

**RULEMAKING PUBLIC HEARING
FOR AMENDMENTS TO Title 1, Chapter 12, part 21 NMAC,
Sections 8 and 10 of the Grant's Program Rules
Hybrid, In-Person at 411 S. Capitol Street, Santa Fe, NM 87501, Room 311
Thursday, February 29, 2024, 11:00 A.M.**

1. Call to Order:

The meeting was called to order at 11:00 a.m. by Renee Narvaiz, Public Information Officer for the New Mexico Department of Information Technology. Ms. Narvaiz reviewed general procedures for this hearing, including those pertaining to use of the Zoom platform.

PRESENT:

Chris Romero, Hearing Officer

Renee Narvaiz, DoIT, PIO

Shawna Rosales, OBAE Admin

Vanessa Willock, OBAE General Counsel

Steve Grey, CNMC member

Peter Mantos, CNMC member

Joseph Navarette, CNMC member

Launa Waller, CNMC member

Ovidiu Viorica, CNMC member

Neala Krueger, OBAE staff

Matejka Santillanes, NMECG

Corey Nelson

Jay Santillanes, NMECG

Teran Villa, High Water Mark

2. Opening Remarks and Introduction: Chris Romero, Hearing Officer

Officer Romero stated that this hearing is convened for the matter of the proposed amendments to Title 1, Chapter 12, part 21, sections 8 and 10 of the grant's program rules, as provided in the notice of proposed rulemaking. He also stated that today is February 29, 2024, and this public hearing is scheduled to commence at 11:00 a.m. and the actual time on his clock is currently 11:02 a.m. Officer Romero introduced himself as an employee of the Administrative Hearings Office, an independent agency designated to serve as hearing officer for this hearing, conducted pursuant to Section 14-4-5.1 in the State Rules Act and under the additional authority of paragraphs A and B of section 9276, and paragraph C of section 639K4. He also stated that according to the notice of proposed rulemaking this hearing is conducted in-person and by video conference, utilizing the Zoom application, and for those reading this record, the in-person portion is occurring in Room 311, in the State Capitol Building. He then stated that all information necessary to access this video conference and attend in-person was made available to the public through the publication of notice of this hearing and that this hearing, and the purpose of this hearing is to provide members of the public a reasonable opportunity to submit data, views or arguments in reference to the proposed amendments of the rules subject of the previously referenced notice. The entirety of this hearing, including oral comments, will be recorded and preserved as part of the rulemaking record and he will be using a video recording device (showed device) and he will be monitoring its function throughout the hearing for adequate audio recording for completeness of the record. He stated that he may also occasionally ask questions to clarify comments, however, this is an opportunity for the public to be heard and he will not engage in discussions beyond that which is necessary to develop the substance of the comment(s) for the record and for further consideration.

Prior to opening the proceeding to public comment he summarized the contents of the rulemaking record stating that, as previously noted, the Department of Information Technology and Connect New Mexico Council are proposing to amend sections 8 and 10 of Title 1, Chapter 12, part 21, and that the proposed amended rules were subject of notice of proposed rulemaking, to which the public was provided with a summary of the proposed amendments and the information on where and how to acquire a copy of the full text of the amendment for further review. The notice was published in the New Mexico Register, Volume 35, Issue 1, on

January 16, 2024. In addition to the New Mexico Register, the notice was also published on the New Mexico Sunshine Portal as of January 12, 2024. The notice was also published on the website of the Department of Information Technology, along with a link to this amendment, as of January 11, 2024. On January 12, 2024, Erica Valdez e-mailed a copy of the notice of proposed rulemaking to the Legislative Counsel Service at lcs@nmlegis.gov. On January 24, 2024, the Department of Information Technology also distributed notice to users of its Omni Alert System. The notice of proposed rulemaking was also published daily in the Santa Fe New Mexican between the dates of January 16 and February 15, 2024. As of the time this hearing commenced one written comment as been received, on February 15, 2024, with no other written comments received to his knowledge. Written comments will be made part of the record of this proceeding, along with any comments provided during this hearing. All comments will be considered in the final action that results from the hearing this morning.

Officer Romero then stated that the hearing was open for public comment. He asked that those wishing to comment identify themselves for the record and to indicate whether they would be speaking on behalf of any entity, organization or agency.

He commented that he had been notified previously that Ms. Willock, General Counsel for OBAE, would like to make a statement.

3. History & Purpose: Vanessa Willock, OBAE General Counsel

Ms. Willock restated the purpose of today's hearing, that being to discuss proposed amendments to 1.12.21 NMAC grant program rules. Ms. Willock gave specific history and context to these rules and that over time the Department of Information Technology and the Connect New Mexico Council found that the initial rule did not include electric cooperatives and telephone cooperatives as eligible entities for the strategic planning and grant writing support grants, which are non-merit based grant awards and that the purpose of the proposed rulemaking amendment is to correct this rule, so that this will be in compliance with SB377 and the definition of grantee and sub-recipient, to add electric cooperatives and telephone cooperatives. She also commented that in addition the amendment seeks to ensure that a sponsoring body complies with the New Mexico State Tribal Collaboration Act when developing or administering programs subject to the grant program rules for merit-based awards. The intention is to require an applicant for a merit-based award, who proposes to provide service on tribal lands, to obtain a certification of consent from the appropriately authorized tribal entity. She stated that the proposed added section details other items which must be part of that consent. She reviewed the process of posting the notices for these proceedings as previously described by Officer Romero. She again noted that one written comment was received and that the due date for written comments was February 15, 2024, 5:00 p.m., and that it appears that this comment was posted twice. This comment sought clarity as to how the proposed amendment to the rule regarding projects on tribal lands would affect the application process for a separate, federally funded program, and offered alternative language. Ms. Willock then offered to take questions. There were none offered.

4. Hearing Recessed by Officer Romero at 11:13 a.m.

With no questions posed to Ms. Willock and no public comment offered. Officer Romero stated the hearing would go into recess. Ms. Willock asked that she be permitted to submit two exhibits to be admitted into the record. The first exhibit is a copy of the summary of the proposed changes, of which she has a paper copy for admission into the record. The second item is a copy of SB377. Officer Romero thanked her and accepted these for admission into the record. He then recessed the hearing at 11:13 a.m.

5. Hearing Resumed at 11:18 a.m.

At 11:18 a.m., Officer Romero stated the hearing will continue to wait and monitor for public comment either in-person or via Zoom.

6. Hearing Recessed at 11:19 a.m.

7. Hearing Resumed at 11:20 a.m.

Comment heard via Zoom from participant Teran Villa, a policy analyst with High Water Mark, an environmental consulting firm based in Bernalillo, New Mexico, stating this organization's support for the proposed amendments.

8. Hearing Recessed at 11:23 a.m.

9. Hearing Resumed at 11:29 a.m.

10. Hearing Recessed at 11:30 a.m.

11. Hearing Resumed at 12:00 p.m.

12. Adjournment 12:02 p.m.:

With no further comment or questions being offered, either in-person or online, Officer Romero stated he would be reviewing all documentation and will prepare a report to be sent to Ms. Willock. Officer Romero adjourned the hearing at approximately 12:02 p.m.