on the *Billing Information Sheet* provided by the agency.

Affiant: 
Matthew Ortiz

Subscribed, sworn and acknowledged before me this 27th day of January, 2021.

Notary Public: 
My Commission Expires: 2/19/2024



NOTICE OF RESCHEDULED PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that pursuant to Subsection A of 1.24.25.9 and 1.24.25.11 NMAC, the State of New Mexico Department of Finance and Administration (hereinafter “DFA”) will hold a rescheduled rulemaking hearing on Friday, February 26, 2021 at 10:00 AM. This meeting was originally scheduled for Friday, January 15, 2021. The meeting will be held virtually via Webex. Members of the public may attend the Webex meeting on a computer, mobile device, or telephone. The videoconference’s Meeting ID and Password, video link, and telephone numbers are as follows:

Webex meeting scheduled: Department of Finance and Administration Rulemaking Hearing - Virtual
<https://nmdfa.webex.com/nmdfa/j.php?MTID=m6bb57f9721d4a4c235fff6bdc1c439e3>

Meeting number (access code): 146 809 4756
Meeting password: 3y7CVxs5rxD

Friday, February 26, 2021
10:00 am | (UTC-07:00) Mountain Time (US & Canada) | 5 hrs

Start meeting

Tap to join from a mobile device (attendees only)
+1-415-655-0001,,1468094756## US Toll

Join by phone
+1-415-655-0001 US Toll
Global call-in numbers

Join from a video system or application
Dial 1468094756@nmdfa.webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join using Microsoft Lync or Microsoft Skype for Business
Dial 1468094756.nmdfa@lync.webex.com

If you are a host, click here to view host information.

Need help? Go to <http://help.webex.com>

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the meeting, please contact Andrew Baranowski at (505) 670-2285 by February 10, 2021, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. A copy of the agenda is also available on the DFA website and at the office of the DFA located at 180 Bataan Memorial Building, 407 Galisteo Street, Santa Fe, NM 87501. The agenda is subject to change up to 72 hours prior to the meeting.

Synopsis:

DFA will hold a hearing to repeal and replace 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments. Pursuant to Subsection E of 9-1-5 and 9-6-5 NMSA 1978, DFA promulgates these rules to administer the duties of the Department and its divisions. Further legal authority for this rulemaking can be found in the State Rules Act, Section 14-4-1 *et seq.* NMSA 1978. Due to the age of 2.20.2 NMAC, the entire rule must be repealed and replaced in order to amend it.

Due to the Governor's declaration of a public health emergency, DFA issued an emergency amendment effective August 25, 2020 allowing for certain documents being submitted to DFA to be digitally, rather than just manually, signed. The emergency amendment also made associated changes to the form of submission of documents to DFA given the acceptance of digital signatures. The proposed amendment of 2.20.2.7 and 2.20.2.9 NMAC consists of continuing to accept digital signatures and the associated document submission requirements by eliminating the public health emergency justification. Additionally, the amendment will update 2.20.2.10 NMAC to better reflect the current composition of state government and will clean up old formatting.

Interested individuals are encouraged to submit comments during the Public Comment Period, which runs through February 26, 2021. Written comments may be submitted to Andrew Baranowski, General Counsel, DFA, via email at Andrew.Baranowski@state.nm.us. All written comments will be posted on DFA's website within three days of receipt. Interested persons may also provide data, opinion, or arguments, orally at the virtual public rule hearing on Friday, February 26, 2021 at 10:00 AM, or in writing as provided above.

Copies of the proposed rule may be accessed on the Department's website at <http://www.nmdfa.state.nm.us/> or obtained from Mr. Baranowski by emailing Andrew.Baranowski@state.nm.us or calling (505) 670-2285. Additionally, the text of the proposed rule is available in the original Notice of Proposed Rulemaking published in Volume XXXI, Issue 23 of the New Mexico Register on December 15, 2020: http://164.64.110.134/nmac/nmregister/xxxi/DFAnotice_xxxi23.html.

EXHIBIT 4



Michelle Lujan Grisham
GOVERNOR

State of New Mexico
Department of Finance & Administration
180 Bataan Memorial Building
Santa Fe, New Mexico 87501
Phone: (505) 827-4985
Fax: (505) 827-4984
www.nmdfa.state.nm.us

Deborah K. Romero
Acting Cabinet Secretary

NOTICE OF RESCHEDULED PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that pursuant to Subsection A of 1.24.25.9 and 1.24.25.11 NMAC, the State of New Mexico Department of Finance and Administration (hereinafter "DFA") will hold a rescheduled rulemaking hearing on Friday, February 26, 2021 at 10:00 AM. This meeting was originally scheduled for Friday, January 15, 2021. The meeting will be held virtually via Webex. Members of the public may attend the Webex meeting on a computer, mobile device, or telephone. The videoconference's Meeting ID and Password, video link, and telephone numbers are as follows:

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<https://nmdfa.webex.com/nmdfa/j.php?MTID=m6bb57f9721d4a4c235fff6bdc1c439e3>

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Friday, February 26, 2021

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Start meeting

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+1-415-655-0001,,1468094756## US Toll

Join by phone

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Global call-in numbers

Join from a video system or application

Dial [1468094756@nmdfa.webex.com](tel:1468094756)

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Synopsis:

DFA will hold a hearing to repeal and replace 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments. Pursuant to Subsection E of 9-1-5 and 9-6-5 NMSA 1978, DFA promulgates these rules to administer the duties of the Department and its divisions. Further legal authority for this rulemaking can be found in the State Rules Act, Section 14-4-1 *et seq.* NMSA 1978. Due to the age of 2.20.2 NMAC, the entire rule must be repealed and replaced in order to amend it.

Due to the Governor’s declaration of a public health emergency, DFA issued an emergency amendment effective August 25, 2020 allowing for certain documents being submitted to DFA to be digitally, rather than just manually, signed. The emergency amendment also made associated changes to the form of submission of documents to DFA given the acceptance of digital signatures. The proposed amendment of 2.20.2.7 and 2.20.2.9 NMAC consists of continuing to accept digital signatures and the associated document submission requirements by eliminating the public health emergency justification. Additionally, the amendment will update 2.20.2.10 NMAC to better reflect the current composition of state government and will clean up old formatting.

Interested individuals are encouraged to submit comments during the Public Comment Period, which runs through February 26, 2021. Written comments may be submitted to Andrew Baranowski, General Counsel, DFA, via email at Andrew.Baranowski@state.nm.us. All written comments will be posted on DFA’s website within three days of receipt. Interested persons may also provide data, opinion, or arguments, orally at the virtual public rule hearing on Friday, February 26, 2021 at 10:00 AM, or in writing as provided above.

Copies of the proposed rule may be accessed on the Department’s website at <http://www.nmdfa.state.nm.us/>, or obtained from Mr. Baranowski by emailing Andrew.Baranowski@state.nm.us or calling (505) 670-2285.

DFA will consider the following items of rulemaking at the hearing:

Repeal:

2.20.2 NMAC, New Mexico Administrative Code

Replace:

2.20.2 NMAC, New Mexico Administrative Code

Changes to the affected rule are reflected as follows:

**TITLE 2 PUBLIC FINANCE
CHAPTER 20 ACCOUNTING BY GOVERNMENTAL ENTITIES
PART 2 EXECUTION OF CONTRACTS, VOUCHERS, PURCHASE ORDERS AND OTHER
FINANCIAL COMMITMENTS**

2.20.2.1 ISSUING AGENCY: Department of Finance and Administration.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.2 SCOPE: [RESERVED]
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.3 STATUTORY AUTHORITY: In order to ascertain the authority and legality of contracts, purchase orders, vouchers, travel vouchers and other financial commitments for departments and other state agencies, pursuant to Section 6-5-3 NMSA 1978, it is necessary to determine whether the person executing the contract has been properly delegated the authority to bind the department or state agency. In many instances there is no clear statutory power granted to an officer to sign on behalf of an agency. Generally the person who is ultimately responsible for the administration of the law has the implied power to execute legal documents for a state agency. Generally the power to execute may be delegated; however, some laws may require specific officers to execute contracts and vouchers on behalf of the agency. In such cases, no delegation is allowed by law.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.4 DURATION: Permanent.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.5 EFFECTIVE DATE: February 9, 2021, unless a later date is cited at the end of a section.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.6 OBJECTIVE: The various acts creating departments pursuant to the Executive Reorganization Acts generally provide that the secretary of the department is responsible to the governor for the operation of the department and shall delegate authority to subordinates as the secretary deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto. It is the purpose of this rule to set forth those individuals who may legally bind state agencies which must submit their contracts or vouchers to the department of finance and administration.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.7 DEFINITIONS: As used in this rule:

A. “authorized officer” means a public officer or employee who is required or permitted by law or by lawful delegation of authority pursuant to this rule to sign contracts, vouchers, purchase orders or other financial commitments on behalf of a state agency;

B. “contracts officer” means an employee of the department of finance and administration designated as contracts officer by the secretary of finance and administration;

C. “facsimile signature” means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of the authorized officer;

D. “signed” or “executed” means affixed with any of the following:

(1) the manual signature of an individual; and

(2) the facsimile signature of an individual;

(3) the electronic signature of an individual procured through a third-party document-signing service; or

(4) the name of an individual, typewritten on the signature line of a document using word processing software and accompanied with another writing confirming that individual’s approval of such document, including without limitation an e-mail to that effect.

E. “state agency” means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities, or institutions required to submit contracts or vouchers to the department of finance and administration for approval.

[Recompiled 10/1/2001; N/E & A/E, 8/25/2020]

2.20.2.8 EXECUTION OF CONTRACTS, VOUCHERS AND PURCHASE ORDERS - AUTHORIZED SIGNATURES:

A. The department of finance and administration will not approve any contract, voucher, travel voucher, purchase order or other financial commitment of any state agency required pursuant to ~~[[DFA rule 78-6 Amendment No. 1,]~~ ~~[now]~~ 2.20.3 NMAC[~~]~~] and ~~[87-1 Amendment No. 1 [now]~~ 2.40.2 NMAC[~~]~~], to submit its voucher or contract to the department for approval unless the contract, voucher, travel voucher, purchase order or other financial commitment has been executed by an authorized officer of the agency.

B. The authority to execute contracts, vouchers, purchase orders, travel vouchers or other financial commitments may be delegated unless provided otherwise by law to any officer or employee of the state agency, but such delegation shall:

(1) be in writing;

(2) state whether the delegated power may be subdelegated to another officer or employee of the state agency;

(3) automatically terminate on whichever date occurs earliest;

(a) the date the term of office of the delegating secretary or other chief financial officer ends; or

(b) annually on June 30; and

(4) be on file with the contracts officer of the department of finance and administration (for contracts); and

(5) be on file with the financial control division of the department of finance and administration.

C. A written delegation of authority to execute contracts, vouchers, travel vouchers, purchase orders or other financial commitments may contain such limitations or conditions as the delegating authorized officer may deem appropriate.

D. No authorized officer shall delegate to any other person authority to sign the authorized officer's signature.

E. Nothing in this rule shall prevent the use of facsimile, printed or typed signature of the secretary or chief financial officer on a copy of a contract, voucher, travel voucher, purchase order or other financial commitment.

[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.9 [ORIGINAL] SIGNATURES REQUIRED [-FACSIMILE SIGNATURES]:

~~[A. —] The [original and at least one copy] two copies of every contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department shall be signed by an authorized officer. The department will retain at least one signed copy of every contract, voucher, travel voucher, purchase order or other financial commitment. Alternatively, agencies may submit a single electronic version, in portable document format (PDF) or a comparable format and in such a manner as the department may direct, of an executed contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department.~~

~~[B. — Except as provided in paragraph A of this section, all duplicate copies of contracts, vouchers, travel vouchers, purchase orders or other financial commitments required to be submitted to the department for approval may be executed with a facsimile signature in lieu of the original signature of the authorized officer.]~~

[Recompiled 10/1/2001; N/E & A/E 8/25/2020]

2.20.2.10 AUTHORIZED OFFICERS - DELEGATION:

A. The following public officers are authorized to execute contracts, vouchers, purchase orders and other financial commitments on behalf of the state agency under their control or supervision. Signatures must be on file at the financial control division of the department of finance and administration.

STATE AGENCY	OFFICER AUTHORIZED
office of the governor	governor
office of the lieutenant governor	lieutenant governor
office of the attorney general	attorney general
secretary of state	secretary of state
state auditor	state auditor
[state corporation commission	
]public regulation commission[.]	commission
[insurance department	superintendent of insurance]
state fire [marshall] marshal	state fire [marshall] marshal
transportation department	director
office of the superintendent of insurance	superintendent of insurance
state land office	land commissioner
state treasurer	state treasurer
department of agriculture	secretary of department
N.M. livestock board	executive director
[peanut commission	commission]
corrections department	secretary of department
[F]children, youth and families dept.	secretary of department[.]
public defender department	director
juvenile parole board	board
adult parole board	board
economic development [& tourism] department	secretary of department
[research and development Institute	director]
state fair commission	commission
state racing commission	commission
energy, minerals and natural resources dept.	secretary of department

state game commission	commission
department of game and fish	director
[public service commission]	commission
department of finance and administration	secretary of department
[commission on higher education]	commission
[office of cultural affairs]	cultural affairs officer
[committee on concerns of the	director
Handicapped]	
general services department	secretary of department
state personnel board	director
state personnel office]	director
[health & environment department]	secretary of department
[health] department of health[.]	secretary of department
[environment] department of environment[.]	secretary of department
[state highway &]transportation department	secretary of department
human services department	secretary of department
commission on the status of women	commission
[state agency on aging]	director]
[office of Indian affairs]	commission on Indian affairs]
department of [labor] workforce solutions	secretary of department
department of public safety	secretary of department
taxation and revenue department	secretary of department
commission for the blind	commission
crime stoppers commission	commission
crime victims reparation commission	commission
[state department of] public education <u>department</u>	[superintendent] secretary of department
division of vocational rehabilitation	director
state investment council	state investment officer
department of military affairs	adjutant general
state commission of public records	state records administrator
regulation and licensing department	superintendent
interstate stream commission	commission
office of the state engineer	state engineer
[NM veteran service commission]	commission]
institutions of higher education	boards of regents or controllers
miners hospital	board
department of cultural affairs]	secretary of department
office of african american affairs]	executive director
tourism department]	secretary of department
indian affairs department]	secretary of department
veterans' services department]	secretary of department
aging and long-term services department]	secretary of department
public education commission]	commission
higher education department]	secretary of department
department of information technology]	secretary of department
homeland security and emergency	
management department]	secretary of department
state ethics commission]	commission
early childhood education and care department]	secretary of department
all executive departments not otherwise listed]	secretary of department
all commissions]	commission
all boards	board
all other state agencies not otherwise listed]	as provided by applicable law, regulation, or
	governance documents
[youth authority [children, youth and families dept.]	secretary of department]

LEGISLATIVE BRANCH

legislative council service
legislative finance committee
legislative school study committee
all other vouchers

director
committee
chairman of committee
director

JUDICIAL BRANCH

supreme court
compilation commission
building commission
director, administrative office of courts
court of appeals
district courts
magistrate courts
district attorneys
judicial standards commission
judicial council

chief justice
secretary of commission
commission
supreme court
chief Judge
presiding judge
director, administrative office of the courts
district attorney
executive director
council

B. If the authorized officer set forth in Subsection A of this section is a board or commission, the power to execute contracts, vouchers, purchase orders or other financial commitments may be delegated by a majority of a quorum of the board or commission acting in accordance with the provisions of law.

