

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY

REPORT ON EXAMINATION OF FINANCIAL STATEMENTS
AND
SUPPLEMENTARY INFORMATION

JUNE 30, 2004

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FIERRO & FIERRO, P.A.

Certified Public Accountants • 527 Brown Road • Las Cruces, NM 88005 • (505) 525-0313 • FAX (505) 525-9708

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State of New Mexico
OFFICE OF THE STATE AUDITOR

Domingo P. Martinez, CGFM
State Auditor

Carl M. Baldwin, CPA, CFE
Deputy State Auditor

February 7, 2005

SAO Ref. No. 253

Honorable Susana Martinez, District Attorney
Third Judicial District Attorney
201 West Picacho, Suite B
Las Cruces, NM 88005

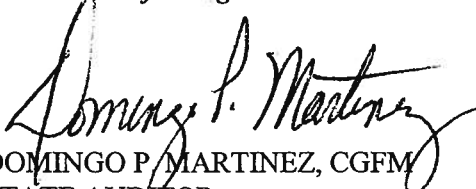
SUBJECT: Audit Report—Third Judicial District Attorney—2003-2004 Fiscal Year—Prepared by Fierro & Fierro, PA

Your agency audit report was received by the Office of the State Auditor (Office) on December 15, 2004. The State Auditor examination of the audit report required by Section 12-6-14 (D), NMSA 1978, has been completed. This letter is the authorization to make the final payment to the independent public accountant (IPA) who contracted to perform the agency's financial and compliance audit. In accordance with the Section 2 (B) of the audit contract, the IPA will deliver the specified number of copies of the audit to the agency.

Per Section 12-6-5 (A), NMSA 1978, **the audit report does not become public record until ten days after the date of this letter.** Once the ten day waiting period has passed the audit report shall be:

- released by the Office of the State Auditor to the Legislative Finance Committee, the Department of Finance and Administration, and the State Treasurer; and
- presented by the agency to a quorum of the agency's governing authority at a public meeting, for approval, per Section 2.2.2.10 K. (3) (d) of 2.2.2 NMAC *Requirements for Contracting and Conducting Audits of Agencies.*

The independent public accountant's findings and comments are included in the audit report on pages 47 - 50. ***It is ultimately the responsibility of the governing authority of the agency to take corrective action on all findings and comments.***


DOMINGO P. MARTINEZ, CGFM
STATE AUDITOR

cc: Legislative Finance Committee
Department of Finance and Administration
Financial Control Division & Budget Division
Office of the State Treasurer
Fierro & Fierro, PA

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
LIST OF PRINCIPAL OFFICIALS
JUNE 30, 2004

GENERAL FUND ATTORNEYS

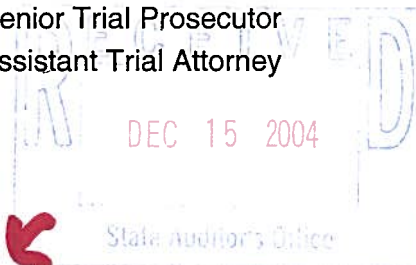
Susana Martinez	District Attorney
Susan Riedel	Chief Deputy District Attorney
Janetta Hicks	Deputy District Attorney
Amy Orlando	Deputy District Attorney
Jeff Lahann	Deputy District Attorney
Michael Cain	Assistant Trial Attorney
Heather Chavez	Assistant Trial Attorney
Anna Marie Delovato	Assistant Trial Attorney
Jeanne Quintero	Assistant Trial Attorney
Lisa Roybal	Senior Trial Prosecutor
Lara Smalls	Assistant Trial Attorney
Michael Wallace	Senior Trial Prosecutor
Richard Wellborn	Senior Trial Prosecutor
Laura Young	Associate Trial Attorney

GRANT ATTORNEYS

K. Jan Peterson	Deputy District Attorney
Jacinto Palomino	Associate Trial Attorney
Nelson Goodin	Associate Trial Attorney
Thomas Clark	Senior Trial Prosecutor
Terese Lahann	Senior Trial Prosecutor
Daniel Sewell	Associate Trial Attorney
Christopher Walker	Senior Trial Prosecutor
James Dickens	Senior Trial Prosecutor
Keythan Park	Assistant Trial Attorney

ADMINISTRATIVE STAFF

Kelly Kuenstler	District Office Manager
Beverlye J. Zubia	Chief Financial Officer



