



CERTIFIED PUBLIC ACCOUNTANTS | CONSULTANTS

ATKINSON & CO. LTD.
6501 AMERICAS PKWY NE
SUITE 700
ALBUQUERQUE, NM 87110

T 505 843 6492
F 505 843 6817

ATKINSONCPA.COM

PO BOX 25246
ALBUQUERQUE, NM 87125

REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

Mr. Hector Balderas
New Mexico State Auditor
and
Ms. Mary Herrera
New Mexico Secretary of State
State of New Mexico

We were engaged to audit the accompanying basic financial statements of the governmental activities, each major fund, the budgetary comparisons for the general fund and other major special revenue funds, and the aggregate remaining fund information of the Office of the Secretary of State (the Office), as of and for the year ended June 30, 2007, which collectively comprise the Office's basic financial statements as listed in the table of contents. We were also engaged to audit the financial statements of the Office's non-major governmental fund, presented as supplementary information in the accompanying individual fund financial statements as of and for the year ended June 30, 2007, as listed in the table of contents. These financial statements are the responsibility of the Office's management. Our responsibility is to express opinions on these financial statements based on our audit.

As discussed in Note A1, the financial statements of the Office of the Secretary of State are intended to present the financial position and the results of its operations of only that portion of the State of New Mexico that is attributable to the transactions of the Office of the Secretary of State. They do not purport to, and do not, present fairly the financial position of the State of New Mexico as of June 30, 2007 and the changes in its financial position and its cash flows, where applicable, for the year then ended in conformity with accounting principles generally accepted in the United States of America.

As discussed in Notes I2 and L the U.S. Election Assistance Commission (EAC) conducted an audit of the administration of payments received under the Help America Vote Act (HAVA) at the request of the current Secretary of State, Mary Herrera, prior to her taking office as Secretary of State-Elect. The HAVA funds were expended by the previous administration of the Secretary of State's Office by December 31, 2006. The final report identified questioned costs of \$6,308,350 which potentially could be reimbursed to the Federal Government in whole or in part. However, corresponding recommendations made by the EAC Inspector General contained in their audit report, if adopted, could result in a much smaller requirement to the state in relation to questioned costs from the Federal HAVA audit. Final resolution of these matters will depend on the responses by the Office of Secretary of State and the State of New Mexico to the final audit report, and the action taken by the Executive Director of the EAC in response to questioned costs and recommendations of his audit team.

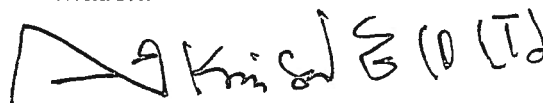
Additionally, we were unable to obtain a representation letter from the former Secretary of State and appropriate staff who held office for the first six months of the audit year. Generally accepted auditing standards require a representation letter be obtained from management signed by appropriate officials.

Because of the uncertainty concerning the resolution of the EAC HAVA audit and whether the financials should be adjusted and in what amounts and because the scope of our procedures did not include obtaining a representation letter for a portion of our audit period, we are unable to express and we do not express, an opinion on the financial statements of the governmental activities, each major fund, the fiduciary fund, the budgetary comparisons for the general fund and other special revenue funds and the aggregate remaining fund information of the Office of the Secretary of State, State of New Mexico, as of and for the year ended June 30, 2007, which collectively comprise the Office's basic financial statements as listed in the table of contents. Additionally, we are unable to express and do not express an opinion on the Office's non-major governmental fund presented as supplementary information in the accompanying individual fund financial statements as of and for the year ended June 30, 2007 as listed in the table of contents.

In accordance with *Government Auditing Standards*, we have also issued our report dated July 31, 2008 on our consideration of the Office's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

The Management's Discussion and Analysis on pages 4 to 9 are not a required part of the basic financial statements but are supplemental information required by accounting principles generally accepted in the United States of America. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.

Our audit was conducted for the purpose of forming opinions on the basic financial statements and individual fund financial statements of the Office. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by the U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, and is not a required part of the financial statements. The additional schedules listed as "other supplementary information" in the table of contents are presented for purposes of additional analysis and are not a required part of the basic financial statements. Because of the matters described in the fourth and fifth paragraphs of this report we do not express an opinion on such information.



Atkinson & Co., Ltd.

Albuquerque, New Mexico
July 31, 2008



CERTIFIED PUBLIC ACCOUNTANTS | CONSULTANTS

ATKINSON & CO. LTD.
6501 AMERICAS PKWY NE
SUITE 700
ALBUQUERQUE, NM 87110

T 505 843 6492
F 505 843 6817

ATKINSONCPA.COM

PO BOX 25246
ALBUQUERQUE, NM 87125

**INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH REQUIREMENTS
APPLICABLE TO ITS MAJOR PROGRAMS AND ON INTERNAL CONTROL OVER
COMPLIANCE IN ACCORDANCE WITH OMB CIRCULAR A-133**

Mr. Hector Balderas
New Mexico State Auditor
And
Ms. Mary Herrera
New Mexico Secretary of State
State of New Mexico

Compliance

We have audited the compliance of the Office of the Secretary of State (the Office) with the types of compliance requirements described in the *U.S. Office of Management and Budget (OMB) Circular A-133 Compliance Supplement* that are applicable to each of its major federal programs for the year ended June 30, 2007. The Office's major federal programs are identified in the summary of auditors' results section of the accompanying schedule of findings and questioned costs. Compliance with the requirements of laws, regulations, contracts and grants applicable to each of its major federal programs is the responsibility of the Office's management. Our responsibility is to express an opinion on the Office's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the Office's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination on the Office's compliance with those requirements.

As described in findings 07-01 through 07-09, in the accompanying schedule of findings and questioned costs, the prior administration of the Office of the Secretary of State did not comply with certain requirements including matching, improper use of HAVA funds, associated interest income, equipment management and tracking funds applicable to administration of the HAVA program. Compliance with such requirements is necessary, in our opinion, for the Office to comply with requirements applicable to that program.