[Recompiled 10/1/201; 8/25/2020]

HISTORY OF 2.20.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

DFA 78-5 Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, 6/30/1978.

DFA 78-5, Amendment No. 1, 12/20/1989.

History of Repealed Material: 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, repealed to amend as emergency Sections 7 and 9, effective August 25, 2020.

EXHIBIT 5



Michelle Lujan Grisham
GOVERNOR

State of New Mexico
Department of Finance & Administration
180 Bataan Memorial Building
Santa Fe, New Mexico 87501
Phone: (505) 827-4985
Fax: (505) 827-4984
www.nmdfa.state.nm.us

Deborah K. Romero
Acting Cabinet Secretary

**RESCHEDULED PROPOSED RULEMAKING
HEARING AGENDA**

Virtual Meeting via Webex
Friday, February 26, 2021 at 10:00 am MST

Members of the public may attend the Webex meeting on a computer, mobile device, or telephone. The videoconference's Meeting ID and Password, video link, and telephone numbers are as follows:

Webex meeting scheduled: Department of Finance and Administration Rulemaking Hearing - Virtual
<https://nmdfa.webex.com/nmdfa/j.php?MTID=m6bb57f9721d4a4c235fff6bdc1c439e3>

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Dial [1468094756.nmdfa@lync.webex.com](tel:1468094756)

If you are a host, click here to view host information.

Need help? Go to <http://help.webex.com>

- I. Rule Hearing
 - a. Repeal – 2.20.2 NMAC - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments.
 - b. Replace - 2.20.2 NMAC - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments.
 - c. Adjourn Rule Hearing.

EXHIBIT 6



New Mexico Department of
Finance & Administration

U a

Notice of Rulemaking *Rescheduled Meeting*

Home 5 Events 5 Notice of Rulemaking *Rescheduled Meeting*

WHEN: February 26, 2021 @ 10:00 am

Calendar

Add to Calendar ▼

DFA will hold a hearing to repeal and replace 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments. Pursuant to Subsection E of 9-1-5 and 9-6-5 NMSA 1978, DFA promulgates these rules to administer the duties of the Department and its divisions. Further legal authority for this rulemaking can be found in the State Rules Act, Section 14-4-1 et seq. NMSA 1978

Resources:

[DFA_Agenda_2.26_1](#)

[DFA_February_26__2021_resched_Rule_Hearing_for_websie_1](#)



New Mexico Department of
Finance & Administration

The Department of Finance and Administration provides sound fiscal advice and problem solving support to the Governor, provide budget direction and fiscal oversight to state agencies and local governments.

ADDRESS

407 Galisteo Street
Santa Fe, NM 87501

PHONE

(505) 827-4985

FAX

(505) 827-4984

New Mexico **STATE AGENCIES**

New Mexico Legislature

NM State Personnel Office

Governor of New Mexico



Rule Hearing Search

Hearing Date: All

Comments Deadline Date: All

Agency: Department of Finance & Administration



[Return to Search Results](#)

Proposed Rule Name:

DFA February 26, 2021 Rescheduled Rule Hearing

Agency:

Department of Finance & Administration

Purpose:

The purposes of the proposed amendments to 2.20.2 NMAC are allowing for digital signatures on documents submitted to the Department, making corresponding changes to the form of documents submitted to the Department, and updating the specific state agencies listed in the rule from how they appeared in the original 1987 filing.

Summary:

Due to the Governor's declaration of a public health emergency, DFA issued an emergency amendment effective August 25, 2020 allowing for certain documents being submitted to DFA to be digitally, rather than just manually, signed. The emergency amendment also made associated changes to the form of submission of documents to DFA given the acceptance of digital signatures. By operation of law, the emergency amendment expires on February 23, 2021. This permanent rule eliminates the emergency predicate for accepting digital signatures and document submission procedures in 2.20.2.7 and 2.20.2.9 NMAC and makes additional edits to 2.20.2.10 NMAC to better reflect the current composition of state government.

Rule Complete Copy :

On the DFA website, <http://www.nmdfa.state.nm.us/> or http://www.nmdfa.state.nm.us/Home_Events.aspx, or by contacting Andrew Baranowski, General Counsel, DFA, at andrew.baranowski@state.nm.us.

Corrections:

Not available

Rule Explanatory Statement:

Not available

Related New Mexico Register Publications:

Not available

For any additional information or questions concerning this rule making or posting please contact:

Andrew Baranowski
andrew.baranowski@state.nm.us
(505) 670-2285

Last Updated Date

1/13/2021 2:25 PM

How to submit Comments:

Email Andrew Baranowski, General Counsel, DFA, at andrew.baranowski@state.nm.us.

When are comments due:

The deadline for submitting comments has changed. The new deadline is shown below

2/26/2021 5:00 PM

Hearing Date:

The public rule hearing date/time have changed. The new date/time are shown

below

2/26/2021 10:00 AM

Public Hearing Location:

The meeting will be held virtually via Webex. Members of the public may attend the Webex meeting on a computer, mobile device, or telephone. The videoconference's Meeting ID and Password, video link, and telephone numbers are as follows:

Webex meeting scheduled: Department of Finance and Administration
Rulemaking Hearing - Virtual

[https://nmdfa.webex.com/nmdfa/j.php?
MTID=m6bb57f9721d4a4c235fff6bdc1c439e3](https://nmdfa.webex.com/nmdfa/j.php?MTID=m6bb57f9721d4a4c235fff6bdc1c439e3)

Meeting number (access code): 146 809 4756
Meeting password: 3y7CVxs5rxD

Friday, February 26, 2021
10:00 am | (UTC-07:00) Mountain Time (US & Canada) | 5 hrs

Start meeting

Tap to join from a mobile device (attendees only)

+1-415-655-0001,,1468094756## US Toll

Join by phone

+1-415-655-0001 US Toll

Global call-in numbers

Join from a video system or application

Dial [1468094756@nmdfa.webex.com](tel:1468094756@nmdfa.webex.com)

You can also dial 173.243.2.68 and enter your meeting number.

Join using Microsoft Lync or Microsoft Skype for Business

Dial [1468094756.nmdfa@lync.webex.com](tel:1468094756.nmdfa@lync.webex.com)

If you are a host, click here to view host information.

Need help? Go to <http://help.webex.com> 2/26/2021 (10:00 AM -)

How to participate:

Webex meeting scheduled: Department of Finance and Administration
Rulemaking Hearing - Virtual

[https://nmdfa.webex.com/nmdfa/j.php?
MTID=m6bb57f9721d4a4c235fff6bdc1c439e3](https://nmdfa.webex.com/nmdfa/j.php?MTID=m6bb57f9721d4a4c235fff6bdc1c439e3)

Meeting number (access code): 146 809 4756
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Need help? Go to <http://help.webex.com>

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File

File Name

File Type

Description

SUNSHINEPORTALNM.COM

THE OFFICIAL GOVERNMENT TRANSPARENCY PORTAL OF NEW MEXICO

Baranowski, Andrew, DFA

From: Baranowski, Andrew, DFA
Sent: Wednesday, January 13, 2021 11:00 AM
To: 'lcs@nmlegis.gov'
Subject: Notice of Rescheduled Rulemaking Hearing
Attachments: DFA Agenda 2.26.pdf; DFA February 26, 2021 resched Rule Hearing.pdf

Good Morning,

The rulemaking hearing described below has been rescheduled. Pursuant to NMSA 1978, Sections 14-4-5.2(A) and 14-4-2(E)(7), I attach a notice of rulemaking hearing and agenda for distribution to appropriate interim and standing legislative committees. Please let me know if you need anything further.

Best Regards,

Andrew J. Baranowski

General Counsel
Department of Finance & Administration
505-670-2285 (mobile)
Andrew.Baranowski@state.nm.us



New Mexico Department of
Finance & Administration

From: Baranowski, Andrew, DFA
Sent: Tuesday, December 15, 2020 3:37 PM
To: 'lcs@nmlegis.gov' <lcs@nmlegis.gov>
Subject: Notice of Rulemaking Hearing

Good Afternoon,

Pursuant to NMSA 1978, Sections 14-4-5.2(A) and 14-4-2(E)(7), I attach a notice of rulemaking hearing and agenda for distribution to appropriate interim and standing legislative committees. Please let me know if you need anything further.

Best Regards,

Andrew J. Baranowski

General Counsel
Department of Finance & Administration
505-670-2285 (mobile)
Andrew.Baranowski@state.nm.us



New Mexico Department of
Finance & Administration

EXHIBIT 9



New Mexico Department of
Finance & Administration

U a

Notice of Rulemaking

[Home](#) [5](#) [Events](#) [5](#) [Notice of Rulemaking](#)

WHEN: January 15, 2021 @ 9:00 am

Calendar

Add to Calendar ▼

DFA will hold a hearing to repeal and replace 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments. Pursuant to Subsection E of 9-1-5 and 9-6-5 NMSA 1978, DFA promulgates these rules to administer the duties of the Department and its divisions. Further legal authority for this rulemaking can be found in the State Rules Act, Section 14-4-1 et seq. NMSA 1978



New Mexico Department of
Finance & Administration

The Department of Finance and Administration provides sound fiscal advice and problem solving support to the Governor, provide budget direction and fiscal oversight to state agencies

and local governments.

ADDRESS

407 Galisteo Street
Santa Fe, NM 87501

PHONE

(505) 827-4985

FAX

(505) 827-4984

New Mexico

STATE AGENCIES

New Mexico Legislature

NM State Personnel Office

Governor of New Mexico

Baranowski, Andrew, DFA

From: Baranowski, Andrew, DFA
Sent: Tuesday, December 15, 2020 3:37 PM
To: 'lcs@nmlegis.gov'
Subject: Notice of Rulemaking Hearing
Attachments: DFA January 15, 2021 Rule Hearing.pdf; DFA Agenda 1.15.pdf

Good Afternoon,

Pursuant to NMSA 1978, Sections 14-4-5.2(A) and 14-4-2(E)(7), I attach a notice of rulemaking hearing and agenda for distribution to appropriate interim and standing legislative committees. Please let me know if you need anything further.

Best Regards,

Andrew J. Baranowski

General Counsel

Department of Finance & Administration

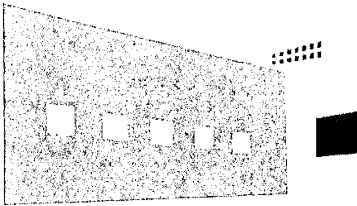
505-670-2285 (mobile)

Andrew.Baranowski@state.nm.us



New Mexico Department of
Finance & Administration

EXHIBIT 11



NM Commission of Public Records

1205 Camino Carlos Rey
Santa Fe, NM 87507 US
(505) 476-7902

Invoice

Department of Finance and
Administration
407 Galisteo St.
Santa Fe, NM 87501

ISSUE NO	DATE	AMOUNT	DATE	AMOUNT
5060	09/15/2020	\$258.00	09/15/2020	

VOLUME	ISSUE	P.O. NUMBER
XXXI	17	34100-2101010002

DATE	DESCRIPTION	QTY	DATE	AMOUNT
09/15/2020	NM Register - 431902 Emergency Repeal, 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, effective: 8/25/2020	2	3.00	6.00
09/15/2020	NM Register - 431902 Emergency New Rule, 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, effective: 8/25/2020	84	3.00	252.00

Thank you for your business!

BALANCE DUE

\$258.00

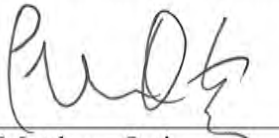
NEW MEXICO
State Records Center and Archives

COMMISSION OF PUBLIC RECORDS
Your Access to Public Information

Affidavit of Publication in New Mexico Register

I, Matthew Ortiz, certify that the agency noted on Invoice # 5060 has published legal notice of rulemaking or rules in the NEW MEXICO REGISTER, VOLUME XXXI, that payment has been assessed for said legal notice of rulemaking or rules, which appears on the publication date and in the issue number noted on Invoice # 5060, and that Invoice # 5060 has been sent electronically to the person(s) listed on the *Billing Information Sheet* provided by the agency.

Affiant:

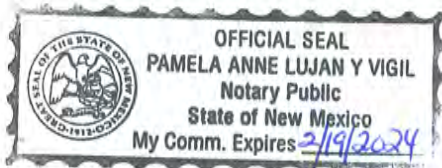

Matthew Ortiz

Subscribed, sworn and acknowledged before me this 16th day of September, 2020.

Notary Public:

My Commission Expires:


3/19/2024



1205 Camino Carlos Rey | Santa Fe, NM 87507 | nmcpr.state.nm.us

Hon. Hector Balderas
Attorney General

Hon. Brian S. Colón
State Auditor

Hon. Maggie Toulouse Oliver
Secretary of State

Debra Garcia y Griego
Department of Cultural Affairs

Kenneth Ortiz
General Services Department

Daniel Cordova
Interim Director, NM State Law Library

New Mexico Register / Volume XXXI, Issue 17 / September 15, 2020

The New Mexico Department of Finance and Administration approved the emergency repeal of its rule 2 NMAC 20.2 - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments (Recompiled 10/1/2001) and replaced it with 2.20.2 NMAC - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments (adopted on 8/25/2020), and effective 8/25/2020.

TITLE 2 PUBLIC FINANCE
CHAPTER 20 ACCOUNTING BY GOVERNMENTAL ENTITIES
PART 2 EXECUTION OF CONTRACTS, VOUCHERS, PURCHASE ORDERS AND OTHER FINANCIAL COMMITMENTS

2.20.2.1 ISSUING AGENCY: Department of Finance and Administration.
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.2 SCOPE: [RESERVED]
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.3 STATUTORY AUTHORITY: In order to ascertain the authority and legality of contracts, purchase orders, vouchers, travel vouchers and other financial commitments for departments and other state agencies, pursuant to Section 6-5-3 NMSA 1978, it is necessary to determine whether the person executing the contract has been properly delegated the authority to bind the department or state agency. In many instances there is no clear statutory power granted to an officer to sign on behalf of an agency. Generally the person who is ultimately responsible for the administration of the law has the implied power to execute legal documents for a state agency. Generally the power to execute may be delegated; however, some laws may require specific officers to execute contracts and vouchers on behalf of the agency. In such cases, no delegation is allowed by law.
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.4 DURATION: Permanent.
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.5 EFFECTIVE DATE: August 25, 2020
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.6 OBJECTIVE: The various acts creating departments pursuant to the Executive Reorganization Acts generally provide that the secretary of the department is responsible to the governor for the operation of the department and shall delegate authority to subordinates as the secretary deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto. It is the purpose of this rule to set forth those individuals who may legally bind state agencies which must submit their contracts or vouchers to the department of finance and administration.
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.7 DEFINITIONS: As used in this rule:

A. “authorized officer” means a public officer or employee who is required or permitted by law or by lawful delegation of authority pursuant to this rule to sign contracts, vouchers, purchase orders or other financial commitments on behalf of a state agency;

B. “contracts officer” means an employee of the department of finance and administration designated as contracts officer by the secretary of finance and administration;

C. “facsimile signature” means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of the authorized officer;

D. “signed” or “executed” means affixed with any of the following:

(1) the manual signature of an individual;

(2) the facsimile signature of an individual;

(3) the electronic signature of an individual procured through a third-party document-signing service; or

(4) the name of an individual, typewritten on the signature line of a document using word processing software and accompanied with another writing confirming that individual’s approval of such document, including without limitation an e-mail to that effect.