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STATE AUDITOR

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
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THIRD JUDICIAL DISTRICT ATTORNEY
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Independent Auditors' Report

Domingo P. Martinez, CGFM, State Auditor
and
Susana Martinez, District Attorney
State of New Mexico, Third Judicial District
Las Cruces, New Mexico

We have audited the accompanying financial statements of the governmental activities, each major fund, the aggregate remaining fund information, and each major fund budgetary information of the state of New Mexico Third Judicial District Attorney, as of and for the year ended June 30, 2004, which collectively comprise the Third Judicial District Attorney's basic financial statements as listed in the table of contents. We have also audited the aggregate nonmajor governmental funds, nonmajor governmental funds budgetary information and the fiduciary funds presented as supplementary information in the accompanying combining and individual fund financial statements as of and for the year ended June 30, 2004, as listed in the table of contents. These financial statements are the responsibility of the state of New Mexico Third Judicial District Attorney's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As discussed in Note 1, the financial statements of the state of New Mexico Third Judicial District Attorney, are intended to present the financial position, and the changes in financial position and cash flows, where applicable, of only that portion of the governmental activities, each major fund, and the aggregate remaining fund information of the state of New Mexico that is attributable to the transactions of the Third Judicial District Attorney. They do not purport to, and do not, present fairly the financial position of the state of New Mexico as of June 30, 2004, 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.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, each major fund, and the aggregate remaining fund information of the Third Judicial District Attorney, as of June 30, 2004, and the respective changes in financial position, and the respective budgetary comparison information for the general and DCSI grants funds, thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America. In addition, in our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of each nonmajor governmental, and fiduciary fund of the state of New Mexico Third Judicial District Attorney, as of June 30, 2004, and the respective changes in financial position and respective budget comparison thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America.

The accompanying management's discussion and analysis on pages three through six, is not a required part of the basic financial statements but is supplemental information required by the 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.

In accordance with *Government Auditing Standards*, we have also issued our report dated November 30, 2004, on our consideration of the Third Judicial District Attorney's internal control over financial reporting and 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.

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the Third Judicial District Attorney's basic financial statements. The accompanying schedule of encumbrances and the schedule of changes in assets and liabilities-agency funds are presented for purposes of additional analysis and is not a required part of the basic financial statements. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by 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 basic financial statements of the Third Judicial District Attorney. The supplementary information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, are fairly stated in all material respects in relation to the basic financial statements taken as a whole.



Fierro & Fierro, P.A.
Las Cruces, New Mexico

November 30, 2004

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
MANAGEMENT'S DISCUSSION AND ANALYSIS
JUNE 30, 2004

The Third Judicial District Attorney's Office discussion and analysis is designed to provide an overview of the office's activities and programs resulting in financial planning and expenditure of the annual budget.

HIGHLIGHTS

Financial Highlights

Results of Operation (Statement of Activities)

Change in Net Assets: The Third Judicial District Attorney's Office total revenue increased by approximately 80.31% from \$3,557,300 to \$6,414,025. Total expenditures increased by approximately 34.80% from \$3,584,731 to \$4,832,158.

General Fund Budgetary Highlights

The State Legislature makes annual appropriations to the Office of the Third Judicial District Attorney. Amendments to the budget require approval by the Budget Division of the Department of Finance & Administration (DFA). Over the course of the year, the Third Judicial District Attorney's Office did not revise its general fund budget.

Other Fund Budgetary Highlights

The agency submitted for approval three budget adjustments to account for the Southwest Border Prosecution Initiative (SWBPI) of \$3,020,000.

Overview of the Financial Statements

The financial statements consist of the following government-wide financial statements, governmental funds statements and a statement reconciling the above mentioned statements.

Basic Financial Statements (Statement of Net Assets and Statement of Activities)

Basic financial statements report information about the Third Judicial District Attorney's Office as a whole using accounting methods similar to those used by private sector companies. The statement of net assets includes all of the government assets and liabilities. All of the current year's revenues and expenses are accounted for in the statement of activities regardless of when cash is received or paid. The basic financial statements report the Third Judicial District Attorney's Office net assets and how the fund financial statements provide more detailed information about the Third Judicial District Attorney's Office significant funds. Funds are accounting devices that the Third Judicial District Attorney's Office uses to keep track of specific sources of funding and spending for particular purposes.

The Third Judicial District Attorney's Office operates on its state general fund appropriations, federal and state grants and awards, and assistance from local governments; e.g., City of Las Cruces for grant match purposes.