In our opinion, because of the effects of noncompliance described in the preceding paragraph, the State of New Mexico, Office of the Secretary of State did not comply, in all material respects, with the requirements referred to above that are applicable to its major federal program HAVA-CFDA 39.011 and 90.401 for the year ended June 30, 2007. Also in our opinion, the Office of Secretary of State complied, in all material respects, with the requirements referred to above that are applicable to its major federal program CFDA 93.617, Election Assistance For Individuals, for the year ended June 30, 2007.

Internal Control Over Compliance

The management of the Office is responsible for establishing and maintaining effective internal control over compliance with requirements of laws, regulations, contracts and grants applicable to federal programs. In planning and performing our audit, we considered the Office's internal control over compliance with requirements that could have a direct and material effect on a major federal program in order to determine our auditing procedures for the purpose of expressing our opinion on compliance but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the Office's internal control over compliance.

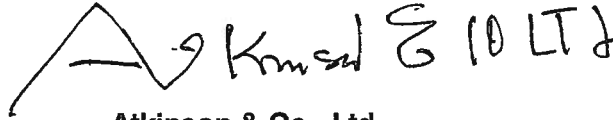
Our consideration of internal control over compliance was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in the entity's internal control that might be significant deficiencies or material weaknesses as defined below. However, as discussed below, we identified certain deficiencies in internal control over compliance that we consider to be significant deficiencies and others that we consider to be material weaknesses.

A control deficiency in an entity's internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect noncompliance with a type of compliance requirement of a federal program on a timely basis. A significant deficiency is a control deficiency, or a combination of control deficiencies, that adversely affects the entity's ability to administer a federal program such that there is more than a remote likelihood that noncompliance with a type of compliance requirement of a federal program that is more than inconsequential will not be prevented or detected by the entity's internal control. We consider the deficiencies in internal control over compliance described in the accompanying schedule of findings and questioned costs as items 07-01 through 07-09, 07-15 and 07-18 to be significant deficiencies.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that material noncompliance with a type of compliance requirement of a federal program will not be prevented or detected by the entity's internal control. Of the significant deficiencies in internal control over compliance described in the accompanying schedule of findings and questioned costs, we consider items 07-01 through 07-06, 07-09, 07-15 and 07-18 to be material weaknesses.

The Office of the Secretary of State's responses to the findings indentified in our audit are described in the accompanying schedule of findings and questioned costs. We did not audit the Office of the Secretary of State's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of the Office of the Secretary of State, Office's management, Office of the State Auditor, the New Mexico Legislature, Department of Finance and Administration, federal awarding agencies, and pass-through entities, and is not intended to be and should not be used by anyone other than these specified parties.

A handwritten signature in black ink, appearing to read "Atkinson & Co., Ltd.", with a stylized initial "A" on the left.

Atkinson & Co., Ltd.

Albuquerque, New Mexico
July 31, 2008

SCHEDULE OF FINDINGS AND QUESTIONED COSTS

Year ended June 30, 2007

FINANCIAL STATEMENTS

Type of auditor's report issued: Disclaimer

Internal control over financial reporting:

Material weaknesses identified? Yes

Significant deficiencies identified not considered to be material weaknesses? Yes

Noncompliance material to financial statements noted? Yes

MAJOR PROGRAMS

Significant deficiencies in internal control over major programs noted? Yes

Were any such conditions considered material weaknesses? Yes

Type of report issued on compliance for major programs? Adverse – 39.011
90.401
Unqualified – 93.617

Any audit findings required to be reported under 510(a) of Circular A-133? Yes

The programs tested as major are as follows:

| | |
|------|--|
| CFDA | 39.011 HAVA |
| CFDA | 90.401 HAVA |
| CFDA | 93.617 Election Assistance for Individuals |

The threshold for distinguishing Type A from Type B programs was: \$300,000

The Secretary of State was not determined to be a low risk auditee.

CURRENT YEAR FINDINGS

Findings in Accordance with OMB Circular A-133

Prior Administration

07-01 Noncompliance with HAVA - State Matching Requirement - Material Weakness
07-02 Noncompliance with HAVA - Improper use of HAVA Funds - Material Weakness
07-03 Noncompliance with HAVA - Equipment Management - Material Weakness
07-04 Noncompliance with HAVA - Cost Incurred Prior to Period of Availability -
Material Weakness

State of New Mexico
Office of The Secretary of State

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

CURRENT YEAR FINDINGS – CONTINUED

Findings in Accordance with OMB Circular A-133 - Continued

Prior Administration - Continued

- 07-05 Noncompliance with HAVA Act - Tracking of Federal Expenditures - Material Weakness
- 07-06 Noncompliance with HAVA Act - Interest of \$147,799 Earned on HAVA Funds was Not Deposited Timely into the HAVA Fund 90300 - Material Weakness
- 07-07 Noncompliance with HAVA -Program Income - Significant Deficiency
- 07-08 Data Collection Form Not Submitted Timely - Significant Deficiency
- 07-09 Noncompliance with State Procurement Code - Material Weakness
- 07-15 Financial Statement Adjustments Not Previously Recorded - Material Weakness
- 07-18 Capital Asset Listing Not Prepared/Reconciled Timely - Material Weakness

Findings in Accordance with 2.2.2. NMAC

- 07-10 Noncompliance with New Mexico State Procurement Code - Significant Deficiency
- 07-11 Noncompliance with State Audit Deadlines - Significant Deficiency
- 07-12 Unencumbered Liabilities - Significant Deficiency
- 07-13 Irregular Overtime Pay - Significant Deficiency
- 07-14 Reversions - Significant Deficiency

Financial Statement Audit Findings Required by *Government Auditing Standards*

- 07-01 Noncompliance with Help America Vote Act (HAVA) - State Matching Requirement - Material Weakness
- 07-06 Noncompliance with HAVA Act - Interest of \$147,799 Earned on HAVA Funds was Not Deposited Timely into the HAVA Fund 90300 - Material Weakness
- 07-09 Noncompliance with State Procurement Code - Material Weakness
- 07-15 Financial Statements Adjustments Not Previously Recorded - Material Weakness
- 07-16 Financial Statements Not Prepared by Management - Material Weakness
- 07-17 Improper Posting of Notary Fees - Significant Deficiency (Prior Administration)
- 07-18 Capital Assets Listing Not Prepared Timely/Not Reconciled to Physical Inventory Listing - Material Weakness
- 07-19 Payroll Disbursement Posted in Public Election Fund - Significant Deficiency (Prior Administration)
- 07-20 Unauthorized use of Voter Registration Oracle Database Licenses - Significant Deficiency

