



**PERFORMANCE AUDIT OF
COMMUNITY & CONSTITUTENT SERVICES**

**FOR THE PERIOD OF
JULY 1, 2022 - JUNE 30, 2023**

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Internal Audit Function
Doña Ana County**

Performance Audit of Community & Constituent Services
Table of Contents

EXECUTIVE SUMMARY	3
AUDIT SCOPE & OBJECTIVES	4
OPERATING & INTERNAL CONTROL RISKS	4
DETAIL OF AUDIT FINDINGS	4
FINDINGS & RECOMMENDATIONS	4

December 21, 2023

2

Cc: County Manager
Community & Constituent Services Manager
Internal Audit Advisory Committee

Doña Ana County Internal Audit Activity
845 N. Motel Blvd
Las Cruces, N.M. 88007

Fernando Macias, County Manager

EXECUTIVE SUMMARY

The Doña Ana County Community & Constituent Services (CCS) Department consists of the CCS Manager and the Constituent Services Specialist. The department's mission is to assist constituents who may need help in connecting to county departments and services. The personnel collaborate and confer with County staff, elected officials, and external agencies to help address constituent matters. CCS staff conducts constituent casework to provide specific and detailed answers to questions in relation to county government operations. The CCS Manager is also tasked with administering the county's external Ethics and Anonymous Reporting Hotline called EthicsPoint. The external EthicsPoint reporting platform is designed to provide employees and the public with every opportunity to report allegations of violations of County Human Resources Policies and Procedures. More details about the department can be found by accessing the following link: [Community & Constituent Services | Doña Ana County, NM \(donaanacounty.org\)](https://www.donaanacounty.org/Community-amp-Constituent-Services)

The Audit reviewed areas deemed to be at greater risk of internal control deficiencies, and areas of concern to Community & Constituent Services leadership. Herein, the Audit reviewed the Title VI Coordinator duties, management and staff job descriptions, EthicsPoint operations, County Action Request Forms (CARFs) records, Intranet Quorum guidance, contracts, contractor usage records, and the Standard Operating Procedures (SOPs) of Community & Constituent Services.

While no High-level risks were noted, the more serious deficiencies found were as follows,

- 1) A lack of submissions of Title VI reporting updates, and
- 2) Missing EthicsPoint SOP guidance for reacting to imminent threats.

The Audit found that Community & Constituent Services had numerous SOPs (with some needing only minor updates) and multiple records of community outreach events, meeting coordination, and events planning. In addition, CARF records reviewed contained only minor errors in a small percentage of the files, indicating sound recordkeeping operations. The internal auditor hereby takes an opportunity to acknowledge the assistance and cooperation received from Community & Constituent Services leadership and staff during the Audit.

NOTE: An area discussed with CCS management addressed the lack of training provided to new leadership concerning EthicsPoint (hotline) investigations. If there is no training provided to new leadership, then it would be beneficial for leadership to receive a frequently asked questions memorandum or checklist outlining where they could find commonly sought information. Upper management is urged to consider this provision.

December 21, 2023

3

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AUDIT SCOPE & OBJECTIVES

As this was a department that had not undergone an internal audit, the Audit focused upon conducting reviews of several primary functions within the department. The department's smaller size allowed for a thorough review of work processes pertaining to 1) existence, 2) completeness, and 3) accurate recordkeeping. Community & Constituent Services activities for the period of July 1, 2022 – June 30, 2023 were reviewed with the following objectives:

1. Evaluate access, service delivery, and follow-up for those served in response to constituent and customer service concerns;
2. Determine the accuracy and completeness of records;
3. Review SOPs for existence and completeness;
4. Review community outreach, meeting, and county coordination activities; and
5. Review EthicsPoint records and guidance.

OPERATING & INTERNAL CONTROL RISKS

This report contains no (0) High-level risk, one (1) Moderate-level risk, and one (1) Low-level risks. This report also includes the auditor's Recommendations, Management Responses, and Auditor Comments (as applicable).

DETAIL OF AUDIT FINDINGS

Risk ratings are based on professional judgment to assess the extent to which deficiencies could adversely affect the performance of systems and controls within a process. More details about the risk rating in this report can be found by accessing this link:

[Audit Risk Ratings | Doña Ana County, NM \(donaanacounty.org\)](https://donaanacounty.org/Audit-Risk-Ratings)

FINDINGS, RECOMMENDATIONS, MANAGEMENT RESPONSES, & AUDITOR COMMENTS

Based on audit objectives, the evidence obtained provides a reasonable basis for the findings and conclusions below. The following results were recorded as a result of interviews, observations, and reviews of Community & Constituent Services SOPs, Regulatory Ordinances, and tests performed. While management responses are included within this report, the Audit takes no responsibility for the sufficiency of said responses, nor for the effective execution of corrective actions taken or to be taken by management. **NOTE:** Manager Responses below are written in *italics*.