E. “state agency” means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities, or institutions required to submit contracts or vouchers to the department of finance and

administration for approval.
[Recompiled 10/1/01; N/E & A/E, 8/25/2020]

2.20.2.8 EXECUTION OF CONTRACTS, VOUCHERS AND PURCHASE ORDERS - AUTHORIZED SIGNATURES:

A. The department of finance and administration will not approve any contract, voucher, travel voucher, purchase order or other financial commitment of any state agency required pursuant to DFA rule 78-6 Amendment No. 1, [now 2.20.3 NMAC] and 87-1 Amendment No. 1 [now 2.40.2 NMAC], to submit its voucher or contract to the department for approval unless the contract, voucher, travel voucher, purchase order or other financial commitment has been executed by an authorized officer of the agency.

B. The authority to execute contracts, vouchers, purchase orders, travel vouchers or other financial commitments may be delegated unless provided otherwise by law to any officer or employee of the state agency, but such delegation shall:

- (1) be in writing;
- (2) state whether the delegated power may be subdelegated to another officer or employee of the state agency;
- (3) automatically terminate on whichever date occurs earliest;
 - (a) the date the term of office of the delegating secretary or other chief financial officer ends; or
 - (b) annually on June 30; and
- (4) be on file with the contracts officer of the department of finance and administration (for contracts); and
- (5) be on file with the financial control division of the department of finance and administration.

C. A written delegation of authority to execute contracts, vouchers, travel vouchers, purchase orders or other financial commitments may contain such limitations or conditions as the delegating authorized officer may deem appropriate.

D. No authorized officer shall delegate to any other person authority to sign the authorized officer's signature.

E. Nothing in this rule shall prevent the use of facsimile, printed or typed signature of the secretary or chief financial officer on a copy of a contract, voucher, travel voucher, purchase order or other financial commitment.

[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.9 SIGNATURES REQUIRED: The two copies of every contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department shall be signed by an authorized officer. The department will retain at least one signed copy of every contract, voucher, travel voucher, purchase order or other financial commitment. Alternatively, agencies may submit a single electronic version, in portable document format (PDF) or a comparable format and in such a manner as the department may direct, of an executed contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department.

[Recompiled 10/1/01; N/E & A/E 8/25/2020]

2.20.2.10 AUTHORIZED OFFICERS - DELEGATION:

A. The following public officers are authorized to execute contracts, vouchers, purchase orders and other financial commitments on behalf of the state agency under their control or supervision. Signatures must be on file at the financial control division of the department of finance and administration.

STATE AGENCY	OFFICER AUTHORIZED
office of the governor	governor
office of the lieutenant governor	lieutenant governor
office of the attorney general	attorney general
secretary of state	secretary of state
state auditor	state auditor
state corporation commission	
[public regulation commission]	commission
insurance department	superintendent of insurance

state fire marshall	state fire marshall
transportation department	director
state land office	land commissioner
state treasurer	state treasurer
department of agriculture	secretary of department
N.M. livestock board	executive director
peanut commission	commission
corrections department	secretary of department
[children, youth and families dept.	secretary of department]
public defender department	director
juvenile parole board	board
adult parole board	board
economic development & tourism department	secretary of department
research and development Institute	director
state fair commission	commission
state racing commission	commission
energy, minerals and natural resources dept.	secretary of department
state game commission	commission
department of game and fish	director
public service commission	commission
department of finance and administration	secretary of department
commission on higher education	commission
office of cultural affairs	cultural affairs officer
committee on concerns of the	director
handicapped	
general services department	secretary of department
state personnel board	director
health & environment department	secretary of department
[health department]	
[environment department]	
state highway & transportation department	secretary of department
human services department	secretary of department
commission on the status of women	commission
state agency on aging	director
office of Indian affairs	commission on Indian affairs
department of labor	secretary of department
department of public safety	secretary of department
taxation and revenue department	secretary of department
commission for the blind	commission
crime stoppers commission	commission
crime victims reparation commission	commission
state department of public education	superintendent
division of vocational rehabilitation	director
state investment council	state investment officer
department of military affairs	adjutant general
state commission of public records	state records administrator
regulation and licensing department	superintendent
interstate stream commission	commission
office of the state engineer	state engineer
NM veteran service commission	commission
institutions of higher education	boards of regents or controllers
miners hospital	board
all boards	board
youth authority [children, youth and families dept.]	secretary of department
LEGISLATIVE BRANCH	
legislative council service	director

legislative finance committee
legislative school study committee
all other vouchers

committee
chairman of committee
director

JUDICIAL BRANCH

supreme court
compilation commission
building commission
director, administrative office of courts
court of appeals
district courts
magistrate courts
district attorneys
judicial standards commission
judicial council

chief justice
secretary of commission
commission
supreme court
chief Judge
presiding judge
director, administrative office of the courts
district attorney
executive director
council

B. If the authorized officer set forth in Subsection A of this section is a board or commission, the power to execute contracts, vouchers, purchase orders or other financial commitments may be delegated by a majority of a quorum of the board or commission acting in accordance with the provisions of law.
[Recompiled 10/1/01; 8/25/2020]

HISTORY OF 2.20.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

DFA 78-5 Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, 6/30/78.

DFA 78-5, Amendment No. 1, 12/20/89.

History of Repealed Material: 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, repealed to amend as emergency Sections 7 and 9, effective August 25, 2020.



Latest News

[Home](#) > [Latest News](#)

Latest News	File Type
<u>FY22 Executive Budget Recommendation</u>	PDF
<u>Notice of Rulemaking</u>	Calendar
<u>Special Sessions CARES Act Summary and Contact Information for Applying.</u>	PDF
<u>2020 Second Special Session Summary Graphic</u>	PDF
<u>PRESS RELEASE – Bond Ratings</u>	PDF
<u>PUBLIC HEALTH JOB SEEKERS TARGETED IN ONLINE SCAM</u>	PDF
<u>DFA DISTRIBUTION CENTER PROCESS & PROCEDURE DURING CLOSURE</u>	PDF
<u>DFA HELP DESK PROCESS AND PROCEDURE DURING CLOSURE</u>	PDF
NOTICE OF ADOPTION OF AN EMERGENCY AMENDMENT TO 2.20.2 NMAC SECTIONS 7 AND 9	PDF's
<ul style="list-style-type: none"> • <u>2.20.2 emergency repeal</u> • <u>2.20.2 emergency new rule</u> 	



Rule Hearing Search

Hearing Date: All

Comments Deadline Date: All

Agency: Department of Finance & Administration

[Return to Search Results](#)**Proposed Rule Name:**

Emergency Rule - Execution of Contracts, Vouchers, Purchase Orders,... etc.

Agency:

Department of Finance & Administration

Purpose:

In light of the current work-from-home environment for state government and modern technology, the amendments to Sections 7 and 9 of 2.20.2 NMAC will allow the Department to accept electronic signatures on certain documents submitted by state agencies, rather than the original, manual signatures described in the current rule.

Summary:

The emergency repeal and replacement of Sections 7 and 9 of 2.20.2 NMAC will allow the Department to more efficiently process the contracts, vouchers, purchase orders, and other financial commitments submitted to it while complying with social distancing standards and protecting public health and welfare.

The amendment to Section 7 expands the definition of "signed" to include non-manual and electronic signatures of documents. The amendment to Section 9 allows state agencies to submit digital versions of signed documents to comport with these expanded signature types. Most state employees are working from home due to the COVID-19 pandemic, making obtaining original signatures on documents much more difficult, time-consuming, and dangerous. It is in the best interest of state finances and the public health and welfare to allow for electronic signatures. This will allow agencies to gather signatures more efficiently, and it will reduce person-to-person contact, thus better preserving the public health.

This emergency rule is temporary, pursuant to the provisions of NMSA 1978, section 14-4-5.6, unless and until the Department enacts a permanent rule under the normal rulemaking process. Given the age of the existing rule, the entire rule was repealed and replaced, consistent with Subsection C of 1.24.11.9 NMAC.

Rule Complete Copy :

Digital copies of the emergency rule are available at:

http://www.nmdfa.state.nm.us/uploads/files/DFA%20Home/Latest%20Events/2_20_2%20emergency%20repeal.pdfhttp://www.nmdfa.state.nm.us/uploads/files/DFA%20Home/Latest%20Events/2_20_2%20emergency%20new%20rule.pdf**Corrections:**[Click Here to access Rule Corrections](#)**Rule Explanatory Statement:**

Not available

Related New Mexico Register Publications:

Not available

For any additional information or questions concerning this rule making or posting please contact:

Andrew Baranowski

andrew.baranowski@state.nm.us

(505) 670-2285

Last Updated Date

9/9/2020 5:55 PM

How to submit Comments:

Comments are invited if and when the Department permanently adopts these rule changes under a regular rulemaking procedure. In the meantime, persons with questions about this rule may contact Andrew Baranowski at

andrew.baranowski@state.nm.us.

When are comments due:

Hearing Date:

Public Hearing Location:

No public hearing is required to be given for emergency phase of rulemaking. The Department will provide hearing information for the public if and when the Department permanently adopts these changes. (-)

How to participate:

No advance notice is required to be given for emergency phase of rulemaking. The Department will provide participation information for the public if and when the Department permanently adopts these changes.

If the document is not visible on the previewer, please download the file.

File	File Name	File Type	Description
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Baranowski, Andrew, DFA

From: Baranowski, Andrew, DFA
Sent: Wednesday, September 9, 2020 5:36 PM
To: 'lcs@nmlegis.gov'
Cc: Fisher-Ives, Dillon, DFA
Subject: Notice of emergency rulemaking
Attachments: 2.20.2 emergency repeal.pdf; 2.20.2 emergency new rule.pdf

Hello,

Pursuant to NMSA Sections 14-4-2 and 14-4-5.6, attached is an emergency rule change amending two sections of 2.20.2 NMAC for distribution to any appropriate interim and standing legislative committees. The substance of this amendment is to permit electronic signatures on certain documents required to be submitted to DFA. Please note that due to the age of the existing NMAC regulation, DFA was required to wholly repeal and replace it under 1.24.11.9 NMAC, which is why there are two separate attachments. Please direct any questions to my contact information below, and please let me know if you need anything further.

Best Regards,
Andrew

Andrew J. Baranowski
General Counsel
Department of Finance & Administration
505-670-2285 (mobile)
Andrew.Baranowski@state.nm.us



New Mexico Department of
Finance & Administration

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NMAC Transmittal Form

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2020 AUG 25 PM 3:14

Volume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: New Amendment Repeal Emergency Renumber (ALD Use Only) Most recent filing date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment description (If filing an amendment): Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes No Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes No Public domain

Specific statutory or other authority authorizing rulemaking:

Notice date(s): Hearing date(s): Rule adoption date: Rule effective date:

2020 AUG 25 PM 3:14

Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

Current NMAC 2.20.2.7 defines "signed" to mean an individual's manual signature, and NMAC 2.20.2.9 requires agencies to submit the original, signed version and a copy of every contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the Department of Finance and Administration ("Department"). The Department has determined that these requirements are unduly burdensome to state agencies, particularly in light of the ongoing COVID-19 pandemic and work-from home environment of most state employees. The emergency amendments change the definition of "signed" to include digital signatures and change the submission requirements to address digital signatures.

The time required to comply with the rulemaking procedures of the State Rules Act would cause an imminent peril to the public health, safety, and welfare. Since most state employees are currently working from home, it is exceedingly difficult to obtain original, manual signatures on the documents submitted to the Department. For contracts that require multiple signatures, it can take weeks to complete a process that could be done in days if digital signatures were permitted. It is in the best interest of state finances, and accordingly of the public welfare, that the Department make this rule change as soon as possible. Given the expenditures required for numerous state agencies to respond to COVID-19, complying with the ordinary rulemaking procedures of the State Rules Act would also threaten public health and safety.

Additionally, the requirement to submit original, manually signed documents increases the number of potential contacts between state employees, which could result in the increased transmission of COVID-19 among individuals. Allowing agencies to submit electronic documents with digital signatures, and doing so as soon as possible, is necessary to keep this level of person-to-person contact to a minimum, thereby enforcing social distancing standards and better protecting public health.

This emergency rule is temporary, pursuant to the provisions of NMSA 1978, section 14-4-5.6, unless and until the Department enacts a permanent rule under the normal rulemaking process. Given the emergency nature of this rule, the Department is not accepting substantive arguments made through public comment at this time. The entire rule was repealed and replaced, consistent with Subsection C of 1.24.11.9 NMAC.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Deborah K. Romero

Check if authority has been delegated

Title:

Acting Cabinet Secretary

Signature: (BLACK ink only)

Date signed:

Deborah K. Romero

8/25/2020

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2020 AUG 25 PM 3: 14

The New Mexico Department of Finance and Administration approved the emergency repeal of its rule 2 NMAC 20.2 - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments (Recompiled 10/1/2001) and replaced it with 2.20.2 NMAC - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments (adopted on 8/25/2020), and effective 8/25/2020.

NMAC Transmittal Form

Volume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: New Amendment Repeal Emergency Renumber (ALD Use Only) Most recent filing date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment description (If filing an amendment): Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes No Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes No Public domain

Specific statutory or other authority authorizing rulemaking:

Notice date(s): Hearing date(s): Rule adoption date: Rule effective date:

2020 AUG 25 PM 3:14

Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

Current NMAC 2.20.2.7 defines "signed" to mean an individual's manual signature, and NMAC 2.20.2.9 requires agencies to submit the original, signed version and a copy of every contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the Department of Finance and Administration ("Department"). The Department has determined that these requirements are unduly burdensome to state agencies, particularly in light of the ongoing COVID-19 pandemic and work-from home environment of most state employees. The emergency amendments change the definition of "signed" to include digital signatures and change the submission requirements to address digital signatures.

The time required to comply with the rulemaking procedures of the State Rules Act would cause an imminent peril to the public health, safety, and welfare. Since most state employees are currently working from home, it is exceedingly difficult to obtain original, manual signatures on the documents submitted to the Department. For contracts that require multiple signatures, it can take weeks to complete a process that could be done in days if digital signatures were permitted. It is in the best interest of state finances, and accordingly of the public welfare, that the Department make this rule change as soon as possible. Given the expenditures required for numerous state agencies to respond to COVID-19, complying with the ordinary rulemaking procedures of the State Rules Act would also threaten public health and safety.

Additionally, the requirement to submit original, manually signed documents increases the number of potential contacts between state employees, which could result in the increased transmission of COVID-19 among individuals. Allowing agencies to submit electronic documents with digital signatures, and doing so as soon as possible, is necessary to keep this level of person-to-person contact to a minimum, thereby enforcing social distancing standards and better protecting public health.