PRIOR YEAR FINDINGS – 2.2.2. NMAC

- 06-01 Reversions - Significant Deficiency, Noncompliance - Unresolved - Repeated

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

FINDINGS IN ACCORDANCE WITH OMB CIRCULAR A-133

**07-01 Noncompliance with Help America Vote Act (HAVA) - State Matching Requirement -
Material Weakness - CFDA 90.401**

Condition:

The prior administration of the Office has not fully complied with the HAVA state matching requirement. The original state appropriation to meet the requirement was reverted back to the State in 2005 without being utilized. Current amounts deposited to meet the requirements are insufficient as of June 30, 2007. As of June 30, 2007, the Office has only deposited \$536,604 and the state matching requirements was \$751,568.

Criteria:

HAVA required the State of New Mexico to appropriate state matching funds totaling \$751,568 as a condition to receive HAVA Section 251 funds in the amount of \$14,279,790. (Help America Vote Act of 2002 Section 253, B, 5.)

Cause:

The Office's understanding was that the previous administration's intention was to use a portion of an \$11,000,000 state appropriation for the purchase of new voting machines as the State's matching requirement. The appropriation was never deposited into the HAVA fund.

Effect:

Noncompliance with federal statute HAVA Section 251. Noncompliance could effect the financial statement of the Office if the Election Assistance Commission requests repayments of funds. Interest continues to accrue on undeposited funds.

Questioned Costs:

None

Recommendation:

The State of New Mexico should appropriate the remaining funds owed to the HAVA fund totaling \$214,964 plus incremental interest and deposit those funds into the HAVA fund 90300.

Management's Response:

The state match totaled \$751,568. This requirement was a condition to receive HAVA 251 funds in the amount of \$14,279,790. The former administration did not comply. The only amounts of interest found transferred by the State Treasurer into fund 90300 were \$36,253 on September 16, 2006 and an additional \$1,232 on December 31, 2006. During the current administration the following amounts were transferred into fund 90300:

SCHEDULE OF FINDINGS AND QUESTIONED COSTS -- CONTINUED

Year ended June 30, 2007

**07-01 Noncompliance with Help America Vote Act (HAVA) - State Matching Requirement -
Material Weakness - CFDA 90.401 - Continued**

Management's Response -- Continued:

| | | | | | |
|-----------|----------|-----------------|-----------|-------------------|-----------|
| 3/16/2007 | \$87,253 | Interest Earned | 3/27/2007 | \$ 429,500 | Gen. Fund |
| 4/30/2007 | \$49,023 | Interest Earned | 6/27/2007 | <u>107,104</u> | Gen. Fund |
| 7/02/2007 | \$28,823 | Interest Earned | | <u>\$ 536,604</u> | |

These deposits reflect a transfer from the general fund in the amount of \$536,604 into fund 90300, and interest deposits total \$165,100. The Secretary of State will have to work with the State Treasurer and Department of Finance and Administration to determine the amount due to satisfy the match, plus interest. I concur that the \$11,000,000 state funds were appropriated and expended in 2006 for the purchase of voting equipment. Section 251 funds were made available in 2004. The state of New Mexico must satisfy the remaining match requirement, plus interest owed.

SCHEDULE OF FINDINGS AND QUESTIONED COSTS - CONTINUED

Year ended June 30, 2007

DR

**07-02 Noncompliance with HAVA - Improper Use of HAVA Funds - Material Weakness -
CFDA 90.401**

Condition:

During the period from July 1, 2006 through December 31, 2006, the prior administration inappropriately used \$29,735 in federal funds to enhance its own website. The use of these funds did not fall within the scope of HAVA 251 permissible uses because it did not benefit the HAVA program.

Criteria:

Title III Section 251 of HAVA defines permissible uses which are intended to improve the administration of federal elections in the following areas: voting system standards, provisional voting, voting information, state-wide voter database, and voter identification of first-time voters.

Cause:

The accounting department recorded the expenditure through HAVA fund 90300 instead of the general fund 18000. There was a lack of knowledge of permissible uses in connection with Section 251 funds.

Effect:

Noncompliance with federal statute HAVA Section 251. Noncompliance could effect the financial statements of the Office if the Election Assistance Commission requests repayment.

Questioned Costs:

\$29,735

Recommendation:

The Office should route questionable invoices to the special projects manager to determine if the expenditure falls within the scope of permissible uses defined by HAVA prior to coding the invoice to the HAVA fund 90300.

Management's Response:

The current administration of the Secretary of State's Office has set up a new policy for HAVA expenditures. At the time a purchase order is prepared for a HAVA expenditure, the special projects manager overseeing HAVA will work with the Finance Division to determine the correct department code for the purchase. This insures that purchases are being initiated from the correct fund and department code, and are authorized under HAVA.

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

**07-03 Noncompliance with HAVA - Equipment Management - Material Weakness –
CFDA 90.401**

Condition:

During fiscal year 2007, the prior administration did not notify county governments that title to the voting equipment purchased with HAVA funds and transferred to the counties was to be vested in the counties. County governments have not uniformly accepted title to the voting equipment, including maintenance responsibilities.

Criteria:

Ownership should be clearly communicated to avoid risk of loss and to properly record capital assets for financial reporting purposes. 41 CFR 105-71.132(d)(1) stipulates that property record information must be maintained.

Cause:

The Office's intentions with respect to the acquired voting equipment were not communicated timely to the counties. A transfer plan was not in effect.

Effect:

Voting equipment financed with HAVA funds was at risk of loss and responsibility was not assigned as voting equipment was not recorded in the property records of the counties or the Office of the Secretary of State. Noncompliance could effect the financial statements of the Office if the Grantor requested repayment.

Questioned Costs:

None

Recommendation:

Future purchases of equipment on behalf of the counties should be pursuant to an approved plan that defines whether or not the title vests with the counties or the Office of the Secretary of State. A transfer plan would include proper accounting for the equipment including maintenance.