1. **Title VI Discrepancies. Moderate.**

Condition: The Audit notes the following discrepancies concerning the Title VI Policy and Operations –

December 21, 2023

4

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- The Title VI Policy Statement references the Civil Rights Act of 1964, 49 CFR, part 2, and all related regulations and directives. However there is no ‘part 2’ for Code of Federal Regulations 49.
- The Title VI Policy Statement includes language prohibiting discrimination based on gender, age, or disability, but this language is not included in Title VI of the Civil Rights Act of 1964.
- The Title VI Coordinator has developed a log for receiving complaints but not for the processing, investigating, and reporting of such complaints. Also, no annual updates have been submitted to the New Mexico Department of Transportation (NMDOT) Title VI Coordinator.

Effect: The first two inaccuracies and deficiencies above are misleading, while the latter is out of compliance with policy guidance.

Criteria:

- The Title VI Policy Statement should refer to “49 CFR, Subtitle A; Part 21, and all related regulations and directives,” as it does not contain a Part 2.
- While the county should continue to prohibit exclusion or discrimination based on gender, age, and disability, this language should not be written in a way that leads the reader to believe it is included in the actual language found in Title VI of the Civil Rights Act of 1964.
- Per the Doña Ana County Title VI Plan, revised April 2023, the Title VI Coordinator is responsible for submitting a Title VI Plan every three years and an annual update to the NMDOT Title VI Coordinator. This submission will occur when there are changes in procedure, organizational structure, or complaints; the annual updates are due by October 1. In addition, procedures should also be developed for receiving, processing, investigating, and reporting Title VI complaints.

Cause: *The County’s Title VI Plan was developed in 2017 by the Human Resources (HR) Department in response to the Community Development Department (CDD) notifying HR that a Title VI Plan and Title VI Coordinator was urgently needed due to the CDD applying for a grant that required the County to have a Title VI Plan. HR leadership back in 2017 asked the CCS Manager to be the Title VI Coordinator; CCS Manager was told that it would be just like the hotline, assigning complaints when they were submitted, document (like the hotline) and track responses.*

Back in 2017, HR used the Title VI Boilerplate for Local Government Agencies on the New Mexico Department of Transportation’s (NMDOT) website in creating the County’s plan.

December 21, 2023

5

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The legal citation error is within the NMDOT's template, a typo on the state's end. CCS Manager cannot recall whether the 2017 County Title VI Plan was sent to Legal or not. The 2023 revision to the County's Title VI Plan, in conferring with HR, in capacity as the Title VI Coordinator, solely focused on updating the content of the document such as the Public Participation Plan (Section III), Organization/Staff Responsibilities (Section IV), etc. CCS Manager did not review/revise any of the existing legal citations in the County's document, which again, originated from NMDOT's Title VI Boilerplate for Local Government Agencies. When the 2023 revision was sent to the Legal Department, CCS Manager informed Legal of the sections that underwent a revision, which again, did not include any of the legal citations. The final Title VI Plan (2023) update was emailed to NMDOT and shared with County departments who are directly involved in federally funded infrastructure projects, the focus of the Title VI Plan. It is important to note that the CCS Manager is not directly involved in federally funded infrastructure projects. Other public agencies have the Title VI Coordinator located in Engineering, Roads, Community Development, HR/EEO or other similar departments that have first-hand involvement in these projects and/or are better equipped in this area. CCS Manager is not highly concerned if the County's Title VI Plan is not revised every three (3) years. Multiple public agencies do not necessarily stick to that timeframe, including NMDOT. It is important to note that the CCS Manager began working on this update (2023 revision) during the pandemic, but there were vast demands on the CCS Manager's time, including the 2020 Census outreach project, while continuing facing staff shortages. CCS Office has only two full-time personnel.

Recommendation: The Audit recommends the following modifications –

- The Title VI Policy Statement should be revised to eliminate the inaccurate reference to “part 2.” See auditor comment in **Criteria** above.
- Regarding the language of gender, age, or disability, an “in addition to…” type of statement attesting to the county’s commitment to prohibit such discrimination should be considered.
- An annual update should be submitted to the NMDOT Title VI Coordinator, by October 1. Per guidance, if there are no changes, correspondence should be submitted stating there are no changes. In addition to the receiving log, procedures should be developed for processing, investigating, and reporting Title VI complaints.

