



State of New Mexico Office of the State Auditor

June 13, 2024

New Mexico Environment Department
1190 Saint Francis Drive
Santa Fe, New Mexico 87502-5469

Sent via Electronic Mail Only:

James Kenney, Cabinet Secretary
New Mexico Environment Department
Email: james.kenney@env.nm.gov

*RE: New Mexico Environment Department Travel Expenditures –
Waste of Public Resources Letter of Concern*

Dear Secretary Kenney,

The Office of the State Auditor (OSA) conducted a fact-finding investigation into allegations that the New Mexico Environment Department (NMED) misspent or misused public funds for international/overseas travel. It was alleged to the OSA that in October 2023, NMED misspent or misused public funds on the travel expenses for the Department Secretary and a Division Director to travel to Sydney, Australia, to attend the Asia Pacific Hydrogen Summit and to take part in the public announcement by Star Scientific, the Australia-based hydrogen research-and-development company that selected New Mexico as the location to open a U.S. campus. And, in doing so, NMED inappropriately paid to upgrade their airline seating class from economy/coach to business class.

Our fact-finding investigation identified several concerns and potential violations to bring to your attention. NMED management appears to have abused¹ its authority by failing to consider the significant and excessive cost disparities when electing to upgrade the airfare seating class for airline flights to Sydney, from the least expensive/economy class rate of \$2,058.65 per seat, to the

¹ As defined in the Government Auditing Standards Yellow Book Section 6.23 “[a]buse is behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances...” An example (6.24.c.) being “...misusing the official’s position for personal gain (including actions that could be perceived by an objective third party with knowledge of the relevant information as improperly benefiting an official’s personal financial interests or those of an immediate or close family member; a general partner; an organization for which the official serves as an officer, director, trustee, or employee; or an organization with which the official is negotiating concerning future employment)...”

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much higher priced business class rate of \$14,922.50 per seat. The resulting *over 600%* increase in costs to NMED, from an initial cost of *\$4,117.30* to a cost of *\$29,845.00*, appears to be a clear case of waste² of public resources.

In seeking and obtaining airfare rates at greater cost than otherwise normally allowable, NMED management inappropriately applied private business standards for travel and overrode important preventative internal controls. Specifically, NMED Out of State Travel Policy 07-04, which was last updated in 1996, requires travel be taken in a manner that optimizes NMED resources, and Department of Finance and Administration travel guidelines requires the utilization of the lowest fare available.³

As justification, NMED management stated that it was not feasible to travel to Sydney a day or two earlier via economy class due to scheduling and to accompany the Governor, which resulted in not adhering to existing travel cost controls. However, the actual airline flight taken by the Department Secretary and Division Director, was at a different time, and on a different airline, than that utilized by the Governor's party and security. An extra day in a hotel to recover from the time difference, a day during which the Department Secretary and Division Director could attend meetings remotely or work online, could have saved NMED thousands of dollars.

The overriding of existing internal controls by NMED management to pay for upgraded airline seating arrangements for the Department Secretary and a Division Director, was an unnecessary and wasteful expenditure of public funds by NMED. The resulting expenditure of public funds by the NMED does not appear to have necessarily been in the best interest of the state and in keeping with the highest ethical principles of public service required by the Governmental Conduct Act.

The OSA recommends that NMED take immediate and proactive steps to strengthen its internal controls, and update its relevant policies, regarding official travel outside the state by department employees, both within and without the continental United States. In doing so, the OSA further recommends that NMED include review and consideration of cost disparities and cost control measures as part of its travel approval processes, like those requirements necessary for any other expenditure of public funds for the purchase of goods or services, to address and limit any future waste of public funds by NMED.

Sincerely,



Joseph M. Maestas, P.E., CFE
New Mexico State Auditor

² As defined in the Government Auditing Standards Yellow Book Section 6.21 “[w]aste is the act of using or expending resources carelessly, extravagantly, or to no purpose. Importantly, waste can include activities that do not include abuse and do not necessarily involve a violation of law. Rather, waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight.”

³ The Government Auditing Standards Yellow Book Section 6.22 includes, “[m]aking travel choices that are contrary to existing travel policies or are unnecessarily extravagant or expensive”, as an example of waste.

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File #: NMOSA-2024-10-20-093