Management's Response:

The current administration of the Office of the Secretary of State has initiated a transfer of all voting equipment to the 33 counties. So far ten (10) counties have accepted ownership. The Office of the Secretary of State is working with the Attorney General's Office to complete the transfer.

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

**07-03 Noncompliance with HAVA - Equipment Management - Material Weakness -
CFDA 90.401 - Continued**

Management's Response - Continued:

In addition, the current administration of the Office of the Secretary of State conducted a test and inventory project during the months of March 2007 through June 2007 to document all serial numbers of equipment delivered by the vendor during the purchase of the voting equipment. The Office of the Secretary of State discovered that ES&S did not deliver all equipment purchased by HAVA funds, including 25 bins, 101 PCMCIA cards and eight Version Two of the AutoMarks, that were delivered to two counties. A total of eight Version One machines need to be replaced. The Secretary of State's Office is currently working with ES&S to receive all equipment purchased by HAVA funds. To date, ES&S has delivered 25 bins, 101 PCMCIA cards and has agreed to replace the eight Version One AutoMarks with eight Version Two AutoMark machines as soon as they are available in inventory. (They are on back order).

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

**07-04 Noncompliance with HAVA - Cost Incurred Prior to Period of Availability -
Material Weakness - CFDA 90.401**

Condition:

The federal audit of HAVA reported that the prior administration used Section 251 funds of \$36,540 for costs that were incurred prior to the period of fund availability. The \$36,540 was paid to San Juan County for costs incurred in 2000 related to implementing the Voter Registration and Election Management System (VREMS). The county submitted the bill in 2005, but incurred the cost two years prior to the passage of HAVA.

Criteria:

The Office of Management and Budget Circular A-87, Attachment B, Section 31, states that to be eligible as pre-award costs, costs must be incurred:

.....prior to the effective date of award directly pursuant to the negotiation and in anticipation of the award where such costs are necessary to comply with proposed delivery schedule of period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the written approval of the awarding agency.

The EAC has concluded that for costs to qualify as pre-award costs, they must be incurred pursuant to negotiation and in anticipation of grant award. The cost must be included in a (later) approved state plan and incurred after Congress appropriated funding.

Cause:

The prior administration was unaware of HAVA regulations with respect to pre-award cost.

Effect:

Noncompliance with HAVA eligibility requirements for pre-award cost. Noncompliance could effect the financial statements of the Office if the Election Assistance Commission requested repayment.

Questioned Costs:

\$36,540

Recommendation:

We recommend the state reimburse the HAVA fund 90300 for the \$36,540 payment to San Juan County. We also recommend the state pay interest to the HAVA on the \$36,540 from the date it was received to the date it was returned to the election fund.

Management's Response:

The Secretary of State concurs with the recommendation and indicated that New Mexico would reimburse the HAVA fund 90300 for the \$36,540 plus interest.

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

**07-05 Noncompliance with HAVA Act - Tracking of Federal Expenditures -
Material Weakness - CFDA 90.401**

Condition:

The prior administration did not accurately track federal expenditures against federal awards.

The prior administration over allocated expenditures to the HAVA program under Section 101 by \$2,923,409. The HAVA program granted \$5,000,000 in advance money under Section 101; however, the Office allocated \$7,923,409 in expenditures against Section 101 when it submitted its quarterly financial status report to the Election Assistance Commission.

Criteria:

To properly administer federal programs, funding controls should be in place to ensure expenditures are charged against the correct federal award to avoid improperly using federal money and to avoid allocating expenditures in excess of the federal award. HAVA Sections 101 and 251 were awarded for different and restricted purposes.

Cause:

Federal funds granted to the State of New Mexico under Section 101 and Section 251 were not separately tracked; rather, both HAVA Section 101 and Section 251 revenues were combined and expended from fund 90300. Section 251 permissible uses were more restrictive than Section 101 permissible uses. Since the funds were combined, the Office did not realize it had over allocated expenditures to its Section 101 federal award.

Effect:

Noncompliance with HAVA program expenditure requirements could effect the financial statements of the Office if the Election Assistance Commission requested reimbursement.

Questioned Costs:

None

Recommendation:

The Office should use different funds or department codes to track the different sources of federal awards. Expenditures from HAVA funds should be reviewed by someone independent of the accounting department to ensure the expenditure meets the criteria for permissible uses defined by HAVA.

Management's Response:

The current administration has set up separate department codes for the HAVA fund to distinguish the various sections of HAVA. They are as follows:

| | |
|-------|------------------------|
| Z1010 | HAVA General |
| Z2510 | Section 251 Restricted |
| Z2610 | Section 261 Disability |

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

07-06 Noncompliance with HAVA Act - Interest of \$147,799 Earned on HAVA Funds was Not Deposited Timely into the HAVA Fund (90300) - Material Weakness - CFDA 90.401

Condition:

Interest earned on deposits into the state election fund 90300 was not accumulated correctly. The federal audit of the administration of HAVA funds reported that \$147,799 of interest was not deposited timely in the HAVA fund 90300.

Criteria:

Certain HAVA funds were paid in advance to the state election fund 90300. HAVA requires interest earned each month on corresponding funds to be deposited into the state election fund 90300.

Cause:

The former New Mexico State Treasurer did not timely transfer some monthly interest earned on HAVA funds into the state election fund. In addition, interest was not earned on the state's five percent matching requirement of \$751,568 because matching funds were not deposited into an interest-bearing account.

Effect:

Noncompliance with HAVA requirement regulating interest earned on federal funds. Noncompliance could affect the financial statements of the Office if the Election Assistance Commission asked for reimbursement. Interest is accrued on the unpaid balance.

Questioned Costs:

None

Recommendation:

The US Election Assistance Commission estimated that interest of \$147,799 was owed as of December 31, 2006. The Commission recommended the Office confirm that the \$147,799 has been deposited into the election fund.

Management's Response:

The current State Treasurer indicated that the interest earned on the HAVA funds have now been deposited into the HAVA fund 90300.