Management’s Response: *I disagree with this being noted as “moderate” finding as it is a typo that was in the state’s Title VI template for local public agencies; therefore, other local governments in New Mexico have the same error in their Title VI Plans. Correcting the legal citation of “49 CFR, Subtitle A; Part 21, and all related regulations and directives,” in the County’s Title VI Plan will be an easy fix; cannot provide a timeline as uncertain whether*

December 21, 2023

6

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Community & Constituent Services Manager
Internal Audit Advisory Committee

Doña Ana County Internal Audit Activity
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this small revision will require Board of County Commissioners (BOCC) approval again. Discrimination is already mentioned in the County's Title VI Plan and the associated authorities (laws) are cited within the plan. Submitting a note to NMDOT when there are no complaints will be considered. However, it is important to note that the state has never requested the County to submit a yearly report just to say, "no complaints have been submitted." When correcting the legal citation error in the document, we may revisit the reporting section of the Title VI Plan as well. Back in 2017, CCS Manager created a Title VI tracking log (Excel spreadsheet). Page 13 of the Title VI Plan outlines how intake and investigations would be done. Just like hotline complaints, CCS Manager/Title VI Coordinator would confer with County Legal and HR Director to determine best way to proceed with a Title VI investigation as CCS Manager/Title VI Coordinator is not a subject matter expert in these areas.

Auditor Comments: When there are multiple risks noted as a single finding, the auditor may assign a higher risk level. While any one of the discrepancies listed would not reach a moderate risk level, the Audit considers risks in the aggregate. The Audit notes that as of the date of this audit, the County had received no Title VI complaints.

2. Standard Operating Procedures Guidance Needed. Low.

Condition: The internal auditor consulted with Legal, while the Community and Constituent Services Manager corresponded with NAVEX Global's leadership team (the vendor for EthicsPoint) regarding imminent threats that could be made via EthicsPoint. A review of the current SOP was also conducted. Neither the current contract nor the EthicsPoint SOP address conditions for responding to imminent threats, which could be revealed via EthicsPoint.

Effect: A lack of written guidance for properly responding to an imminent threat that could be levied via EthicsPoint, could result in untimely responses to such threats.

Criteria: While the probability of receiving an imminent threat to County personnel or assets are considered remote, guidance should exist that standardizes proper personnel responses to such situations. Correspondence with NAVEX Global leadership resulted in the following dialogue -

- Escalation calls qualify under the following definition: "An eminent [*sic*] threat to person or property or a situation requiring evacuation". The escalation agent is an internal resource to NAVEX that makes the call to the customer. We do not contact local emergency services or other authorities. We simply call the customer and let them know that a report has been received that they should review ASAP. We do this as a courtesy because it is the right thing to do.

Cause: *In the CCS Manager's nearly nine (9) years administrating the external reporting hotline per the job description, this issue has never been raised. As the hotline system was*

December 21, 2023

7

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discussed and implemented years prior to CCS Manager's hire date, it is unknown to CCS Manager if this issue of imminent threats being submitted through the external third-party reporting hotline was ever a concern to the County. CCS Manager wonders how would this be different if an imminent threat is submitted to the County via an email or phone/voicemail (with blocked number) to an employee and employee is out of the office?

Recommendation: Because an escalation call from the contractor is not a contract responsibility, it would be prudent of the County to provide the contractor with an up-to-date list of contact names and county cell phone numbers, in the event an imminent threat is made against County personnel or property via telephone, during non-duty hours. Current Human Resources Policies & Procedures 6-28. Workplace Violence, lists the 1) Human Resources Director, 2) County Attorney, and 3) both Assistant County Managers as decision makers. Thus, the Audit recommends that the county cell phone numbers for each of the aforementioned individuals be remitted to NAVEX Global's (EthicsPoint) leadership as contacts to be added to its Escalation List on behalf of Doña Ana County.

In addition, the audit recommends that the current EthicsPoint SOP be updated with procedures that should be taken (by the first EthicsPoint complaint reviewer) in the event a threat is made via the online system.

Management's Response: *If County administration wants to provide the cell phone numbers for the staff in the job titles noted above under Recommendation, the CCS Manager can forward that information to Navex Global. CCS Manager will confer with internal subject matter experts to determine whether the current hotline SOP needs to be updated based on the Internal Auditor's recommendation and what a potential procedure would look like if an imminent threat is submitted through the EthicsPoint web-based complaint form.*

It is important to note that there is information on the County's EthicsPoint page on the Navex Global secured server that includes,

"EthicsPoint is NOT a 911 or Emergency Service: Do not use this site to report events presenting an immediate threat to life or property. Reports submitted through this service may not receive an immediate response. If you require emergency assistance, please call 911 or for non-emergencies, contact the Mesilla Valley Regional Dispatch Authority at (575) 526-0795."

The CCS Manager will work to get the same text on the EthicsPoint page on the County's website, as that may help curb some of the non-hotline related complaints submitted.

Auditor Comments: The internal auditor notes that current Human Resources Policies & Procedures give response guidance. However, it would be pertinent for the reader of the EthicsPoint SOP to be aware of this guidance.

December 21, 2023

8

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28 December 2023

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Date

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December 21, 2023

9

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