OFFICE OF THE STATE AUDITOR

Dream Bigger Summit
Creating a More Inclusive New Mexico
October 28, 2019
Updates from the OSA

Natalie Cordova, CPA
Elise Mignardot, CPA

• The State Auditor is one of the elected executives of the state.

• The OSA is an independent agency tasked with overseeing the annual audits of every entity in the state receiving state taxpayer funds including, but not limited to:
  ➢ School districts
  ➢ Municipalities
  ➢ Counties
  ➢ State Agencies
  ➢ Institutes of Higher Education
  ➢ Special Utility Districts

• Per statute in addition to the annual audit, the state auditor may cause the “affairs and transactions of any agency to be audited in whole or in part”.

AN OVERVIEW OF THE OFFICE OF THE STATE AUDITOR (OSA)
Office of the State Auditor
Accountability, Transparency and Excellence!

Inside the Office of the State Auditor

• The OSA’s responsibilities include over 700 annual financial and compliance audits and other similar procedures for small political subdivisions.

• Our Office has a confidential “Fraud Hotline” for individuals to report fraud, waste and abuse of taxpayer dollars.

• The government accountability office provides the public and policy makers with reports that consolidate data from audit reports in a user friendly format.

• The Courts and the Legislature have recently requested our assistance to identify and evaluate risks associated with guardianships and conservatorships and make recommendations for improvements.

Office of the State Auditor
Accountability, Transparency and Excellence!

WHO ARE WE? OSA DIVISIONS:

• Executive Team: Leadership to all office operations, and the Government Accountability Office

• Financial Audit: Financial and Compliance Audits, Agreed Upon Procedures (AUP’s) and Report Review

• Special Investigations: Special Audits, Fact Finding Investigations, and Fraud Hotline

• Compliance & Quality Control: Contracting, Accounting Standard and Statute Research, Audit Rule, and Firm Profiles

• Administrative: Information Technology, Budget and Finance, and Human Resources.

• New: Three new positions have been approved by the Legislature for Guardianships and Conservatorships!
Recent investigations involved the embezzlement of funds from Protected Persons. There have been criminal charges and indictments. Stolen funds may never be recovered.

- Under the state constitution the OSA serves as an independent representative of the people.
- A need exists regarding guardians and conservators and associated funds of protected persons.
- OSA staff have the background and experience to help identify risks and red flags associated with financial balances and are uniquely situated to provide independent accountability.
Identify risks related to guardianships and conservatorships. This process is called “risk assessment”. Risks can be financial, contractual, compliance, or even ethical.

Communicate the risks: Provide judges and others with information about risks to increase awareness. Judges can ask conservators for more information or make a referral to our Office.

Monitor for risks: Examine any referrals and also review other forms on a sample basis. Select appropriate samples.

Re-evaluate and make recommendations: New risks may be identified. Forms may need updating to provide better information.
The Office of the State Auditor is working with Administrative Office of the Courts (AOC) to:

- Identify risks and red flags, and
- Provide recommendations pertaining to guardianship and/or conservatorship of protected persons.

**Partnership with the AOC**

**OSA completed items identified within the scope section of the Memorandum of Understanding (MOU) for referrals from District Courts and Developmental Disabilities Planning Council (DDPC) contract guardians’ compliance.**

- OSA reviewed court orders appointing guardians and conservators, and also reviewed annual conservator and guardianship reports.

- Also as part of the MOU, the OSA has produced a report containing observations and recommendations based on the review. The report will be publicly released upon final review.
WHAT WORK DID OSA PERFORM?

- Gained an understanding
- Conducted in-depth interviews with various parties
- Designed review test programs for conservators and guardians
- Reviewed conservator-related court referrals
- Reviewed DDPC contract guardians

NEXT STEPS — WHERE WE GO FROM HERE:

Administration:
- A new MOU — currently being reviewed by OSA and AOC
- 3 new Positions funded by the Legislature currently posted

Process Improvements:
- Design tools and training for Judges
- Design tools and information for other interested parties

Risk Analysis:
- Every protected person and circumstances are unique
- Continue to identify potential risk areas
- Make recommendations
- Follow-up
# New Mexico's Multi-agency Approach to Guardianship and Conservatorship of Protected Persons

<table>
<thead>
<tr>
<th>Potential Direct Financial Resources</th>
<th>Authority</th>
<th>Potential Indirect Resources</th>
<th>Other Associated Entities</th>
</tr>
</thead>
<tbody>
<tr>
<td>SSD and SSI Monthly Income</td>
<td>The Court receives a petition to appoint a guardian and/or conservator.</td>
<td>NM DSHD provides: - Medical Oversight, - Incident Investigators, - Medicaid, - DD Waiver</td>
<td>NM Board of Pharmacy provides limited oversight over boarding houses.</td>
</tr>
<tr>
<td>SSD and SSI Representative Payees and VA Benefits</td>
<td>NM Courts provide orders for conservancy and/or guardianship.</td>
<td></td>
<td>State and local Correctional Facilities</td>
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<tr>
<td>Corporate Guardian Trusts</td>
<td>ODCPC consults with corporate guardians.</td>
<td></td>
<td>Offices of Medical Examiners</td>
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<tr>
<td>Private Trusts</td>
<td>Guardian, if appointed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NM State Treasurer ABLE Accounts</td>
<td>Guardian, Guardian Coordinator</td>
<td></td>
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</tr>
<tr>
<td>Tribal Offices: These are some instances where Tribal funds cover some costs like utilities.</td>
<td></td>
<td></td>
<td>State-Regulated Institutions: - Independent Living Facilities - Nursing Homes - Continuing Care retirement Homes</td>
</tr>
<tr>
<td>Other Federal Dollar for example funds from the VA</td>
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<td>NM Office of the Attorney General</td>
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<td>NM Office of the State Auditor</td>
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*This diagram may not be all inclusive.*

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## Contact Info:

**Office Contact Information:**
- Website: [www.saonm.org](http://www.saonm.org)
- Fraud Hotline: 1-866-OSA-FRAUD
- Main Phone: 505-476-3800

**My Contact Information**
- Elise.Mignardot@osa.state.nm.us
- 505 476 3825