This emergency rule is temporary, pursuant to the provisions of NMSA 1978, section 14-4-5.6, unless and until the Department enacts a permanent rule under the normal rulemaking process. Given the emergency nature of this rule, the Department is not accepting substantive arguments made through public comment at this time. The entire rule was repealed and replaced, consistent with Subsection C of 1.24.11.9 NMAC.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:


Deborah K. Romero

Check if authority has been delegated

Title:

Acting Cabinet Secretary

Signature: (BLACK ink only)



Date signed:

8/25/2020

2020 AUG 25 PM 3: 18

TITLE 2 PUBLIC FINANCE
CHAPTER 20 ACCOUNTING BY GOVERNMENTAL ENTITIES
PART 2 EXECUTION OF CONTRACTS, VOUCHERS, PURCHASE ORDERS AND OTHER FINANCIAL COMMITMENTS

2.20.2.1 ISSUING AGENCY: Department of Finance and Administration.
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.2 SCOPE: [RESERVED]
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.3 STATUTORY AUTHORITY: In order to ascertain the authority and legality of contracts, purchase orders, vouchers, travel vouchers and other financial commitments for departments and other state agencies, pursuant to Section 6-5-3 NMSA 1978, it is necessary to determine whether the person executing the contract has been properly delegated the authority to bind the department or state agency. In many instances there is no clear statutory power granted to an officer to sign on behalf of an agency. Generally the person who is ultimately responsible for the administration of the law has the implied power to execute legal documents for a state agency. Generally the power to execute may be delegated; however, some laws may require specific officers to execute contracts and vouchers on behalf of the agency. In such cases, no delegation is allowed by law.
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.4 DURATION: Permanent.
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.5 EFFECTIVE DATE: August 25, 2020
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.6 OBJECTIVE: The various acts creating departments pursuant to the Executive Reorganization Acts generally provide that the secretary of the department is responsible to the governor for the operation of the department and shall delegate authority to subordinates as the secretary deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto. It is the purpose of this rule to set forth those individuals who may legally bind state agencies which must submit their contracts or vouchers to the department of finance and administration.
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.7 DEFINITIONS: As used in this rule:

A. "authorized officer" means a public officer or employee who is required or permitted by law or by lawful delegation of authority pursuant to this rule to sign contracts, vouchers, purchase orders or other financial commitments on behalf of a state agency;

B. "contracts officer" means an employee of the department of finance and administration designated as contracts officer by the secretary of finance and administration;

C. "facsimile signature" means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of the authorized officer;

D. "signed" or "executed" means affixed with any of the following:
(1) the manual signature of an individual;
(2) the facsimile signature of an individual;
(3) the electronic signature of an individual procured through a third-party document-signing service; or

(4) the name of an individual, typewritten on the signature line of a document using word processing software and accompanied with another writing confirming that individual's approval of such document, including without limitation an e-mail to that effect.

E. "state agency" means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities, or institutions required to submit contracts or vouchers to the department of finance and administration for approval.

[Recompiled 10/1/01; N/E & A/E, 8/25/2020]

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2.20.2.8 EXECUTION OF CONTRACTS, VOUCHERS AND PURCHASE ORDERS - AUTHORIZED SIGNATURES:

A. The department of finance and administration will not approve any contract, voucher, travel voucher, purchase order or other financial commitment of any state agency required pursuant to DFA rule 78-6 Amendment No. 1, [now 2.20.3 NMAC] and 87-1 Amendment No. 1 [now 2.40.2 NMAC], to submit its voucher or contract to the department for approval unless the contract, voucher, travel voucher, purchase order or other financial commitment has been executed by an authorized officer of the agency.

B. The authority to execute contracts, vouchers, purchase orders, travel vouchers or other financial commitments may be delegated unless provided otherwise by law to any officer or employee of the state agency, but such delegation shall:

- (1) be in writing;
- (2) state whether the delegated power may be subdelegated to another officer or employee of the state agency;
- (3) automatically terminate on whichever date occurs earliest;
 - (a) the date the term of office of the delegating secretary or other chief financial officer ends; or
 - (b) annually on June 30; and
- (4) be on file with the contracts officer of the department of finance and administration (for contracts); and
- (5) be on file with the financial control division of the department of finance and administration.

C. A written delegation of authority to execute contracts, vouchers, travel vouchers, purchase orders or other financial commitments may contain such limitations or conditions as the delegating authorized officer may deem appropriate.

D. No authorized officer shall delegate to any other person authority to sign the authorized officer's signature.

E. Nothing in this rule shall prevent the use of facsimile, printed or typed signature of the secretary or chief financial officer on a copy of a contract, voucher, travel voucher, purchase order or other financial commitment.

[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.9 SIGNATURES REQUIRED: The two copies of every contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department shall be signed by an authorized officer. The department will retain at least one signed copy of every contract, voucher, travel voucher, purchase order or other financial commitment. Alternatively, agencies may submit a single electronic version, in portable document format (PDF) or a comparable format and in such a manner as the department may direct, of an executed contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department.

[Recompiled 10/1/01; N/E & A/E 8/25/2020]

2.20.2.10 AUTHORIZED OFFICERS - DELEGATION:

A. The following public officers are authorized to execute contracts, vouchers, purchase orders and other financial commitments on behalf of the state agency under their control or supervision. Signatures must be on file at the financial control division of the department of finance and administration.

STATE AGENCY	OFFICER AUTHORIZED
office of the governor	governor
office of the lieutenant governor	lieutenant governor
office of the attorney general	attorney general
secretary of state	secretary of state
state auditor	state auditor
state corporation commission	commission
[public regulation commission]	superintendent of insurance
insurance department	state fire marshal
state fire marshal	director
transportation department	land commissioner
state land office	

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state treasurer	state treasurer
department of agriculture	secretary of department
N.M. livestock board	executive director
peanut commission	commission
corrections department	secretary of department
[children, youth and families dept.	secretary of department]
public defender department	director
juvenile parole board	board
adult parole board	board
economic development & tourism department	secretary of department
research and development Institute	director
state fair commission	commission
state racing commission	commission
energy, minerals and natural resources dept.	secretary of department
state game commission	commission
department of game and fish	director
public service commission	commission
department of finance and administration	secretary of department
commission on higher education	commission
office of cultural affairs	cultural affairs officer
committee on concerns of the	director
handicapped	
general services department	secretary of department
state personnel board	director
health & environment department	secretary of department
[health department]	
[environment department]	
state highway & transportation department	secretary of department
human services department	secretary of department
commission on the status of women	commission
state agency on aging	director
office of Indian affairs	commission on Indian affairs
department of labor	secretary of department
department of public safety	secretary of department
taxation and revenue department	secretary of department
commission for the blind	commission
crime stoppers commission	commission
crime victims reparation commission	commission
state department of public education	superintendent
division of vocational rehabilitation	director
state investment council	state investment officer
department of military affairs	adjutant general
state commission of public records	state records administrator
regulation and licensing department	superintendent
interstate stream commission	commission
office of the state engineer	state engineer
NM veteran service commission	commission
institutions of higher education	boards of regents or controllers
miners hospital	board
all boards	board
youth authority [children, youth and families dept.]	secretary of department
LEGISLATIVE BRANCH	
legislative council service	director
legislative finance committee	committee
legislative school study committee	chairman of committee
all other vouchers	director

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JUDICIAL BRANCH

supreme court
compilation commission
building commission
director, administrative office of courts
court of appeals
district courts
magistrate courts
district attorneys
judicial standards commission
judicial council

chief justice
secretary of commission
commission
supreme court
chief Judge
presiding judge
director, administrative office of the courts
district attorney
executive director
council

B. If the authorized officer set forth in Subsection A of this section is a board or commission, the power to execute contracts, vouchers, purchase orders or other financial commitments may be delegated by a majority of a quorum of the board or commission acting in accordance with the provisions of law.
[Recompiled 10/1/01; 8/25/2020]

HISTORY OF 2.20.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

DFA 78-5 Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, 6/30/78.

DFA 78-5, Amendment No. 1, 12/20/89.

History of Repealed Material: 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, repealed to amend as emergency Sections 7 and 9, effective August 25, 2020.

EXHIBIT 17

TITLE 2 PUBLIC FINANCE
CHAPTER 20 ACCOUNTING BY GOVERNMENTAL ENTITIES
PART 2 EXECUTION OF CONTRACTS, VOUCHERS, PURCHASE ORDERS AND OTHER
FINANCIAL COMMITMENTS

2.20.2.1 ISSUING AGENCY: Department of Finance and Administration.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.2 SCOPE: [RESERVED]
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.3 STATUTORY AUTHORITY: In order to ascertain the authority and legality of contracts, purchase orders, vouchers, travel vouchers and other financial commitments for departments and other state agencies, pursuant to Section 6-5-3 NMSA 1978, it is necessary to determine whether the person executing the contract has been properly delegated the authority to bind the department or state agency. In many instances there is no clear statutory power granted to an officer to sign on behalf of an agency. Generally the person who is ultimately responsible for the administration of the law has the implied power to execute legal documents for a state agency. Generally the power to execute may be delegated; however, some laws may require specific officers to execute contracts and vouchers on behalf of the agency. In such cases, no delegation is allowed by law.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.4 DURATION: Permanent.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.5 EFFECTIVE DATE: February 9, 2021, unless a later date is cited at the end of a section.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.6 OBJECTIVE: The various acts creating departments pursuant to the Executive Reorganization Acts generally provide that the secretary of the department is responsible to the governor for the operation of the department and shall delegate authority to subordinates as the secretary deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto. It is the purpose of this rule to set forth those individuals who may legally bind state agencies which must submit their contracts or vouchers to the department of finance and administration.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.7 DEFINITIONS: As used in this rule:

A. “authorized officer” means a public officer or employee who is required or permitted by law or by lawful delegation of authority pursuant to this rule to sign contracts, vouchers, purchase orders or other financial commitments on behalf of a state agency;

B. “contracts officer” means an employee of the department of finance and administration designated as contracts officer by the secretary of finance and administration;

C. “facsimile signature” means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of the authorized officer;

D. “signed” or “executed” means affixed with any of the following:

(1) the manual signature of an individual; and

(2) the facsimile signature of an individual;

(3) the electronic signature of an individual procured through a third-party document-signing

service; or

(4) the name of an individual, typewritten on the signature line of a document using word processing software and accompanied with another writing confirming that individual’s approval of such document, including without limitation an e-mail to that effect.

E. “state agency” means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities, or institutions required to submit contracts or vouchers to the department of finance and administration for approval.

[Recompiled 10/1/2001; N/E & A/E, 8/25/2020]

2.20.2.8 EXECUTION OF CONTRACTS, VOUCHERS AND PURCHASE ORDERS - AUTHORIZED SIGNATURES:

A. The department of finance and administration will not approve any contract, voucher, travel voucher, purchase order or other financial commitment of any state agency required pursuant to 2.20.3 NMAC and 2.40.2 NMAC, to submit its voucher or contract to the department for approval unless the contract, voucher, travel voucher, purchase order or other financial commitment has been executed by an authorized officer of the agency.

B. The authority to execute contracts, vouchers, purchase orders, travel vouchers or other financial commitments may be delegated unless provided otherwise by law to any officer or employee of the state agency, but such delegation shall:

- (1) be in writing;
- (2) state whether the delegated power may be subdelegated to another officer or employee of the state agency;
- (3) automatically terminate on whichever date occurs earliest;
 - (a) the date the term of office of the delegating secretary or other chief financial officer ends; or
 - (b) annually on June 30; and
- (4) be on file with the contracts officer of the department of finance and administration (for contracts); and
- (5) be on file with the financial control division of the department of finance and administration.

C. A written delegation of authority to execute contracts, vouchers, travel vouchers, purchase orders or other financial commitments may contain such limitations or conditions as the delegating authorized officer may deem appropriate.

D. No authorized officer shall delegate to any other person authority to sign the authorized officer's signature.

E. Nothing in this rule shall prevent the use of facsimile, printed or typed signature of the secretary or chief financial officer on a copy of a contract, voucher, travel voucher, purchase order or other financial commitment.

[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.9 [SIGNATURES REQUIRED]:

The two copies of every contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department shall be signed by an authorized officer. The department will retain at least one signed copy of every contract, voucher, travel voucher, purchase order or other financial commitment. Alternatively, agencies may submit a single electronic version, in portable document format (PDF) or a comparable format and in such a manner as the department may direct, of an executed contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department.

[Recompiled 10/1/2001; N/E & A/E 8/25/2020]

2.20.2.10 AUTHORIZED OFFICERS - DELEGATION:

A. The following public officers are authorized to execute contracts, vouchers, purchase orders and other financial commitments on behalf of the state agency under their control or supervision. Signatures must be on file at the financial control division of the department of finance and administration.

STATE AGENCY	OFFICER AUTHORIZED
office of the governor	governor
office of the lieutenant governor	lieutenant governor
office of the attorney general	attorney general
secretary of state	secretary of state
state auditor	state auditor
public regulation commission	commission
state fire marshal	state fire marshal
transportation department	director
office of the superintendent of insurance	superintendent of insurance
state land office	land commissioner
state treasurer	state treasurer
department of agriculture	secretary of department

N.M. livestock board	executive director
corrections department	secretary of department
children, youth and families dept.	secretary of department
public defender department	director
juvenile parole board	board
adult parole board	board
economic development department	secretary of department
state fair commission	commission
state racing commission	commission
energy, minerals and natural resources dept.	secretary of department
state game commission	commission
department of game and fish	director
department of finance and administration	secretary of department
general services department	secretary of department
state personnel board	director
state personnel office	director
department of health	secretary of department
department of environment	secretary of department
transportation department	secretary of department
human services department	secretary of department
commission on the status of women	commission
department of workforce solutions	secretary of department
department of public safety	secretary of department
taxation and revenue department	secretary of department
commission for the blind	commission
crime stoppers commission	commission
crime victims reparation commission	commission
public education department	secretary of department
division of vocational rehabilitation	director
state investment council	state investment officer
department of military affairs	adjutant general
state commission of public records	state records administrator
regulation and licensing department	superintendent
interstate stream commission	commission
office of the state engineer	state engineer
institutions of higher education	boards of regents or controllers
miners hospital	board
department of cultural affairs	secretary of department
office of african american affairs	executive director
tourism department	secretary of department
indian affairs department	secretary of department
veterans' services department	secretary of department
aging and long-term services department	secretary of department
public education commission	commission
higher education department	secretary of department
department of information technology	secretary of department
homeland security and emergency	
management department	secretary of department
state ethics commission	commission
early childhood education and care department	secretary of department
all executive departments not otherwise listed	secretary of department
all commissions	commission
all boards	board
all other state agencies not otherwise listed	as provided by applicable law, regulation, or governance documents

LEGISLATIVE BRANCH

legislative council service	director
legislative finance committee	committee
legislative school study committee	chairman of committee
all other vouchers	director

JUDICIAL BRANCH

supreme court	chief justice
compilation commission	secretary of commission
building commission	commission
director, administrative office of courts	supreme court
court of appeals	chief Judge
district courts	presiding judge
magistrate courts	director, administrative office of the courts
district attorneys	district attorney
judicial standards commission	executive director
judicial council	council

B. If the authorized officer set forth in Subsection A of this section is a board or commission, the power to execute contracts, vouchers, purchase orders or other financial commitments may be delegated by a majority of a quorum of the board or commission acting in accordance with the provisions of law.
[Recompiled 10/1/201; 8/25/2020]

HISTORY OF 2.20.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

DFA 78-5 Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, 6/30/1978.