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

OR

07-07 Noncompliance with HAVA - Program Income - Significant Deficiency - CFDA 90.401

Condition:

The federal audit of HAVA reported that program income derived by the New Mexico Counties and the Office from grant supported activities including the acquisition of voting machines and the development of the statewide voter registration databases has not been properly computed or reported. The counties generate program income from charging for statistics on registered voters and from leasing HAVA financed voting machines to local governments.

Criteria:

According to the Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments (41 CFR 105-71.125), program income means gross income received by the grantee or subgrantee directly generated by a grant supported activity during the grant period and includes items such as fees from the use or rental of real or personal property acquired with grant funds. The Uniform Administrative Requirements also stipulates, in part, that the cost incident to the generation of program income may be deducted from gross income to determine program income, if authorized by Federal regulations or the grant agreement. HAVA requires that any "net income" derived from grant supported activities be used for HAVA activities.

Cause:

The prior administration of the Secretary of State and the county clerks were unaware of the requirement regarding program income.

Effect:

The current administration provided the U.S. Election Assistance Commission a listing of all program income generated using HAVA equipment. The listing contained costs incurred by the counties to generate the program income. It disclosed that the costs associated with the generation of program income far exceeded gross program income received. As such no "net income" is available for HAVA activities.

Questioned Costs:

None

Recommendation:

The U.S. Election Assistance Commission recommended the Office to continue to obtain from the County Clerks gross program income and the cost of producing that income. If any net income is reported, the SOS should direct the County Clerks to use the income for HAVA activities.

Management's Response:

The Office has calculated that there was no program income for 2007 and 2008. In addition, the Office has worked with all of the County Clerks on guidance in reporting program income on a yearly basis.

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

OR

07-08 Data Collection Form Not Submitted Timely - Significant Deficiency - CFDA 90.401

Condition:

The office did not file form SF-SAC (Data collection form), by the prescribed deadline of March 31, 2008.

Criteria:

For all agencies that undergo a single audit, standard form SF-SAC is required to be submitted to the federal clearinghouse to summarize the single audit results. OMB A-133.320 (a) requires the report to be submitted within 9 months of the date of the audit period (March 31, 2008).

Cause:

The audit report for the office was not submitted to the Office of the State Auditor until August of 2008, which was past the stated deadline. A completed audit forms the basis for filing the SF-SAC. The audit was late due to ongoing HAVA issues, delays in obtaining year end reports, from SHARE and a change in administration.

Effect:

The office was not in compliance with the filing deadline of the SF-SAC to the federal clearinghouse pursuant to A-133 standards.

Recommendation:

Atkinson & Co., Ltd. recommends that the office work closely with our staff for FY 2008 to prevent a reoccurrence of this finding by filing the required reports by the deadline.

Management's Response:

The State Auditor was informed that the due date of the audit would not be met due to the ongoing federal HAVA audit, delays in obtaining year end reports from supporting agencies, and SHARE issues. There was a change in administration and as a result:

New financial staff members were hired on to state government at the time the audit began. They both now have experience with SHARE and generating the reports necessary for the audit. A third position has also been created in the financial area to assist with the increasing workload. The financial staff is prepared to provide the auditors with the documents necessary to complete the audit in a timely manner.

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

11

OR

07-09 Noncompliance with State Procurement Code - Material Weakness - CFDA 90.401

Condition:

The US Election Assistance Commission performed an audit of the Help American Vote Act (HAVA) program and issued its report on May 2008. As part of that audit, a professional services contract relating to a voter education campaign was reviewed. The former administration of the Office of the Secretary of State paid the contractor \$6,271,810 over a period from August 2004 to October 2006. Procurement deficiencies were found to exist as noted below. The Office:

- 1) Did not inform the State's centralized procurement office of the planned purchase.
- 2) Appeared to pay the vendor at a rate higher than the rate negotiated in the amended contract.
- 3) Appeared to pay the vendor twice for producing a single video in the amount of \$186,000.
- 4) Paid the vendor in excess of the maximum amount allowed under the contract by \$323,060.
- 5) Contract amounts were paid under a Letter of Understanding that was not incorporated into the contract and which was different than the basis upon which the contract was awarded.
- 6) The contract arrangement which appears to be the basis for the contract appears to be prohibited by the procurement code.

?
7

Criteria:

The prior administration should of followed the procurement code regulations for competitive sealed proposals (1NMAC 5.2). The Office should have informed the State's centralized procurement office of the planned purchase and provided it with a copy of the RFP as provided for in the regulation (INMAC 5.2. Section 29.3).

Cause:

Negotiated contract provisions were made without regard or knowledge to the procurement requirements that applied. The overpayments were attributed to misinterpretation of the wording in the contract amendments concerning reimbursement of New Mexico gross receipts taxes. Review of billed amounts of corresponding support was not effectively made.

Effect:

Noncompliance with contract and state procurement code.

Questioned Cost:

Not able to be determined as of the date of this report. A calculation of questioned costs could follow the method outlined by the EAC immediately below.

)

SCHEDULE OF FINDINGS AND QUESTIONED COSTS - CONTINUED

Year ended June 30, 2007

7
OR

**07-09 Noncompliance with State Procurement Code - Material Weakness - CFDA 90.401 -
Continued**

Recommendation:

A memorandum from the U.S. Election Assistance Commission dated May 27, 2008 indicated the following recommendations which appear relevant.

- 1) Obtain assistance from the New Mexico Attorney General's Office on the applicable contract provisions for determining the basis of payment to Gutierrez.
- 2) Based on the determination regarding the basis of payment to Gutierrez, calculate the amount that should be paid for the voter education services that were provided.
- 3) Return to the state election fund 90300 any difference between the amount Gutierrez should have been paid in recommendation 2 above and what he was actually paid.
- 4) Calculate and pay interest into the election fund on the amount returned to the election fund in recommendation 3 for the period that it was missing from the fund.
- 5) Establish and implement procedures to ensure that the SOS follows applicable procurement laws, regulations, policies, and contract provisions in the future.

Management's Response:

The current administration of the Office of Secretary of State indicated they were working with the New Mexico Attorney General's Office to address the issues raised in the report.

