



January 09, 2026

VIA ELECTRONIC MAIL ONLY:

Torrance County Commission

Ryan Schwebach, Chair

rschwebach@tcnm.us

Dear Mr. Ryan Schwebach:

The Government Counsel and Accountability Bureau (“GCA”) of the New Mexico Department of Justice (the “NMDOJ”) is aware of a special meeting held by the Torrance County Commission (the “County”) on December 30, 2025, at 4:00 P.M. This office has concerns regarding compliance with the Open Meetings Act (the “OMA”), NMSA 1978, §§ 10-15-1 to –4 (1953, as amended through 2013). After a review of the December 30, 2025, special meeting agenda and information available on the County’s website, our office notes several concerns of the County’s compliance with OMA that require your immediate attention. Particularly, the NMDOJ finds with the evidence presented, a) the County’s 2025 OMA Resolution appears to be in noncompliance with OMA, b) the County’s OMA violations for the December 30, 2025, special meeting likely result in invalid meeting actions, and c) the apparent retroactive extension of the County’s IGSA with ICE is likely improper and invalid.

OMA is one of New Mexico’s transparency laws, establishing the basic public policy that public business be conducted in full public view, that the actions of public bodies be taken openly, and that the deliberations of public bodies be open to the public. The Attorney General has statutory authority to enforce OMA, *see* NMSA 1978, § 10-15-3(b), and resolve issues of noncompliance. Serious issues of noncompliance may result in further legal action from our agency.

New Mexico Department of Justice

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a. The County's 2025 OMA Resolution does not comply with notice requirements as set in OMA.

Based upon notification to the NMDOJ and our review, the County has not complied with OMA in determining what reasonable notice is through the County's 2025 OMA Resolution.

Under OMA, all meetings of a quorum of a public body shall be properly noticed and open to the public. *See* § 10-15-1. Each year, the County must also determine annually in a public meeting what reasonable notice for a public meeting entail. § 10-15-1(D). Any meeting where there is a discussion or action taken on "any proposed resolution, rule, regulation, or formal action" and there is a majority or quorum in attendance, requires public notice. *Id.*

Except in the case of emergencies, the County must post notice of all meetings no later than 72 hours prior to any meeting being held and make the agenda available to the public and post it to the County's website. § 10-15-1(F). Notices must include an agenda with specific items to be discussed or information on how to obtain a copy of the agenda. *Id.* Beyond adequate notice on a website, all notices shall "include broadcast stations licensed by the federal communications commission and newspapers of general circulation that have provided a written request for such notice." § 10-15-1(D).

The County's 2025 OMA Resolution, dated January 8, 2025, states that:

Reasonable notice to the public of any meetings of the Board of County Commissioners of Torrance County, New Mexico shall consist of notice to newspapers of general circulation and FCC licensed broadcast media, that have made written request for such notice, according to the notice periods set forth hereafter, including but not limited to:

B. Any special meetings:

- i) publishing notice of the date, time and place in a daily newspaper having a general circulation in Torrance County, New Mexico, not less than 72 hours in advance of the time the meeting is to commence, or
- ii) giving notice in person, by telephone or by written notice to the City Desk of at least one (1) daily newspaper having general circulation in Torrance County, New Mexico at least 72 hours before the commencement of the meeting, or
- iii) giving notice of the date, time and place thereof either by telephone, or in person, or by hand delivered letter at least 72 hours in advance of the meeting to an employee of any radio or television station which regularly broadcasts news within Torrance County, New Mexico.

The County's 2025 OMA Resolution clearly contemplates notices, but all notices are either in person or through publication in a newspaper and FCC broadcast media. The County very clearly

maintains a website at the following address: <https://www.torrancecountynm.org/departments/county-commission>. Under OMA, all notices must be published on the stated website as required in § 10-15-1(F).

The NMDNJ believes that the 2025 OMA Resolution of the County is not in compliance with OMA. The Resolution only contemplates notice and agendas to be available in person or posted through publication of general circulation and broadcast. It is unclear if any publication or broadcast station has actually requested to run such notices and agendas as required by § 10-15-1(D). Furthermore, the County has violated OMA by not stating that all agendas and notices shall be available on their website.

b. The County's notice for the December 30, 2025, special meeting does not comply with notice requirements as set in OMA and invalidates any action by the County.