DFA 78-5, Amendment No. 1, 12/20/1989.

History of Repealed Material: 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, repealed to amend as emergency Sections 7 and 9, effective August 25, 2020.

EXHIBIT 18



Michelle Lujan Grisham
GOVERNOR

State of New Mexico
Department of Finance & Administration
180 Bataan Memorial Building
Santa Fe, New Mexico 87501
Phone: (505) 827-4985
Fax: (505) 827-4984
www.nmdfa.state.nm.us

Deborah K. Romero
Cabinet Secretary Designate

February 24, 2021

To Whom It May Concern:

I hereby designate the Department of Finance and Administration's Deputy General Counsel, Dillon Fisher-Ives, to preside over the rulemaking hearing regarding an update to 2.20.2 NMAC scheduled for February 26, 2021.

/s/ Deborah K. Romero
Deborah K. Romero
Cabinet Secretary Designate



DEPARTMENT OF
FINANCE & ADMINISTRATION

DFA Rule Change to 2.20.2 NMAC

The Department of Finance and Administration seeks to change our in-person signature rule to an electronic signature (e-signature) platform to streamline our processes related to financial documents state agencies and local governments submit for approval.



DFA processes approximately 350,000+ documents each year, many requiring manual signatures.



Documents require on average 3 manual signatures and up to 8 in some cases.



The average manual turnaround time is 6 days but can extend up to over 12+; this includes essential documents.



E-signing will automate the process, increase efficiency and customer service delivery while decreasing time spent collecting manual signatures.

Division	Document	# Processed Annually	Required Signatures	Average Turnaround Time (Days)	Notes
ASD	Professional Services Contracts	2	6	12.5 days	
	HR Actions	20	2-5	2 days	
	IT Contracts	2	7-8	12.5 days	
BOF	Board Resolutions	16	2	3 days	
	Meeting Minutes	12	2	3 days	
	Agency Certifications for Bond Proceeds	15	1	3 days	
	Bond Proceed Draw Requests	360	1	Received from Agency 2x/month	
	Loan/Grant Agreements	4	2	3 days	
	Contracts	3	4-6	10 days	
COB	Capital Budget Adjustment Request (CBAR)	10	5	12.5 days	Some include 10 day hold for LFC review.
	Capital Budget Request (CBUD)	150	4	4 days	
	Capital Budget Reallocation Form (CBRF)	60	4	4 days	
	CARES (Local Government Awards)	614	4	10 days	
	CARES (Tribal Government Awards)	98	4	10 days	
	CARES (Small Business Awards)	374	4	10 days	
FCD	Policy Exemptions	150	2	3 days	Documents that come in to FCD whereby digital signatures would be initiated by the submitting agencies.
	White Paper Requests	250	2	3 days	
	Direct Pay Requests	100	2	2 days	
	Emergency Procurement Requests	50	4	2 days	
	Audit Engagement Letter	2	2	2 days	
	Management Representation	2	2	2 days	
	Vouchers	180,000	0	3 days	Documents that are uploaded to SHARE with

	Purchase Orders	150,000	0	3 days	approvals managed/made by/through SHARE workflow authority. Authority and security to SHARE is approved by DFA.
	Journal Entries	12,000	0	3 days	
	Invoices to "Okay to Pay"	120	1	2 days	Documents out of FCD.
	Employee Evaluations	80	3	2 days	
	Personnel Forms	50	2	2 days	
	Staffing Schedule Forms (exercise time, etc.)	5	2	2 days	
LGD	Grant Agreements – Legislative	400	2	8.5 days	Depending on the grantee and their process to approve may take longer to sign. Turn around for LGD to execute 1-3 days.
	Grant Agreements - CDBG	25	2	12.5 days	
	Legislative Pay Requests	1,680	3	5 days	
	CDBG Pay Requests	360	3	5 days	
	Notice of Obligations	780	2	5 days	
	Grant Agreements – E911	34	2	37.5 days	Turn around for LGD to execute 2-3 days.
	Pay Requests – E911	1,200	2	8.5 days	
	Contracts – SSB	20	6	10 days	
	Pay Requests -SSB	420	5	4 days	
	Grant Agreements – DWI	40	2	12 days	
	DWI Pay Requests	480	4	4 days	
	Grant Amendments – DWI	33	2	12 days	
	Grant Agreements – Juvenile Adjudication Fund aka Statewide Teen Courts	12	2	12 days	
Pay Requests - Grant Agreements – Juvenile Adjudication Fund aka Statewide Teen Courts	144	4	4 days		
	Budget Adjustment Request (BAR)	600	3	5 days	
	Budget Reallocation Form (BRF)	216	3	3 days	

SBD	OPBUD4	444	3	3 days	
	OPBUD 3	120	3	8.5 days	
	Allotment Form	444	3	3 days	
	Appropriation Recommendation Routing Form	120	3	8.5 days	
	Operating Budget Review Routing Form	120	3	8.5 days	
49 Document Types		352,241	3	6 days	

NMAC

Transmittal Form



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2021 MAR 11 PM 3:32

Volume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: New Amendment Repeal Emergency Renumber (ALD Use Only) Most recent filing date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment description (If filing an amendment):

Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes No Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes No Public domain

Specific statutory or other authority authorizing rulemaking:

Notice date(s): Hearing date(s): Rule adoption date: Rule effective date:

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2021 MAR 11 PM 3:32

Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

See Hearing Officer Memorandum attached hereto and incorporated by reference.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Deborah K. Romero

Check if authority has been delegated

Title:

Cabinet Secretary

Signature: (BLACK ink only)

Deborah K. Romero

Date signed:

3/11/2021

**IN RE: THE MATTER CONCERNING
A PUBLIC HEARING REGARDING
PROPOSED CHANGES TO CERTAIN
RULES BY THE DEPARTMENT OF
FINANCE AND ADMINISTRATION**

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2021 MAR 11 PM 3:32

**HEARING OFFICER MEMORANDUM
2.20.2 NMAC – New Mexico Administrative Code**

COMES NOW the undersigned, and upon designation by the Cabinet Secretary Designate of the New Mexico Department of Finance and Administration (“Department” or “DFA”), and hereby submits his Report of a public rule hearing on Friday, February 26, 2021, at 10:00 a.m. The rule hearing was convened at approximately 10:00 a.m. via WEBEX platform, and was concluded on the same day at approximately 10:40 a.m. The purpose of the rule hearing was to provide an opportunity to take public comment regarding proposed changes to the following rule:

Repeal and Replace

2.20.2 NMAC New Mexico Register

Due to the age of 2.20.2 NMAC, consistent with 1.24.11.19 NMAC, the entire rule must be repealed and replaced in order to amend it. Consideration of this amendment is consistent with Sections 9-1-5 and 9-6-5, NMSA 1978, which authorize the Department to promulgate rules to administer the duties of the Department and its divisions, and with the State Rules Act, Section 14-4-1 *et seq.* NMSA 1978.

Summary of Proceedings

The hearing officer identified those individuals who are affiliated with the Department and participants were identified by screen name and asked to identify themselves, their affiliation, if any, and whether they wanted to submit oral comments. There were four individuals who attended the hearing as it was in progress, three of whom were identified and one unidentified call-in user for a duration of less than, or about, one minute. Only one individual submitted public comment, including the introduction of an info-graphic relating to their oral comment, which was entered into the record and identified as Exhibit 19.

The rule hearing was audio and video recorded via WEBEX platform. A copy of the WEBEX recording of the hearing was used in the preparation of this Report. A copy of the WEBEX recording has been placed in the Record of Rulemaking.

2021 MAR 11 PM 3:

The following exhibits were introduced and accepted into the record:

<u>Exhibit</u>	<u>Description</u>
1.	Affidavit of Publication and Legal Notice of this rule hearing published in the <i>Santa Fe New Mexican</i> on January 26, 2021.
2.	Affidavit of Publication and Legal Notice of this rule hearing published in Volume XXXI, Issue 23 of the <i>New Mexico Register</i> on December 15, 2020.
3.	Affidavit of Publication and Legal Notice of this rule hearing being rescheduled published in Volume XXXII, Issue 2 of the <i>New Mexico Register</i> on January 26, 2021.
4.	Proposed Replacement Rule Sections 2.20.2.1 NMAC through 2.20.2.10 NMAC, as published for public comment on DFA's website and published in Volume XXXI, Issue 23 of the <i>New Mexico Register</i> on December 15, 2020.
5.	Agenda for this hearing as posted on DFA's website.
6.	Notice of this hearing as posted on DFA's website.
7.	Notice of this hearing as posted on the New Mexico Sunshine Portal.
8.	Notice of this hearing as provided to the New Mexico Legislative Council via email on January 13, 2021.
9.	Notice of the originally scheduled hearing as posted on DFA's website.
10.	Notice of the originally scheduled hearing as provided to the New Mexico Legislative Council via email on December 15, 2020.
11.	Affidavit of Publication and Legal Notice of the emergency repeal and replacement of the rules published in Volume XXXI, Issue 17 of the <i>New Mexico Register</i> on September 15, 2020.
12.	Notice of the emergency repeal and replacement of the rules as posted on DFA's website.
13.	Notice of the emergency repeal and replacement of the rules as posted on the New Mexico Sunshine Portal.
14.	Notice of the emergency repeal and replacement of the rules as provided to the New Mexico Legislative Council via email on September 9, 2020.
15.	NMAC Transmittal Form for the emergency repeal of the rules dated August 25, 2020.
16.	NMAC Transmittal Form for the emergency replacement of the rules dated August 25, 2020.
17.	A clean version of the text of the proposed rules.
18.	Letter dated February 24, 2020 designating Dillon Fisher-Ives as the Hearing Officer for this hearing.

At the hearing, there was one additional exhibit introduced; being an info-graphic relating to the oral comment submitted by the Department's Deputy Cabinet Secretary, Renee Ward. This exhibit was accepted into the record and identified as Exhibit 19.

All of the above exhibits are hereby appended to this Report.

Notice of this rule hearing, as rescheduled, was published in the *Santa Fe New Mexican* on January 26, 2021 (Exhibit 1) and was also published in Volume XXXII, Issue 2 of the *New Mexico Register* on January 26, 2021 (Exhibit 3). Notice of the proposed amendments to this rule was originally published in Volume XXXI, Issue 23 of the *New Mexico Register* (Exhibit 2). From the date of publication of the notice of the rescheduled rule hearing, the public comment period for this rule hearing was 30 days. There were no individuals who provided written comment on the proposed repeal and replacement of 2.20.2 NMAC.

After announcing the floor open for comments during the hearing, the following individual gave comments:

Renee Ward, Deputy Cabinet Secretary, DFA

A summary of the oral comments received during the hearing is as follows:

Deputy Cabinet Secretary Ward highlighted the frequency and volume of certain documents processed by the Department and emphasized the importance of the need to modernize signature collection and document approvals, allowing the Department to conduct its work in more technology friendly and efficient environment.

No further comments or questions were made with respect to the repeal and replacement of this rule. A last request for comments or questions was made with respect to the repeal and replacement of this rule and, hearing no other comments or questions, the hearing was adjourned at approximately 10:40 a.m. and the record was closed.

Conclusion

For the reasons stated in the Recommendations, the comments received are well taken and fall within the scope of the current proposed repeal and replacement of the rule.

BE IT HEREBY RECOMMENDED that the Department of Finance and Administration make the following determinations:

1. That the hearing conducted and concluded on February 26, 2021 conformed with all applicable notice and procedural requirements under 1.24.25 NMAC;
2. That the Department of Finance and Administration, consistent with Sections 9-1-5 and 9-6-5, NMSA 1978, has the authority to adopt rule amendments concerning rules pertaining to the duties of the Department and its divisions;
3. That the Department of Finance and Administration ADOPTS the amendments as recommended in Exhibit 4, also being memorialized without track changes in Exhibit 17; and
4. That the Department of Finance and Administration consider making the repeal and replacement of this rule effective on March 23, 2021 and that the repeal and replacement of this rule be published in the *New Mexico Register* on March 23, 2021.

FILED WITH
NEW MEXICO STATE
RECORDS CENTER

Dated: March 8, 2021

Respectfully Submitted,

2021 MAR 11 PM 3:32

Department of Finance & Administration
Bataan Memorial Building, Room 180D
407 Galisteo Street
Santa Fe, New Mexico 87501
Phone: 505-827-3881

By: _____
Dillon Fisher-Ives
DFA Deputy General Counsel, designee for
DFA Cabinet Secretary Romero

APPROVED, AS RECOMMENDED:

By: _____
Deborah K. Romero
DFA Cabinet Secretary

_____ Date

APPROVED, WITH FOLLOWING MODIFICATIONS:

By: _____
Deborah K. Romero
DFA Cabinet Secretary

_____ Date

REJECTED, FOR THE FOLLOWING REASONS:

By: _____
Deborah K. Romero
DFA Cabinet Secretary

_____ Date

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RECORDS CENTER

The New Mexico Department of Finance and Administration approved the emergency repeal of its rule 2 NMAC 20.2 - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments (Recompiled 10/1/2001) and replaced it with 2.20.2 NMAC - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments (adopted on 3/10/2021), effective 3/23/2021.

MAR 11 PM 3:32

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2021 MAR 11 PM 3:33

NMAC



Transmittal Form

Volume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No.

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: New Amendment Repeal Emergency Renumber (ALD Use Only) Most recent filing date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment description (If filing an amendment): Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes No Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes No Public domain

Specific statutory or other authority authorizing rulemaking:

Notice date(s): Hearing date(s): Rule adoption date: Rule effective date:

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Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

See Hearing Officer Memorandum attached hereto and incorporated by reference.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Deborah K. Romero

Check if authority has been delegated

Title:

Cabinet Secretary

Signature: (BLACK ink only)

DocuSigned by:

Deborah K Romero

Date signed:

3/11/2021

**IN RE: THE MATTER CONCERNING
A PUBLIC HEARING REGARDING
PROPOSED CHANGES TO CERTAIN
RULES BY THE DEPARTMENT OF
FINANCE AND ADMINISTRATION**

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2021 MAR 11 PM 3:33

**HEARING OFFICER MEMORANDUM
2.20.2 NMAC – New Mexico Administrative Code**

COMES NOW the undersigned, and upon designation by the Cabinet Secretary Designate of the New Mexico Department of Finance and Administration (“Department” or “DFA”), and hereby submits his Report of a public rule hearing on Friday, February 26, 2021, at 10:00 a.m. The rule hearing was convened at approximately 10:00 a.m. via WEBEX platform, and was concluded on the same day at approximately 10:40 a.m. The purpose of the rule hearing was to provide an opportunity to take public comment regarding proposed changes to the following rule:

Repeal and Replace

2.20.2 NMAC New Mexico Register

Due to the age of 2.20.2 NMAC, consistent with 1.24.11.19 NMAC, the entire rule must be repealed and replaced in order to amend it. Consideration of this amendment is consistent with Sections 9-1-5 and 9-6-5, NMSA 1978, which authorize the Department to promulgate rules to administer the duties of the Department and its divisions, and with the State Rules Act, Section 14-4-1 *et seq.* NMSA 1978.