7
7

SCHEDULE OF FINDINGS AND QUESTIONED COSTS - CONTINUED

Year ended June 30, 2007

OR

FINDINGS IN ACCORDANCE WITH 2.2.2. NMAC

07-10 Noncompliance with the New Mexico State Procurement Code - Significant Deficiency

Condition:

During the period from July 1, 2006 through December 31, 2006, under the oversight of the prior administration, the state procurement code was violated when a purchase of mobile voting booths in the amount of \$124,500 was made not pursuant to a competitive sealed bid, and was not preceded by an approved purchase order.

Criteria:

Section 1.4.15 of the state procurement code required the purchase to be made pursuant to a competitive sealed bid.

Cause:

For procurements related to elections, the former secretary of state may have not known the requirements of the procurement code and needed the voting booths in time for the general election held in November of 2006. The mobile voting booths were ordered directly from the vendor without executing a contract in October of 2006.

Effect:

Noncompliance with state procurement code. Competition may have been limited and other protections afforded by the procurement code were not available.

?
7

Recommendation:

We recommend the Office follow the procurement code regulations defined by the State Purchasing Division.

Management's Response:

The current administration of the Secretary of State's Office is committed to following the purchasing and financial control procedures as outlined by the state procurement code.

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

07-11 Noncompliance with State Audit Deadlines - Significant Deficiency

Condition:

The Office's audit (as well as various other state agency's audits) was not completed and delivered to the State Auditor by the audit due date of December 15, 2007. The report was received by the State Auditor on September 2, 2008.

Criteria:

2.2.2.9 (A) (4) NMAC required the audit report be delivered by December 15, 2007.

Cause:

Difficulties (beyond the control of the Secretary of State's Office) encountered with SHARE (Statewide Human Resources Accounting and Management Reporting) system required additional time to complete the audit. Ongoing HAVA audit issues required time to complete. There was a change in administration and new personnel in the financial positions.

Effect:

Noncompliance with state statutes. 2.2.2.9 (A) (4) NMAC. The users of the financial statements such as legislators, creditors, bondholders, state and federal grantors, etc., do not have timely audit reports and financial statements for their review. Late audit reports could have an effect on state and federal funding.

Recommendation:

The Office accounting department should attend additional training sessions to better understand how to timely and accurately deliver reports from SHARE in order to better facilitate the audit. The external accountant and the Office should work together to meet the deadline.

Management's Response:

The State Auditor was informed that the due date of the audit would not be met due to the on-going federal HAVA audit, delays in obtaining year end reports from supporting agencies, and SHARE issues. There was a change in administrations and as a result:

New financial staff members were hired on to state government at the time the audit began. They both now have experience with SHARE and generating the reports necessary for the audit. A third position has also been created in the financial area to assist with the increasing workload. The financial staff is prepared to provide the auditors with the documents necessary to complete the audit in a timely manner.

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

1

OR

07-12 Unencumbered Liabilities - Significant Deficiency

Condition:

During the period from July 1, 2006 through December 31, 2006, the prior administration disencumbered the budget by cancelling purchase orders in SHARE, but did not cancel the order with the vendor creating the incurrence of expenditures unsupported by an encumbered budget.

Criteria:

DFA model accounting practices require agencies to record encumbrances timely and accurately and that agencies must verify that sufficient budget is available prior to making the commitment. (C-FRAS Policies and Procedures Manual chapter 5 procurement 3.2 encumbrances).

Cause:

The Office was trying to conduct the 2006 general election using paper ballots, which required substantial expenditures relative to the size of the Office's budget. It was unaware of exceptions to the 50% budget rule.

Effect:

Noncompliance with established financial control procedures. This contributed to budget shortfalls and the creation of liabilities in the amount of \$3,504,667 as of December 31, 2006 for which no money had been encumbered to pay. The liabilities were paid after the fact creating unexpected budget requirements.

P
7

Recommendation:

We recommend the Office follow established financial control procedures to ensure sufficient funds are encumbered to pay liabilities, and expand communication with the state procurement office in such situations.

Management's Response:

The prior administration of the Office of the Secretary of State disencumbered purchase orders to comply with the 50% budget rule. The current administration of the Office of the Secretary of State is committed to following the purchasing and financial control procedures.



SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

7

3

OR

07-13 Irregular Overtime Pay - Significant Deficiency

Condition:

During the period from July 1, 2006 through December 31, 2006, the prior administration paid two FLSA exempt employees cash payments in lieu of compensatory time. Payments made to the exempt employees for overtime totaled \$7,764.

Criteria:

The policies for Governor Exempt Employees state, "Under no circumstances shall cash payments be made in lieu of compensatory time for these employees." (ESPP 20.F).

Cause:

The former Secretary of State thought the Office was not covered by the Policies for Governor Exempt Employees.

Effect:

Noncompliance with Governor Exempt policies. \$7,764 was paid out with no legal liability or requirement to pay it.

Recommendation:

Article V, Section 1 of the State Constitution makes the Secretary of State a part of the executive branch. Accordingly exempt employees within the SOS are covered by the Policies for Governor Exempt Employees. We recommend the Office follow these policies.

8

7

Management's Response:

The current administration of the Office of the Secretary of State turned this issue over to the Attorney General's office on April 13, 2007 to determine whether the state would pursue reimbursement from these individuals. We have received no written response from the Attorney General.

The current Office of the Secretary of State's administration commits to following the Policies for Governor Exempt employees. The current administration has established a Policies and Procedures manual which clearly defines this compliance.



SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

07-14 Reversions - Significant Deficiency

Condition:

During the period from January 1, 2007 through June 30, 2007, the Office did not make their fiscal year 2007 reversion of \$196,808 as of September 30, 2007.

Criteria:

In accordance with Section 6-5-10, NMSA 1978, all unreserved, undesignated fund balances in reverting funds and accounts as of June 30 shall revert by September 30 to the state general fund. The division may adjust the reversion within 45 days of release of the audit report for that fiscal year.

Cause:

The Office did not revert funds. Final audited figures were necessary to calculate the reversion.

Effect:

Noncompliance with State Statute. Unreverted funds are not available to the state general fund for operating purposes or for investment purposes.