Based upon notification to the NMDNJ and our review, the County has not complied with OMA in posting the December 30, 2025, special meeting notice or agenda timely. This violation of OMA invalidates all actions taken by the County during the meeting.

As stated above, the County must post notice of all meetings no later than 72 hours prior to any meeting being held and make the agenda available to the public through the County's website and any broadcast stations licensed by the federal communications commission and newspapers of general circulation *that have provided a written request for such notice*. § 10-15-1(F) and (D).

The only apparent notice and agenda provided for the December 30, 2025, special meeting was placed in the *Mountainair Dispatch* on December 29, 2025.¹ Actual notice and publication of the special meeting merely one day prior is not only in direct violation of the County's OMA Resolution, but also OMA. Without a properly noticed meeting, votes and action taken on items by the County are not valid and must be redone. No resolution, rule, regulation, ordinance or action of the County shall be valid unless taken or made at a meeting held in accordance with the requirements OMA. § 10-15-3.

When the County failed to properly notify the public of its meeting, it likely violated OMA. The County continued to hold the meeting and voted and took action on all agenda items. Such actions are likely invalid.

c. The County's action to retroactively approve or ratify the extension or renewal of the Intergovernmental Services Agreement (the "IGSA"), item no. 4(a) is improper, and as a result the County's actions are invalid.

Pursuant to NMSA 1978, § 10-15-1(B), any discussion of public business or any final action taken within the delegated authority of a public body must take place in an open meeting. The OMA

¹ <https://www.mountainairdispatch.com/upcoming-events-for-december-29-2025/>

makes this requirement unambiguous, by stating: “[n]o resolution, rule, regulation, ordinance or action of any board, commission, committee or other policymaking body shall be valid unless taken or made at a meeting held in accordance with the requirements of NMSA 1978, § 10-15-1.” § 10-15-3(A).

In reviewing the IGSA with the County and United States Department of Immigration and Customs Enforcement (“ICE”), it appears that the original IGSA expired. Any such action on amending or modifying a contract where the term is extended and retroactively approved would be akin to ratification. Ratification, also known as corrective action, is generally an action taken by a public body to affirm or adopt a prior action that was deemed invalid under § 10-15-3(A). A public body cannot ratify a decision it never made. It appears that the County is attempting to amend and modify a contract between the County and ICE by extending the contract period, among other things, through March 31, 2026, on a contract that termed out on October 31, 2025. Even if the ratification of the County’s decision was valid, it does not operate retroactively. A ratified decision takes effect on the date of the ratification.

Accordingly, any ratification vote itself is likely invalid. If the County has any evidence to the contrary, please inform the NMDOJ immediately.

We require additional information from the County to assess whether additional OMA violations occurred. To this end, please provide any additional information and/or documentation in writing on the following items:

- 1) Describe the specific items discussed at the special meeting on December 30, 2025.
- 2) Describe what actions if any were taken on the items on the December 30, 2025, agenda.
- 3) What information if any the County can offer to explain why the OMA Resolution and OMA requirements for notice were not met.
- 4) Explain in writing whether the County has received requests to publish notices and agendas in newspapers or other broadcast media.
- 5) A written explanation of why the County’s OMA Resolution is in direct violation of reasonable notice requirements outlined in OMA.
- 6) How the County determines ratification and votes of agenda item no. 4 at the December 30, 2025, special meeting can be retroactive in its approval.

We ask that you provide the foregoing one (1) week of receipt of this letter, on January 16, 2026. Pertinent documentation can be sent to oma-ipracomplaint@nmdoj.gov with the subject line “[Date] Torrance County Response to NMDOJ Letter and Inquiry of OMA Violations”

Thank you for your attention to this important matter and for your commitment to promote government transparency through your public body. If our agency can answer any questions or be of further assistance, please do not hesitate to contact GCA.

Respectfully,

A handwritten signature in black ink, appearing to read 'Blaine', with a long horizontal flourish extending to the right.

Blaine N. Moffatt

Director

Government Counsel & Accountability Bureau

cc: Michael Garcia, Torrance County Attorney, michael@nmlgl.com
J. Jordan Barela, Torrance County Manager, jjbarela@tcnm.us