Summary of Proceedings

The hearing officer identified those individuals who are affiliated with the Department and participants were identified by screen name and asked to identify themselves, their affiliation, if any, and whether they wanted to submit oral comments. There were four individuals who attended the hearing as it was in progress, three of whom were identified and one unidentified call-in user for a duration of less than, or about, one minute. Only one individual submitted public comment, including the introduction of an info-graphic relating to their oral comment, which was entered into the record and identified as Exhibit 19.

The rule hearing was audio and video recorded via WEBEX platform. A copy of the WEBEX recording of the hearing was used in the preparation of this Report. A copy of the WEBEX recording has been placed in the Record of Rulemaking.

The following exhibits were introduced and accepted into the record: 2021 MAR 11 PM 3:33

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2.	Affidavit of Publication and Legal Notice of this rule hearing published in Volume XXXI, Issue 23 of the <i>New Mexico Register</i> on December 15, 2020.
3.	Affidavit of Publication and Legal Notice of this rule hearing being rescheduled published in Volume XXXII, Issue 2 of the <i>New Mexico Register</i> on January 26, 2021.
4.	Proposed Replacement Rule Sections 2.20.2.1 NMAC through 2.20.2.10 NMAC, as published for public comment on DFA's website and published in Volume XXXI, Issue 23 of the <i>New Mexico Register</i> on December 15, 2020.
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6.	Notice of this hearing as posted on DFA's website.
7.	Notice of this hearing as posted on the New Mexico Sunshine Portal.
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9.	Notice of the originally scheduled hearing as posted on DFA's website.
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17.	A clean version of the text of the proposed rules.
18.	Letter dated February 24, 2020 designating Dillon Fisher-Ives as the Hearing Officer for this hearing.

At the hearing, there was one additional exhibit introduced; being an info-graphic relating to the oral comment submitted by the Department's Deputy Cabinet Secretary, Renee Ward. This exhibit was accepted into the record and identified as Exhibit 19.

All of the above exhibits are hereby appended to this Report.

Notice of this rule hearing, as rescheduled, was published in the *Santa Fe New Mexican* on January 26, 2021 (Exhibit 1) and was also published in Volume XXXII, Issue 27 of the *New Mexico Register* on January 26, 2021 (Exhibit 3). Notice of the proposed amendments to this rule was originally published in Volume XXXI, Issue 23 of the *New Mexico Register* (Exhibit 2). From the date of publication of the notice of the rescheduled rule hearing, the public comment period for this rule hearing was 30 days. There were no individuals who provided written comment on the proposed repeal and replacement of 2.20.2 NMAC.

After announcing the floor open for comments during the hearing, the following individual gave comments:

Renee Ward, Deputy Cabinet Secretary, DFA

A summary of the oral comments received during the hearing is as follows:

Deputy Cabinet Secretary Ward highlighted the frequency and volume of certain documents processed by the Department and emphasized the importance of the need to modernize signature collection and document approvals, allowing the Department to conduct its work in more technology friendly and efficient environment.

No further comments or questions were made with respect to the repeal and replacement of this rule. A last request for comments or questions was made with respect to the repeal and replacement of this rule and, hearing no other comments or questions, the hearing was adjourned at approximately 10:40 a.m. and the record was closed.

Conclusion

For the reasons stated in the Recommendations, the comments received are well taken and fall within the scope of the current proposed repeal and replacement of the rule.

BE IT HEREBY RECOMMENDED that the Department of Finance and Administration make the following determinations:

1. That the hearing conducted and concluded on February 26, 2021 conformed with all applicable notice and procedural requirements under 1.24.25 NMAC;
2. That the Department of Finance and Administration, consistent with Sections 9-1-5 and 9-6-5, NMSA 1978, has the authority to adopt rule amendments concerning rules pertaining to the duties of the Department and its divisions;
3. That the Department of Finance and Administration ADOPTS the amendments as recommended in Exhibit 4, also being memorialized without track changes in Exhibit 17; and
4. That the Department of Finance and Administration consider making the repeal and replacement of this rule effective on March 23, 2021 and that the repeal and replacement of this rule be published in the *New Mexico Register* on March 23, 2021.

FILED WITH
NEW MEXICO STATE
RECORDS CENTER

Dated: March 8, 2021

Respectfully Submitted,

2021 MAR 11 PM 3:33

Department of Finance & Administration
Bataan Memorial Building, Room 180D
407 Galisteo Street
Santa Fe, New Mexico 87501
Phone: 505-827-3881

By: _____
Dillon Fisher-Ives
DFA Deputy General Counsel, designee for
DFA Cabinet Secretary Romero

APPROVED, AS RECOMMENDED:

By: _____ Date _____
Deborah K. Romero
DFA Cabinet Secretary

APPROVED, WITH FOLLOWING MODIFICATIONS:

By: _____ Date _____
Deborah K. Romero
DFA Cabinet Secretary

REJECTED, FOR THE FOLLOWING REASONS:

By: _____ Date _____
Deborah K. Romero
DFA Cabinet Secretary

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TITLE 2 PUBLIC FINANCE
CHAPTER 20 ACCOUNTING BY GOVERNMENTAL ENTITIES
PART 2 EXECUTION OF CONTRACTS, VOUCHERS, PURCHASE ORDERS AND OTHER FINANCIAL COMMITMENTS

2.20.2.1 ISSUING AGENCY: Department of Finance and Administration.
[2.20.2.1 NMAC - Rp, 2 NMAC 20.2.1, 3/23/2021]

2.20.2.2 SCOPE: [RESERVED]
[2.20.2.2 NMAC - Rp, 2 NMAC 20.2.2., 3/23/2021]

2.20.2.3 STATUTORY AUTHORITY: In order to ascertain the authority and legality of contracts, purchase orders, vouchers, travel vouchers and other financial commitments for departments and other state agencies, pursuant to Section 6-5-3 NMSA 1978, it is necessary to determine whether the person executing the contract has been properly delegated the authority to bind the department or state agency. In many instances there is no clear statutory power granted to an officer to sign on behalf of an agency. Generally the person who is ultimately responsible for the administration of the law has the implied power to execute legal documents for a state agency. Generally the power to execute may be delegated; however, some laws may require specific officers to execute contracts and vouchers on behalf of the agency. In such cases, no delegation is allowed by law.
[2.20.2.3 NMAC - Rp, 2 NMAC 20.2.3, 3/23/2021]

2.20.2.4 DURATION: Permanent.
[2.20.2.4 NMAC - Rp, 2 NMAC 20.2.4, 3/23/2021]

2.20.2.5 EFFECTIVE DATE: March 23, 2021, unless a later date is cited at the end of a section.
[2.20.2.5 NMAC - Rp, 2 NMAC 20.2.5, 3/23/2021]

2.20.2.6 OBJECTIVE: The various acts creating departments pursuant to the Executive Reorganization Acts generally provide that the secretary of the department is responsible to the governor for the operation of the department and shall delegate authority to subordinates as the secretary deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto. It is the purpose of this rule to set forth those individuals who may legally bind state agencies which must submit their contracts or vouchers to the department of finance and administration.
[2.20.2.6 NMAC - Rp, 2 NMAC 20.2.6, 3/23/2021]

2.20.2.7 DEFINITIONS: As used in this rule:

A. "Authorized officer" means a public officer or employee who is required or permitted by law or by lawful delegation of authority pursuant to this rule to sign contracts, vouchers, purchase orders or other financial commitments on behalf of a state agency.

B. "Contracts officer" means an employee of the department of finance and administration designated as contracts officer by the secretary of finance and administration.

C. "Facsimile signature" means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of the authorized officer.

D. "Signed" or "executed" means affixed with any of the following:

- (1) the manual signature of an individual; and
- (2) the facsimile signature of an individual;
- (3) the electronic signature of an individual procured through a third-party document-signing service; or
- (4) the name of an individual, typewritten on the signature line of a document using word processing software and accompanied with another writing confirming that individual's approval of such document, including without limitation an e-mail to that effect.

E. "State agency" means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities, or institutions required to submit contracts or vouchers to the department of finance and administration for approval.

[2.20.2.7 NMAC - Rp, 2 NMAC 20.2.7, 3/23/2021]

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2.20.2.8 EXECUTION OF CONTRACTS, VOUCHERS AND PURCHASE ORDERS - AUTHORIZED SIGNATURES:

- A.** The department of finance and administration will not approve any contract, voucher, travel voucher, purchase order or other financial commitment of any state agency required pursuant to 2.20.3 NMAC and 2.40.2 NMAC, to submit its voucher or contract to the department for approval unless the contract, voucher, travel voucher, purchase order or other financial commitment has been executed by an authorized officer of the agency.
- B.** The authority to execute contracts, vouchers, purchase orders, travel vouchers or other financial commitments may be delegated unless provided otherwise by law to any officer or employee of the state agency, but such delegation shall:
- (1) be in writing;
 - (2) state whether the delegated power may be subdelegated to another officer or employee of the state agency;
 - (3) automatically terminate on whichever date occurs earliest:
 - (a) the date the term of office of the delegating secretary or other chief financial officer ends; or
 - (b) annually on June 30; and
 - (4) be on file with the contracts officer of the department of finance and administration (for contracts); and
 - (5) be on file with the financial control division of the department of finance and administration.
- C.** A written delegation of authority to execute contracts, vouchers, travel vouchers, purchase orders or other financial commitments may contain such limitations or conditions as the delegating authorized officer may deem appropriate.
- D.** No authorized officer shall delegate to any other person authority to sign the authorized officer's signature.
- E.** Nothing in this rule shall prevent the use of facsimile, printed or typed signature of the secretary or chief financial officer on a copy of a contract, voucher, travel voucher, purchase order or other financial commitment.

[2.20.2.8 NMAC - Rp, 2 NMAC 20.2.8, 3/23/2021]

2.20.2.9 SIGNATURES REQUIRED: The two copies of every contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department shall be signed by an authorized officer. The department will retain at least one signed copy of every contract, voucher, travel voucher, purchase order or other financial commitment. Alternatively, agencies may submit a single electronic version, in portable document format (PDF) or a comparable format and in such a manner as the department may direct, of an executed contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department.

[2.20.2.9 NMAC - Rp, 2 NMAC 20.2.9, 3/23/2021]

2.20.2.10 AUTHORIZED OFFICERS - DELEGATION:

A. The following public officers are authorized to execute contracts, vouchers, purchase orders and other financial commitments on behalf of the state agency under their control or supervision. Signatures must be on file at the financial control division of the department of finance and administration.

STATE AGENCY	OFFICER AUTHORIZED
office of the governor	governor
office of the lieutenant governor	lieutenant governor
office of the attorney general	attorney general
secretary of state	secretary of state
state auditor	state auditor
public regulation commission	commission
state fire marshal	state fire marshal
transportation department	director
office of the superintendent of insurance	superintendent of insurance
state land office	land commissioner
state treasurer	state treasurer
department of agriculture	secretary of department

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N.M. livestock board	executive director
corrections department	secretary of department
children, youth and families dept.	secretary of department
public defender department	director
juvenile parole board	board
adult parole board	board
economic development department	secretary of department
state fair commission	commission
state racing commission	commission
energy, minerals and natural resources dept.	secretary of department
state game commission	commission
department of game and fish	director
department of finance and administration	secretary of department
general services department	secretary of department
state personnel board	director
state personnel office	director
department of health	secretary of department
department of environment	secretary of department
transportation department	secretary of department
human services department	secretary of department
commission on the status of women	commission
department of workforce solutions	secretary of department
department of public safety	secretary of department
taxation and revenue department	secretary of department
commission for the blind	commission
crime stoppers commission	commission
crime victims reparation commission	commission
public education department	secretary of department
division of vocational rehabilitation	director
state investment council	state investment officer
department of military affairs	adjutant general
state commission of public records	state records administrator
regulation and licensing department	superintendent
interstate stream commission	commission
office of the state engineer	state engineer
institutions of higher education	boards of regents or controllers
miners hospital	board
department of cultural affairs	secretary of department
office of african american affairs	executive director
tourism department	secretary of department
indian affairs department	secretary of department
veterans' services department	secretary of department
aging and long-term services department	secretary of department
public education commission	commission
higher education department	secretary of department
department of information technology	secretary of department
homeland security and emergency	
management department	secretary of department
state ethics commission	commission
early childhood education and care department	secretary of department
all executive departments not otherwise listed	secretary of department
all commissions	commission
all boards	board
all other state agencies not otherwise listed	as provided by applicable law, regulation, or governance
documents	

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LEGISLATIVE BRANCH

legislative council service
legislative finance committee
legislative school study committee
all other vouchers

director
committee
chairman of committee
director

JUDICIAL BRANCH

supreme court
compilation commission
building commission
director, administrative office of courts
court of appeals
district courts
magistrate courts
district attorneys
judicial standards commission
judicial council

chief justice
secretary of commission
commission
supreme court
chief Judge
presiding judge
director, administrative office of the courts
district attorney
executive director
council

B. If the authorized officer set forth in Subsection A of this section is a board or commission, the power to execute contracts, vouchers, purchase orders or other financial commitments may be delegated by a majority of a quorum of the board or commission acting in accordance with the provisions of law.
[2.20.2.10 NMAC - Rp, 2 NMAC 20.2.10, 3/23/2021]

HISTORY OF 2.20.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

DFA 78-5 Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, 6/30/1978.
DFA 78-5, Amendment No. 1, 12/20/1989.

History of Repealed Material: 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, repealed to amend as emergency Sections 7 and 9, effective August 25, 2020.
2 NMAC 20.2 - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments (Recompiled 10/1/2001) Repealed 3/23/2021.

NMAC History: 2 NMAC 20.2 - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments (Recompiled 10/1/2001) was replaced by 2.20.2 NMAC - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments (Recompiled 10/1/2001), effective 3/23/2021.

New Mexico Register / Volume XXXI, Issue 17 / September 15, 2020

The New Mexico Department of Finance and Administration approved the emergency repeal of its rule 2 NMAC 20.2 - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments (Recompiled 10/1/2001) and replaced it with 2.20.2 NMAC - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments (adopted on 8/25/2020), and effective 8/25/2020.

TITLE 2 PUBLIC FINANCE
CHAPTER 20 ACCOUNTING BY GOVERNMENTAL ENTITIES
PART 2 EXECUTION OF CONTRACTS, VOUCHERS, PURCHASE ORDERS AND OTHER FINANCIAL COMMITMENTS

2.20.2.1 ISSUING AGENCY: Department of Finance and Administration.
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.2 SCOPE: [RESERVED]
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.3 STATUTORY AUTHORITY: In order to ascertain the authority and legality of contracts, purchase orders, vouchers, travel vouchers and other financial commitments for departments and other state agencies, pursuant to Section 6-5-3 NMSA 1978, it is necessary to determine whether the person executing the contract has been properly delegated the authority to bind the department or state agency. In many instances there is no clear statutory power granted to an officer to sign on behalf of an agency. Generally the person who is ultimately responsible for the administration of the law has the implied power to execute legal documents for a state agency. Generally the power to execute may be delegated; however, some laws may require specific officers to execute contracts and vouchers on behalf of the agency. In such cases, no delegation is allowed by law.
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.4 DURATION: Permanent.
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.5 EFFECTIVE DATE: August 25, 2020
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.6 OBJECTIVE: The various acts creating departments pursuant to the Executive Reorganization Acts generally provide that the secretary of the department is responsible to the governor for the operation of the department and shall delegate authority to subordinates as the secretary deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto. It is the purpose of this rule to set forth those individuals who may legally bind state agencies which must submit their contracts or vouchers to the department of finance and administration.
[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.7 DEFINITIONS: As used in this rule:

A. “authorized officer” means a public officer or employee who is required or permitted by law or by lawful delegation of authority pursuant to this rule to sign contracts, vouchers, purchase orders or other financial commitments on behalf of a state agency;

B. “contracts officer” means an employee of the department of finance and administration designated as contracts officer by the secretary of finance and administration;

C. “facsimile signature” means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of the authorized officer;

D. “signed” or “executed” means affixed with any of the following:

(1) the manual signature of an individual;

(2) the facsimile signature of an individual;

(3) the electronic signature of an individual procured through a third-party document-signing service; or

(4) the name of an individual, typewritten on the signature line of a document using word processing software and accompanied with another writing confirming that individual’s approval of such document, including without limitation an e-mail to that effect.