Recommendation:

The Office should revert all unused, unencumbered funds in accordance with Section 6-5-10, NMSA 1978.

Management's Response:

The current administration has been working with DFA to comply with this finding; however, per finding 07-19 (SHARE error), funds will not be available to revert. The FY 2007 audited figures are necessary prior to any reversions being made. The policy will be complied with in the future.

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

**FINANCIAL STATEMENT AUDIT FINDINGS REQUIRED BY GOVERNMENT AUDITING
STANDARDS**

07-15 Financial Statements Adjustments Not Previously Recorded - Material Weakness

Condition:

The financial statements were subject to certain adjustments, made by external auditors at year-end. Such adjustments should be made during the year for correct reporting.

- Federal revenues were not recorded when federal expenditures were made during the year. Accounts were unchanged from the beginning of the year.
- The Office did not reconcile balances in due to state general fund, payroll taxes payable, other liabilities and due from federal award accounts in SHARE to known financial transactions during the year.
- Adjustments were made to the prior year to correct errors in accounts payable, election equipment held for counties, deferred review and special appropriations.

No supporting documentation existed at the Office at year-end to support balances in SHARE for the above accounts. Support for these balances had to be obtained from outside agencies including the State Treasurer's Office, Department of Finance and Administration, and the Election Assistance Commission.

Criteria:

The recipient government should recognize revenue received in advance from a government mandated program (HAVA) when expenses associated with the program are incurred (GASB 33, paragraph 21). Per the Model Accounting Practices (MAPS) reconciliations should be performed between accounts and SHARE ledgers on an ongoing basis. Pursuant to Chapter 20, Part 5, NMSA 1978, state agencies must maintain accounting records timely, completely, and accurately.

Cause:

The Office did not apply its revenue recognition policy during fiscal year 2007. The Office did not have in place a process to reconcile key accounts on its financial statements in the prior year continuing through the current year.

Effect:

Adjustments were required to restate deferred and federal revenue amounts recorded during fiscal year 2007. Adjustments were made to correctly state various account balances including prior period reporting. Financial statement reporting was incomplete and of limited use to management and others during the year. Management of federal revenues may have been impacted.

SCHEDULE OF FINDINGS AND QUESTIONED COSTS - CONTINUED

Year ended June 30, 2007

M

3

18

TOR

**07-15 Financial Statements Adjustments Not Previously Recorded - Material Weakness -
Continued**

Recommendation:

We recommend the Office's revenue recognition as described in Note A be consistently applied and the accounting department periodically review amounts recorded for federal revenues and deferred revenues during the course of the fiscal year to ensure compliance with stated policy. We recommend the closing procedures outlined by DFA be utilized on a monthly close process. The year-end process should include a reconciliation of key accounts.

Management's Response:

The current administration of the Office of the Secretary of State is working with the New Mexico Department of Finance and Administration to make these adjustments for FY2007. In the future, federal revenues will be recorded when expenses are incurred and reconciliations performed.

18

17

)

M
3
18
TOR

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

07-16 Financial Statements Not Prepared by Management - Significant Deficiency

Condition:

The Office did not prepare its own financial statements and related disclosures.

Criteria:

It is management's responsibility to have a control structure in place that will allow the Office to draft a full set of financial statements and related disclosures in conformity with accounting principles generally accepted in the United States of America. Under Statement of Auditing Standards No. 112, it is considered a control deficiency if an entity cannot prepare their own financial statements including footnote disclosures.

Cause:

The Chief Financial Officer (CFO) position was a newly created position by the current administration, which was hired at the end of the fiscal year. She was not able to prepare the financial statements due to timing, SHARE workload and external audit requirements of HAVA. The Office relied on the auditor to prepare their financial statements.

Effect:

An internal control deficiency exists in relation to the control structure over financial reporting.

Recommendation:

We recommend that management begin to develop an internal control function that will allow for preparation of the financial statements in accordance with generally accepted accounting principles.

18
17

Management's Response:

This was a new requirement for FY2007. The Chief Financial Officer (CFO) position was a newly created position by the current administration, which was hired at the end of the fiscal year and worked with HAVA and the federal auditors to comply with the required correspondence, reports, etc. and was not able to prepare the financial statements. However, the Office of the Secretary of State now has the staffing and will be ready to prepare our own financial statements for FY2008.

M

D

108

EDITOR

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

17-17 Improper Posting of Notary Fees - Significant Deficiency

Condition:

During the period from July 1, 2006 through December 31, 2006, the prior administration posted notary fees into the general operating fund 18000, rather than fund 79900. Total deposits made in error were \$607,699.

Criteria:

The Office's internal policies require the fees to be deposited into Fund 79900. Fund 79900 was created in order to account for notary and other fees deposited at the Office of the Secretary of State. Fund 79900 is a fiduciary fund type, an agency fund that is used to report assets held on behalf of the state general fund. These funds are not available to support Secretary of State activities and thus should not be accounted for in the general operating fund.

Cause:

The Office posted the notary fees into fund 18000 in error.

Effect:

The State relationship between the Secretary of State and the state general fund is not properly being reflected in SHARE. The funds were delayed in reaching the state general fund. Also the Department of Finance and Administration has not been able to sweep notary funds deposited recorded into fund 18000 as it is not authorized to sweep notary fees from the Office's general operating fund.

18

17

Recommendation:

We recommend the Office transfer \$607,666 in notary fees recorded in general operating fund 18000 into the designated notary fund 79900.

Management's Response:

The current administration of the Office of the Secretary of State will work with the Department of Finance and Administration to transfer the fees to the proper fund. Reconciliations are now being performed on a monthly basis to insure that the fees are going into the correct fund.



M
D
008
DIRECTOR

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

7-18 Capital Assets Listing Not Prepared Timely/Not Reconciled to Physical Inventory Listing - Material Weakness

Condition:

The Office noted the capital asset listing and depreciation schedules as of June 30, 2007 were not prepared until January of 2008 and could not be reconciled to the capital asset listing.