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
MANAGEMENT'S DISCUSSION AND ANALYSIS
JUNE 30, 2004**

Overview of the Financial Statements (continued)

Analysis of Financial Position (Statement of Net Assets)

Total Assets:	Consists of cash of \$1,448,259 on deposit with the state treasurer, grant receivables of \$182,023 and capital assets, net of accumulated depreciation of \$370,239. Total assets are \$2,000,521.
Total Liabilities:	Consists of current liabilities \$334,709 and long-term liabilities of \$168,389 for total liabilities of \$503,098.
Net Assets:	Consists of \$370,239 invested in capital assets and \$1,127,184 unrestricted.
Total Revenues:	Consists of \$6,414,025 for operational purposes. State general fund appropriations of \$2,651,293 and federal awards of \$3,762,732 provide the majority of revenue.
Total Expenses:	Consists of \$3,414,351 for employee salaries and benefits, \$1,338,254 for operating costs, and \$79,555 for depreciation.
Change in Net Assets:	The agency's total revenue increased by approximately 80.31% from \$3,557,300 to \$6,414,025. Total expenditures increased by approximately 34.80% from \$3,584,731 to \$4,832,158.

*Analysis of the Third Judicial District Attorney's
Overall Financial Position and Results of Operation*

There are significant changes in the Third Judicial District Attorney's financial position (Statement of Net Assets) and operations (Statement of Activities) from the prior year. Total assets increased by approximately 334.26% from \$460,671 to \$2,000,521. Total net assets increased by \$1,581,865 from a deficiency of \$84,442 to \$1,497,423.

AGENCY HIGHLIGHTS

The Third Judicial District is comprised of Doña Ana County, New Mexico. The area is unique in that the County's south boundary borders Mexico, and the County's southeast boundary borders El Paso, Texas. Furthermore, Interstate 10 and Interstate 25 intersect in the heart of the County. Las Cruces, New Mexico, the County's largest city, is home to New Mexico State University, which currently has an annual enrollment of approximately 17,000 persons.

The District is composed of seven (7) District Court Judges, five (5) Magistrate Court Judges, two (2) Municipal Court Judges, and two (2) Domestic Violence Hearing Commissioners. The District Attorney's Office currently has sixty one (61) full time employees; twenty four (24) of which are prosecutors. The current total caseload for the office is approximately 3,500 cases. It is anticipated that this caseload could increase due to the population's continued growth in Doña Ana County.

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
MANAGEMENT'S DISCUSSION AND ANALYSIS
JUNE 30, 2004**

AGENCY HIGHLIGHTS (continued)

The Third Judicial District Attorney's Office contains a variety of programs. A Juvenile and Adult Pre-Prosecution Diversion Program operates for first time offenders who commit non-violent crimes. A Worthless Check Program is maintained for worthless check writers who are willing to pay restitution within a short time frame and in turn, prosecution is waived. The Office also has a Victim Assistance Program, which is offered to all victims of non-violent or violent crimes. A Domestic Violence Program is running and active in the rural areas of Doña Ana County in an effort to reach victims of domestic violence who are unable to process their cases due to transportation and logistical problems.

The Office is also very involved in community organizations such as the County's Juvenile and Adult Drug Court Programs, Teen Court, the local Weed and Seed Program and the Mesilla Valley Safety Council. Prosecutions include non-violent felonies, violent felonies, misdemeanor and felony domestic violence cases, felony drug offenses, mental health commitments, and fugitives from justice and forfeiture cases.

Finally, this year the Office has received significant awards from the Southwest Border Prosecution Initiative. This has enabled the agency to purchase up-to-date technology equipment not only for itself, but also for all surrounding law enforcement agencies that bring in criminal cases to the District Attorney's office. Furthermore, the efforts of this agency in acquiring Southwest Border Prosecution Funds has saved the state of New Mexico's general appropriations considerable money, in that this office has purchased a large part of the Statewide Case Management System for district attorneys statewide.

Our office's caseload and progress are measured through the following core measurements through the Department of Finance and Administration's Performance Based Budgeting System.

Core Measurements:

<u>Fiscal Year 2004 Target Level</u>	<u>Fiscal Year 2004 Year End Result</u>	<u>Measure</u>
-	7.3 months	Average time from filing of charges to final disposition.
4000	5861	Number of cases referred for screening.
3250	3842	Number of cases prosecuted.
145	171	Average number of cases prosecuted per attorney.
0.50%	0.00078%	Percent of cases dismissed on the six-month rule.
130	260	Average attorney caseload.