E. “state agency” means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities, or institutions required to submit contracts or vouchers to the department of finance and

administration for approval.
[Recompiled 10/1/01; N/E & A/E, 8/25/2020]

2.20.2.8 EXECUTION OF CONTRACTS, VOUCHERS AND PURCHASE ORDERS - AUTHORIZED SIGNATURES:

A. The department of finance and administration will not approve any contract, voucher, travel voucher, purchase order or other financial commitment of any state agency required pursuant to DFA rule 78-6 Amendment No. 1, [now 2.20.3 NMAC] and 87-1 Amendment No. 1 [now 2.40.2 NMAC], to submit its voucher or contract to the department for approval unless the contract, voucher, travel voucher, purchase order or other financial commitment has been executed by an authorized officer of the agency.

B. The authority to execute contracts, vouchers, purchase orders, travel vouchers or other financial commitments may be delegated unless provided otherwise by law to any officer or employee of the state agency, but such delegation shall:

- (1) be in writing;
- (2) state whether the delegated power may be subdelegated to another officer or employee of the state agency;
- (3) automatically terminate on whichever date occurs earliest;
 - (a) the date the term of office of the delegating secretary or other chief financial officer ends; or
 - (b) annually on June 30; and
- (4) be on file with the contracts officer of the department of finance and administration (for contracts); and
- (5) be on file with the financial control division of the department of finance and administration.

C. A written delegation of authority to execute contracts, vouchers, travel vouchers, purchase orders or other financial commitments may contain such limitations or conditions as the delegating authorized officer may deem appropriate.

D. No authorized officer shall delegate to any other person authority to sign the authorized officer's signature.

E. Nothing in this rule shall prevent the use of facsimile, printed or typed signature of the secretary or chief financial officer on a copy of a contract, voucher, travel voucher, purchase order or other financial commitment.

[Recompiled 10/1/01; N/E 8/25/2020]

2.20.2.9 SIGNATURES REQUIRED: The two copies of every contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department shall be signed by an authorized officer. The department will retain at least one signed copy of every contract, voucher, travel voucher, purchase order or other financial commitment. Alternatively, agencies may submit a single electronic version, in portable document format (PDF) or a comparable format and in such a manner as the department may direct, of an executed contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department.

[Recompiled 10/1/01; N/E & A/E 8/25/2020]

2.20.2.10 AUTHORIZED OFFICERS - DELEGATION:

A. The following public officers are authorized to execute contracts, vouchers, purchase orders and other financial commitments on behalf of the state agency under their control or supervision. Signatures must be on file at the financial control division of the department of finance and administration.

STATE AGENCY	OFFICER AUTHORIZED
office of the governor	governor
office of the lieutenant governor	lieutenant governor
office of the attorney general	attorney general
secretary of state	secretary of state
state auditor	state auditor
state corporation commission	
[public regulation commission]	commission
insurance department	superintendent of insurance

state fire marshall	state fire marshall
transportation department	director
state land office	land commissioner
state treasurer	state treasurer
department of agriculture	secretary of department
N.M. livestock board	executive director
peanut commission	commission
corrections department	secretary of department
[children, youth and families dept.	secretary of department]
public defender department	director
juvenile parole board	board
adult parole board	board
economic development & tourism department	secretary of department
research and development Institute	director
state fair commission	commission
state racing commission	commission
energy, minerals and natural resources dept.	secretary of department
state game commission	commission
department of game and fish	director
public service commission	commission
department of finance and administration	secretary of department
commission on higher education	commission
office of cultural affairs	cultural affairs officer
committee on concerns of the	director
handicapped	
general services department	secretary of department
state personnel board	director
health & environment department	secretary of department
[health department]	
[environment department]	
state highway & transportation department	secretary of department
human services department	secretary of department
commission on the status of women	commission
state agency on aging	director
office of Indian affairs	commission on Indian affairs
department of labor	secretary of department
department of public safety	secretary of department
taxation and revenue department	secretary of department
commission for the blind	commission
crime stoppers commission	commission
crime victims reparation commission	commission
state department of public education	superintendent
division of vocational rehabilitation	director
state investment council	state investment officer
department of military affairs	adjutant general
state commission of public records	state records administrator
regulation and licensing department	superintendent
interstate stream commission	commission
office of the state engineer	state engineer
NM veteran service commission	commission
institutions of higher education	boards of regents or controllers
miners hospital	board
all boards	board
youth authority [children, youth and families dept.]	secretary of department
LEGISLATIVE BRANCH	
legislative council service	director

legislative finance committee
legislative school study committee
all other vouchers

committee
chairman of committee
director

JUDICIAL BRANCH

supreme court
compilation commission
building commission
director, administrative office of courts
court of appeals
district courts
magistrate courts
district attorneys
judicial standards commission
judicial council

chief justice
secretary of commission
commission
supreme court
chief Judge
presiding judge
director, administrative office of the courts
district attorney
executive director
council

B. If the authorized officer set forth in Subsection A of this section is a board or commission, the power to execute contracts, vouchers, purchase orders or other financial commitments may be delegated by a majority of a quorum of the board or commission acting in accordance with the provisions of law.
[Recompiled 10/1/01; 8/25/2020]

HISTORY OF 2.20.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

DFA 78-5 Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, 6/30/78.

DFA 78-5, Amendment No. 1, 12/20/89.

History of Repealed Material: 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, repealed to amend as emergency Sections 7 and 9, effective August 25, 2020.

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that pursuant to Subsection A of 1.24.25.9 and 1.24.25.11 NMAC, the State of New Mexico Department of Finance and Administration (hereinafter “DFA”) will hold a rulemaking hearing on Friday, January 15, 2021 at 10:00 AM. The meeting will be held virtually via Webex. Members of the public may attend the Webex meeting on a computer, mobile device, or telephone. The videoconference’s Meeting ID and Password, video link, and telephone numbers are as follows:

Webex meeting scheduled: Department of Finance and Administration Rulemaking Hearing - Virtual
<https://protect-us.mimecast.com/s/YpjJCJ62pVTyMzxPHVZIik?domain=nmdfa.webex.com>

Meeting number (access code): 146 809 4756
Meeting password: 3y7CVxs5rxD

Friday, January 15, 2021
10:00 am | (UTC-07:00) Mountain Time (US & Canada) | 5 hrs

Start meeting

Tap to join from a mobile device (attendees only)
+1-415-655-0001,,1468094756## US Toll

Join by phone
+1-415-655-0001 US Toll
Global call-in numbers

Join from a video system or application
Dial 1468094756@nmdfa.webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join using Microsoft Lync or Microsoft Skype for Business
Dial 1468094756.nmdfa@lync.webex.com

If you are a host, click here to view host information.

Need help? Go to <http://help.webex.com>

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the meeting, please contact Andrew Baranowski at (505) 670-2285 by January 1, 2020, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. A copy of the agenda is also available on the DFA website and at the office of the DFA located at 180 Bataan Memorial Building, 407 Galisteo Street, Santa Fe, NM 87501. The agenda is subject to change up to 72 hours prior to the meeting.

Synopsis:

DFA will hold a hearing to repeal and replace 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments. Pursuant to Subsection E of 9-1-5 and 9-6-5 NMSA 1978, DFA promulgates these rules to administer the duties of the Department and its divisions. Further legal authority for this rulemaking can be found in the State Rules Act, Section 14-4-1 *et seq.* NMSA 1978. Due to the age of 2.20.2 NMAC, the entire rule must be repealed and replaced in order to amend it.

Due to the Governor's declaration of a public health emergency, DFA issued an emergency amendment effective August 25, 2020 allowing for certain documents being submitted to DFA to be digitally, rather than just manually, signed. The emergency amendment also made associated changes to the form of submission of documents to DFA given the acceptance of digital signatures. The proposed amendment of 2.20.2.7 and 2.20.2.9 NMAC consists of continuing to accept digital signatures and the associated document submission requirements by eliminating the public health emergency justification. Additionally, the amendment will update 2.20.2.10 NMAC to better reflect the current composition of state government and will clean up old formatting.

Interested individuals are encouraged to submit comments during the Public Comment Period, which runs from December 15, 2020 through January 14, 2021. Written comments may be submitted to Andrew Baranowski, General Counsel, DFA, via email at Andrew.Baranowski@state.nm.us. All written comments will be posted on DFA's website within three days of receipt. Interested persons may also provide data, opinion, or arguments, orally at the virtual public rule hearing on Friday, January 15, 2021 at 10:00 AM, or in writing as provided above.

Copies of the proposed rule may be accessed on the Department's website at <http://www.nmdfa.state.nm.us/> or obtained from Mr. Baranowski by emailing Andrew.Baranowski@state.nm.us or calling (505) 670-2285.

DFA will consider the following items of rulemaking at the hearing:

Repeal:

2.20.2 NMAC, New Mexico Administrative Code

Replace:

2.20.2 NMAC, New Mexico Administrative Code

Changes to the affected rule are reflected as follows:

TITLE 2 PUBLIC FINANCE
CHAPTER 20 ACCOUNTING BY GOVERNMENTAL ENTITIES
PART 2 EXECUTION OF CONTRACTS, VOUCHERS, PURCHASE ORDERS AND OTHER FINANCIAL COMMITMENTS

2.20.2.1 ISSUING AGENCY: Department of Finance and Administration.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.2 SCOPE: [RESERVED]
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.3 STATUTORY AUTHORITY: In order to ascertain the authority and legality of contracts, purchase orders, vouchers, travel vouchers and other financial commitments for departments and other state agencies, pursuant to Section 6-5-3 NMSA 1978, it is necessary to determine whether the person executing the contract has been properly delegated the authority to bind the department or state agency. In many instances there is no clear statutory power granted to an officer to sign on behalf of an agency. Generally the person who is ultimately responsible for the administration of the law has the implied power to execute legal documents for a state agency. Generally the power to execute may be delegated; however, some laws may require specific officers to execute contracts and vouchers on behalf of the agency. In such cases, no delegation is allowed by law.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.4 DURATION: Permanent.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.5 EFFECTIVE DATE: February 9, 2021, unless a later date is cited at the end of a section.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.6 OBJECTIVE: The various acts creating departments pursuant to the Executive Reorganization Acts generally provide that the secretary of the department is responsible to the governor for the operation of the department and shall delegate authority to subordinates as the secretary deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto. It is the purpose of this rule to set forth those individuals who may legally bind state agencies which must submit their contracts or vouchers to the department of finance and administration.
[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.7 DEFINITIONS: As used in this rule:

A. “authorized officer” means a public officer or employee who is required or permitted by law or by lawful delegation of authority pursuant to this rule to sign contracts, vouchers, purchase orders or other financial commitments on behalf of a state agency;

B. “contracts officer” means an employee of the department of finance and administration designated as contracts officer by the secretary of finance and administration;

C. “facsimile signature” means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of the authorized officer;

D. “signed” or “executed” means affixed with any of the following:

(1) the manual signature of an individual; and

(2) the facsimile signature of an individual;

(3) the electronic signature of an individual procured through a third-party document-signing service; or

(4) the name of an individual, typewritten on the signature line of a document using word processing software and accompanied with another writing confirming that individual’s approval of such document, including without limitation an e-mail to that effect.

E. “state agency” means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities, or institutions required to submit contracts or vouchers to the department of finance and administration for approval.

[Recompiled 10/1/2001; N/E & A/E, 8/25/2020]

2.20.2.8 EXECUTION OF CONTRACTS, VOUCHERS AND PURCHASE ORDERS - AUTHORIZED SIGNATURES:

A. The department of finance and administration will not approve any contract, voucher, travel voucher, purchase order or other financial commitment of any state agency required pursuant to [~~DFA rule 78-6 Amendment No. 1,~~] 2.20.3 NMAC and [~~87-1 Amendment No. 1,~~] 2.40.2 NMAC, to submit its voucher or contract to the department for approval unless the contract, voucher, travel voucher, purchase order or other financial commitment has been executed by an authorized officer of the agency.

B. The authority to execute contracts, vouchers, purchase orders, travel vouchers or other financial commitments may be delegated unless provided otherwise by law to any officer or employee of the state agency, but such delegation shall:

(1) be in writing;

(2) state whether the delegated power may be subdelegated to another officer or employee of the state agency;

(3) automatically terminate on whichever date occurs earliest;

(a) the date the term of office of the delegating secretary or other chief financial officer ends; or

(b) annually on June 30; and

(4) be on file with the contracts officer of the department of finance and administration (for contracts); and

(5) be on file with the financial control division of the department of finance and administration.

C. A written delegation of authority to execute contracts, vouchers, travel vouchers, purchase orders or other financial commitments may contain such limitations or conditions as the delegating authorized officer may deem appropriate.

D. No authorized officer shall delegate to any other person authority to sign the authorized officer’s signature.

E. Nothing in this rule shall prevent the use of facsimile, printed or typed signature of the secretary or chief financial officer on a copy of a contract, voucher, travel voucher, purchase order or other financial commitment.

[Recompiled 10/1/2001; N/E 8/25/2020]

2.20.2.9 [ORIGINAL]-SIGNATURES REQUIRED [FACSIMILE SIGNATURES]:

~~_____ A. _____~~ The original and at least one copy] The two copies of every contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department shall be signed by an authorized officer. The department will retain at least one signed copy of every contract, voucher, travel voucher, purchase order or other financial commitment. Alternatively, agencies may submit a single electronic version, in portable document format (PDF) or a comparable format and in such a manner as the department may direct, of an executed contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department.

~~_____ B. _____~~ Except as provided in paragraph A of this section, all duplicate copies of contracts, vouchers, travel vouchers, purchase orders or other financial commitments required to be submitted to the department for approval may be executed with a facsimile signature in lieu of the original signature of the authorized officer.]

[Recompiled 10/1/2001; N/E & A/E 8/25/2020]

2.20.2.10 AUTHORIZED OFFICERS - DELEGATION:

A. The following public officers are authorized to execute contracts, vouchers, purchase orders and other financial commitments on behalf of the state agency under their control or supervision. Signatures must be on file at the financial control division of the department of finance and administration.