Criteria:

GAFA model accounting practices state that agencies must reconcile the physical inventory results with the physical inventory list. Any adjustments that result from the inventory of capital assets should be recorded in the agency accounting records. These adjustments should be made immediately after the count is taken. (C-FRAS Policies and Procedures Manual, Chapter 4, Property Plant and Equipment, 3.4, D2).

Cause:

The Office did not prepare its capital asset listing and depreciation schedule timely because the administration changed half-way through the year. Additionally, the CFO could not reconcile existing capital asset listings to the physical inventory listings because of complex voting machine acquisition and ownership issues.

Effect:

Noncompliance with established financial control procedures. Capital assets could be a risk of loss.

28
27

Recommendation:

We recommend the Office follow established financial control procedures so that the accounting records accurately reflect assets held at year end and depreciation is accurately recorded as of the reporting date.

Management's Response:

An inventory of capital assets was conducted in May 2007 by the current administration of the Office of the Secretary of State, including testing and inventory of all newly acquired voting equipment throughout the state. A procedure has been initiated where the capital asset listing will be reconciled with the physical inventory of capital assets prior to the end of each fiscal year. This is now in compliance.



M

D

008

ITOR

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

07-19 Payroll Disbursement Posted in Public Election Fund - Significant Deficiency

Condition:

During the period from July 1, 2006 through December 31, 2006, payroll tax and benefit disbursements were posted through the public election fund 81200. The amount of the disbursements totaled \$156,864.

Criteria:

Payroll tax and benefit disbursements should be posted through the general fund 18000 as this is the designated fund for that purpose.

Cause:

Payroll disbursements were incorrectly posted through the public election fund creating debit balances in the payroll taxes payable and other liabilities accounts.

Effect:

Adjustments had to be made to the financial statements to reflect amounts owed to the public election fund from the general fund as a result of the erroneous posting requiring additional audit effort.

Recommendation:

We recommend the Office reimburse the public election fund 81200, \$156,864 from the general fund 18000 for the payroll taxes and benefit disbursements paid.

08

07

Management's Response:

Research revealed that an error in SHARE lead to final annual leave balances being paid out of fund 81200 when an employee left the Office. This has now been corrected. The Office of the Secretary of State will work with the Department of Finance and Administration to reimburse fund 81200.



SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

07-20 Unauthorized use of Voter Registration Oracle Database Licenses - Significant Deficiency

Condition:

The prior administration of the Secretary of State during fiscal years 2005, 2006 and 2007, utilized 12 processors without sufficient licenses to cover usage. The Secretary of State contract with Oracle USA, Inc.'s License Management Services Group ("LMS") only granted licenses to use 4 processors for the statewide Voter Registration Election Management System. The effect was a material breach of contract in the amount of \$219,765.

Criteria:

The criterion for usage or processors and cost usage was detailed in the contract between Oracle and the Secretary of State. Generally accepted governmental auditing standards and contract law requires compliance. All payments to vendors shall be correct and timely and be for services rendered - 2.20.5.8.C(8) NMAC 1978.

Cause:

The prior administration did not advise Oracle that they had incremented their licensing from 4 processors to 12 processors.

Effect:

The current administration had to request authorization to utilize monies appropriated by the legislature for prior year election expenses to pay the vendor the amount owed under the contract.

Management Response:

The current administration of the Office of the Secretary of State discovered that the prior administration had not advised Oracle in late 2004 that they were adding eight processors to the four processors already in use for the Voter Registration Election Management System (VREMS). As a result, for fiscal years 2005, 2006 and 2007, the Secretary of State's Office paid Oracle processor software licensing fees for only four servers instead of twelve. The result was the discovery of an outstanding balance due in the amount of \$219,765.

The current administration of the Office of the Secretary of State worked with the Board of Finance and the Department of Finance and Administration to utilize a balance of \$182,896 from a 2007 Special Appropriation to make a partial payment.

Oracle, through its wholesaler, Mythics, worked with the Secretary of State's Office and allowed New Mexico, in a good faith effort, to pay the aforementioned \$182,896. The balance of \$36,869, plus accrued interest, will remain due until such time as we are able to request and obtain a special appropriation in the next session of the New Mexico legislature. The understanding between the Secretary of State's Office and Oracle, through its wholesaler Mythics, is that the remaining balance is due in July 2009. This, in effect, is when an appropriation authorized by the New Mexico legislature would be available for payment.

M
D
08
ITOF

08
07

2

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

M

D

08

ITOR

PRIOR YEAR AUDIT FINDINGS – 2.2.2. NMAC

06-01 Reversions - Significant Deficiency, Noncompliance - Unresolved - Repeated

Condition:

The prior administration did not make their 2006 reversion of \$29,534 as of September 30, 2006. It has not been reverted as of July 31, 2007.

Criteria:

In accordance with Section 6-5-10, NMSA 1978, all unreserved, undesignated fund balances in reverting funds and accounts as of June 30 shall revert by September 30 to the state general fund. The division may adjust the reversion within 45 days of release of the audit report for that fiscal year.

Cause:

The Office did not revert funds.

Effect:

Unreverted funds are not available to the state general fund or for investment purposes.

Recommendation:

The Office should revert all unused, unencumbered funds in accordance with the State Statute.

08

Management's Response:

The FY2006 reversion was never posted by the prior administration. The Office of the Secretary of State will work with the Department of Finance and Administration to insure the FY2006 reversion is posted.

07

FINANCIAL STATEMENT PREPARATION AND EXIT CONFERENCE

Year ended June 30, 2007

Financial Statement Preparation

The financial statements were prepared by the independent certified public accounting firm performing the audit. Management is responsible for ensuring that the books and records adequately support the preparation of financial statements in accordance with generally accepted accounting principles and that records are current and in balance. Management has reviewed and approved the financial statements.

Exit Conference

An exit conference was held on June 20, 2008, to discuss the audit. The following individuals were in attendance:

State of New Mexico - Office of the Secretary of the State

Mary Herrera – Secretary of the State
Don Francisco Trujillo, II – Deputy Secretary of the State
Dianne Brown – CFO

Independent Auditor - Atkinson & Co., Ltd.

Martin Mathisen, CPA, Audit Director
Morgan Browning, CPA, Audit Staff

M
D
108
ITOR

18
17