STATE AGENCY	OFFICER AUTHORIZED
office of the governor	governor
office of the lieutenant governor	lieutenant governor
office of the attorney general	attorney general
secretary of state	secretary of state
state auditor	state auditor
[state corporation commission	
public regulation commission	commission
[insurance department	superintendent of insurance]
state fire [marshall] <u>marshal</u>	state fire [marshall] <u>marshal</u>
transportation department	director
office of the superintendent of insurance	superintendent of insurance
state land office	land commissioner
state treasurer	state treasurer
department of agriculture	secretary of department
N.M. livestock board	executive director
[peanut commission	commission]
corrections department	secretary of department
children, youth and families dept.	secretary of department
public defender department	director
juvenile parole board	board
adult parole board	board
economic development [& tourism] department	secretary of department
[research and development Institute	director]
state fair commission	commission
state racing commission	commission
energy, minerals and natural resources dept.	secretary of department
state game commission	commission
department of game and fish	director
[public service commission	commission]
department of finance and administration	secretary of department
[commission on higher education	commission]
[office of cultural affairs	cultural affairs officer]
[committee on concerns of the	director]

Handicapped]	
general services department	secretary of department
state personnel board	director
<u>state personnel office</u>	<u>director</u>
[health & environment department]	secretary of department]
<u>[health] department of health</u>	<u>secretary of department</u>
<u>[environment] department of environment</u>	<u>secretary of department</u>
<u>[state highway &] transportation department</u>	<u>secretary of department</u>
human services department	secretary of department
commission on the status of women	commission
[state agency on aging]	director]
[office of Indian affairs]	commission on Indian affairs]
department of [labor] <u>workforce solutions</u>	secretary of department
department of public safety	secretary of department
taxation and revenue department	secretary of department
commission for the blind	commission
crime stoppers commission	commission
crime victims reparation commission	commission
[state department of] <u>public education department</u>	<u>[superintendent] secretary of department</u>
division of vocational rehabilitation	director
state investment council	state investment officer
department of military affairs	adjutant general
state commission of public records	state records administrator
regulation and licensing department	superintendent
interstate stream commission	commission
office of the state engineer	state engineer
[NM veteran service commission]	commission]
institutions of higher education	boards of regents or controllers
miners hospital	board
<u>department of cultural affairs</u>	<u>secretary of department</u>
<u>office of African American affairs</u>	<u>executive director</u>
<u>tourism department</u>	<u>secretary of department</u>
<u>Indian affairs department</u>	<u>secretary of department</u>
<u>veterans' services department</u>	<u>secretary of department</u>
<u>aging and long-term services department</u>	<u>secretary of department</u>
<u>public education commission</u>	<u>commission</u>
<u>higher education department</u>	<u>secretary of department</u>
<u>department of information technology</u>	<u>secretary of department</u>
<u>homeland security and emergency</u>	
<u>management department</u>	<u>secretary of department</u>
<u>state ethics commission</u>	<u>commission</u>
<u>early childhood education and care department</u>	<u>secretary of department</u>
<u>all executive departments not otherwise listed</u>	<u>secretary of department</u>
<u>all commissions</u>	<u>commission</u>
all boards	board
<u>all other state agencies not otherwise listed</u>	<u>as provided by applicable law, regulation, or governance</u>
<u>documents</u>	
[youth authority children, youth and families dept.]	secretary of department]
LEGISLATIVE BRANCH	
legislative council service	director
legislative finance committee	committee
legislative school study committee	chairman of committee
all other vouchers	director
JUDICIAL BRANCH	
supreme court	chief justice
compilation commission	secretary of commission

building commission
director, administrative office of courts
court of appeals
district courts
magistrate courts
district attorneys
judicial standards commission
judicial council

commission
supreme court
chief Judge
presiding judge
director, administrative office of the courts
district attorney
executive director
council

B. If the authorized officer set forth in Subsection A of this section is a board or commission, the power to execute contracts, vouchers, purchase orders or other financial commitments may be delegated by a majority of a quorum of the board or commission acting in accordance with the provisions of law.
[Recompiled 10/1/201; 8/25/2020]

HISTORY OF 2.20.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

DFA 78-5 Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, 6/30/1978.

DFA 78-5, Amendment No. 1, 12/20/1989.

History of Repealed Material: 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, repealed to amend as emergency Sections 7 and 9, effective August 25, 2020.

NOTICE OF RESCHEDULED PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that pursuant to Subsection A of 1.24.25.9 and 1.24.25.11 NMAC, the State of New Mexico Department of Finance and Administration (hereinafter “DFA”) will hold a rescheduled rulemaking hearing on Friday, February 26, 2021 at 10:00 AM. This meeting was originally scheduled for Friday, January 15, 2021. The meeting will be held virtually via Webex. Members of the public may attend the Webex meeting on a computer, mobile device, or telephone. The videoconference’s Meeting ID and Password, video link, and telephone numbers are as follows:

Webex meeting scheduled: Department of Finance and Administration Rulemaking Hearing - Virtual
<https://nmdfa.webex.com/nmdfa/j.php?MTID=m6bb57f9721d4a4c235fff6bdc1c439e3>

Meeting number (access code): 146 809 4756
Meeting password: 3y7CVxs5rxD

Friday, February 26, 2021
10:00 am | (UTC-07:00) Mountain Time (US & Canada) | 5 hrs

Start meeting

Tap to join from a mobile device (attendees only)
+1-415-655-0001,,1468094756## US Toll

Join by phone
+1-415-655-0001 US Toll
Global call-in numbers

Join from a video system or application
Dial 1468094756@nmdfa.webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join using Microsoft Lync or Microsoft Skype for Business
Dial 1468094756.nmdfa@lync.webex.com

If you are a host, click here to view host information.

Need help? Go to <http://help.webex.com>

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the meeting, please contact Andrew Baranowski at (505) 670-2285 by February 10, 2021, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. A copy of the agenda is also available on the DFA website and at the office of the DFA located at 180 Bataan Memorial Building, 407 Galisteo Street, Santa Fe, NM 87501. The agenda is subject to change up to 72 hours prior to the meeting.

Synopsis:

DFA will hold a hearing to repeal and replace 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments. Pursuant to Subsection E of 9-1-5 and 9-6-5 NMSA 1978, DFA promulgates these rules to administer the duties of the Department and its divisions. Further legal authority for this rulemaking can be found in the State Rules Act, Section 14-4-1 *et seq.* NMSA 1978. Due to the age of 2.20.2 NMAC, the entire rule must be repealed and replaced in order to amend it.

Due to the Governor's declaration of a public health emergency, DFA issued an emergency amendment effective August 25, 2020 allowing for certain documents being submitted to DFA to be digitally, rather than just manually, signed. The emergency amendment also made associated changes to the form of submission of documents to DFA given the acceptance of digital signatures. The proposed amendment of 2.20.2.7 and 2.20.2.9 NMAC consists of continuing to accept digital signatures and the associated document submission requirements by eliminating the public health emergency justification. Additionally, the amendment will update 2.20.2.10 NMAC to better reflect the current composition of state government and will clean up old formatting.

Interested individuals are encouraged to submit comments during the Public Comment Period, which runs through February 26, 2021. Written comments may be submitted to Andrew Baranowski, General Counsel, DFA, via email at Andrew.Baranowski@state.nm.us. All written comments will be posted on DFA's website within three days of receipt. Interested persons may also provide data, opinion, or arguments, orally at the virtual public rule hearing on Friday, February 26, 2021 at 10:00 AM, or in writing as provided above.

Copies of the proposed rule may be accessed on the Department's website at <http://www.nmdfa.state.nm.us/> or obtained from Mr. Baranowski by emailing Andrew.Baranowski@state.nm.us or calling (505) 670-2285. Additionally, the text of the proposed rule is available in the original Notice of Proposed Rulemaking published in Volume XXXI, Issue 23 of the New Mexico Register on December 15, 2020: http://164.64.110.134/nmac/nmregister/xxxi/DFAnotice_xxxi23.html.

New Mexico Register / Volume XXXII, Issue 6 / March 23, 2021

The New Mexico Department of Finance and Administration approved the emergency repeal of its rule 2 NMAC 20.2 - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments (Recompiled 10/1/2001) and replaced it with 2.20.2 NMAC - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments (adopted on 3/10/2021), effective 3/23/2021.

TITLE 2 PUBLIC FINANCE
CHAPTER 20 ACCOUNTING BY GOVERNMENTAL ENTITIES
PART 2 EXECUTION OF CONTRACTS, VOUCHERS, PURCHASE ORDERS AND OTHER FINANCIAL COMMITMENTS

2.20.2.1 ISSUING AGENCY: Department of Finance and Administration.
[2.20.2.1 NMAC - Rp, 2 NMAC 20.2.1, 3/23/2021]

2.20.2.2 SCOPE: [RESERVED]
[2.20.2.2 NMAC - Rp, 2 NMAC 20.2.2., 3/23/2021]

2.20.2.3 STATUTORY AUTHORITY: In order to ascertain the authority and legality of contracts, purchase orders, vouchers, travel vouchers and other financial commitments for departments and other state agencies, pursuant to Section 6-5-3 NMSA 1978, it is necessary to determine whether the person executing the contract has been properly delegated the authority to bind the department or state agency. In many instances there is no clear statutory power granted to an officer to sign on behalf of an agency. Generally the person who is ultimately responsible for the administration of the law has the implied power to execute legal documents for a state agency. Generally the power to execute may be delegated; however, some laws may require specific officers to execute contracts and vouchers on behalf of the agency. In such cases, no delegation is allowed by law.
[2.20.2.3 NMAC - Rp, 2 NMAC 20.2.3, 3/23/2021]

2.20.2.4 DURATION: Permanent.
[2.20.2.4 NMAC - Rp, 2 NMAC 20.2.4, 3/23/2021]

2.20.2.5 EFFECTIVE DATE: March 23, 2021, unless a later date is cited at the end of a section.
[2.20.2.5 NMAC - Rp, 2 NMAC 20.2.5, 3/23/2021]

2.20.2.6 OBJECTIVE: The various acts creating departments pursuant to the Executive Reorganization Acts generally provide that the secretary of the department is responsible to the governor for the operation of the department and shall delegate authority to subordinates as the secretary deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto. It is the purpose of this rule to set forth those individuals who may legally bind state agencies which must submit their contracts or vouchers to the department of finance and administration.
[2.20.2.6 NMAC - Rp, 2 NMAC 20.2.6, 3/23/2021]

2.20.2.7 DEFINITIONS: As used in this rule:

A. “Authorized officer” means a public officer or employee who is required or permitted by law or by lawful delegation of authority pursuant to this rule to sign contracts, vouchers, purchase orders or other financial commitments on behalf of a state agency.

B. “Contracts officer” means an employee of the department of finance and administration designated as contracts officer by the secretary of finance and administration.

C. “Facsimile signature” means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of the authorized officer.

D. “Signed” or “executed” means affixed with any of the following:

(1) the manual signature of an individual; and

(2) the facsimile signature of an individual;

(3) the electronic signature of an individual procured through a third-party document-signing

service; or

(4) the name of an individual, typewritten on the signature line of a document using word processing software and accompanied with another writing confirming that individual’s approval of such document, including without limitation an e-mail to that effect.

E. “State agency” means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities, or institutions required to submit contracts or vouchers to the department of finance and administration for approval.

[2.20.2.7 NMAC - Rp, 2 NMAC 20.2.7, 3/23/2021]

2.20.2.8 EXECUTION OF CONTRACTS, VOUCHERS AND PURCHASE ORDERS - AUTHORIZED SIGNATURES:

A. The department of finance and administration will not approve any contract, voucher, travel voucher, purchase order or other financial commitment of any state agency required pursuant to 2.20.3 NMAC and 2.40.2 NMAC, to submit its voucher or contract to the department for approval unless the contract, voucher, travel voucher, purchase order or other financial commitment has been executed by an authorized officer of the agency.

B. The authority to execute contracts, vouchers, purchase orders, travel vouchers or other financial commitments may be delegated unless provided otherwise by law to any officer or employee of the state agency, but such delegation shall:

- (1) be in writing;
- (2) state whether the delegated power may be subdelegated to another officer or employee of the state agency;
- (3) automatically terminate on whichever date occurs earliest:
 - (a) the date the term of office of the delegating secretary or other chief financial officer ends; or
 - (b) annually on June 30; and
- (4) be on file with the contracts officer of the department of finance and administration (for contracts); and
- (5) be on file with the financial control division of the department of finance and administration.

C. A written delegation of authority to execute contracts, vouchers, travel vouchers, purchase orders or other financial commitments may contain such limitations or conditions as the delegating authorized officer may deem appropriate.

D. No authorized officer shall delegate to any other person authority to sign the authorized officer’s signature.

E. Nothing in this rule shall prevent the use of facsimile, printed or typed signature of the secretary or chief financial officer on a copy of a contract, voucher, travel voucher, purchase order or other financial commitment.

[2.20.2.8 NMAC - Rp, 2 NMAC 20.2.8, 3/23/2021]

2.20.2.9 SIGNATURES REQUIRED: The two copies of every contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department shall be signed by an authorized officer. The department will retain at least one signed copy of every contract, voucher, travel voucher, purchase order or other financial commitment. Alternatively, agencies may submit a single electronic version, in portable document format (PDF) or a comparable format and in such a manner as the department may direct, of an executed contract, voucher, travel voucher, purchase order or other financial commitment required to be submitted to the department.

[2.20.2.9 NMAC - Rp, 2 NMAC 20.2.9, 3/23/2021]

2.20.2.10 AUTHORIZED OFFICERS - DELEGATION:

A. The following public officers are authorized to execute contracts, vouchers, purchase orders and other financial commitments on behalf of the state agency under their control or supervision. Signatures must be on file at the financial control division of the department of finance and administration.

STATE AGENCY	OFFICER AUTHORIZED
office of the governor	governor
office of the lieutenant governor	lieutenant governor
office of the attorney general	attorney general
secretary of state	secretary of state
state auditor	state auditor
public regulation commission	commission
state fire marshal	state fire marshal

all commissions	commission
all boards	board
all other state agencies not otherwise listed documents	as provided by applicable law, regulation, or governance

LEGISLATIVE BRANCH

legislative council service	director
legislative finance committee	committee
legislative school study committee	chairman of committee
all other vouchers	director

JUDICIAL BRANCH

supreme court	chief justice
compilation commission	secretary of commission
building commission	commission
director, administrative office of courts	supreme court
court of appeals	chief Judge
district courts	presiding judge
magistrate courts	director, administrative office of the courts
district attorneys	district attorney
judicial standards commission	executive director
judicial council	council

B. If the authorized officer set forth in Subsection A of this section is a board or commission, the power to execute contracts, vouchers, purchase orders or other financial commitments may be delegated by a majority of a quorum of the board or commission acting in accordance with the provisions of law. [2.20.2.10 NMAC - Rp, 2 NMAC 20.2.10, 3/23/2021]

HISTORY OF 2.20.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

DFA 78-5 Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, 6/30/1978.
 DFA 78-5, Amendment No. 1, 12/20/1989.

History of Repealed Material: 2.20.2 NMAC, Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments, repealed to amend as emergency Sections 7 and 9, effective August 25, 2020.
 2 NMAC 20.2 - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments (Recompiled 10/1/2001) Repealed 3/23/2021.

NMAC History: 2 NMAC 20.2 - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments (Recompiled 10/1/2001) was replaced by 2.20.2 NMAC - Execution of Contracts, Vouchers, Purchase Orders and Other Financial Commitments (Recompiled 10/1/2001), effective 3/23/2021.