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
MANAGEMENT'S DISCUSSION AND ANALYSIS
JUNE 30, 2004**

In addition to the core measurements utilized by district attorneys statewide, the Office of the Third Judicial District Attorney has chosen to measure its performance in other ways as well. The measurements below are used as a management tool and a means for evaluating the progress of the office.

Other Measurements:

Fiscal Year 2004 Target Level	Fiscal Year 2004 Year End Result	Measure
320	2930.5	Average investigator caseload.
90%	90%	Percentage of offenders successfully completing the Pre-Prosecution Diversion Program.
320	702	Number of probation violations filed.
450	411	Number of drug cases prosecuted.
450	427	Number of offenders accepted into the Worthless Check Program.
2250	1701	Number of cases involving victims.
560	1465.25	Average victim advocate caseload.
250	2366	Number of attorney trial days.
6000	11,423	Number of attorney court (hearing) days.
60	89	Number of extradited fugitives (to and from respective jurisdictions).
50	190	Number of offenders accepted into the Pre-Prosecution Diversion Program.

In conclusion, it is apparent from the additional measures the Third Judicial District Attorney's Office utilizes that running an office based on performance measures is important to the management of the agency. Analyzing these targets and the agency's level of performance is imperative to running an effective prosecutor's office.

**STATE OF NEW MEXICO
 THIRD JUDICIAL DISTRICT ATTORNEY
 STATEMENT OF NET ASSETS
 JUNE 30, 2004**

	Governmental Activities
ASSETS	
Cash	\$ 1,448,259
Grant receivables	182,023
Capital assets, net of accumulated depreciation	370,239
Total assets	2,000,521
 LIABILITIES	
Bank overdraft	176,615
Accounts payable	48,532
Accrued payroll	108,736
Due to state general fund	826
Long-term liabilities:	
Due in one year	141,098
Due in more than one year	27,291
Total liabilities	503,098
 NET ASSETS	
Invested in capital assets	370,239
Unrestricted	1,127,184
Total net assets	\$ 1,497,423

The accompanying notes are an integral part of these financial statements.

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED JUNE 30, 2004**

<u>Functions/Programs</u>	<u>Expenses</u>	<u>Program Revenues</u>		<u>Net (Expenses) Revenues and Changes in Net Assets</u>	
	<u>Charges for Services</u>	<u>Operating Grants and Contributions</u>	<u>Capital Grants and Contributions</u>	<u>Governmental Activities</u>	
Primary government:					
Governmental activities:					
Public safety	\$ 4,832,160	\$ -	\$ 3,762,732	\$ -	\$ (1,069,428)
General revenues:					
State general fund appropriations				2,651,293	
Change in net assets				1,581,865	
Net assets, beginning of year				(84,442)	
Net assets, end of year				\$ 1,497,423	

The accompanying notes are an integral part of these financial statements.



**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
BALANCE SHEET
GOVERNMENTAL FUNDS
JUNE 30, 2004**

ASSETS	Major Funds			Total
	General Fund	DCSI Fund	Non-Major Funds	
Cash	\$ 87,009	\$ 1,361,250	\$ -	\$ 1,448,259
Grant receivables	-	-	182,023	182,023
Due from other funds	-	548	11,407	11,955
Total assets	\$ 87,009	\$ 1,361,798	\$ 193,430	\$ 1,642,237
LIABILITIES AND FUND BALANCES				
Liabilities:				
Bank overdraft	\$ -	\$ -	\$ 176,616	\$ 176,616
Accounts payable	2,457	46,075	-	48,532
Accrued payroll	74,812	14,868	19,055	108,735
Due to other funds	11,407	-	548	11,955
Due to state general fund	826	-	-	826
Total liabilities	89,502	60,943	196,219	346,664
Fund Balances:				
Unreserved	(2,493)	1,300,855	-	1,298,362
Unreserved, reported in nonmajor funds:				
Special revenue funds	-	-	(2,789)	(2,789)
Total fund balances	(2,493)	1,300,855	(2,789)	1,295,573
Total liabilities and fund balances	\$ 87,009	\$ 1,361,798	\$ 193,430	\$ 1,642,237

The accompanying notes are an integral part of these financial statements.

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
RECONCILIATION OF THE BALANCE SHEET
GOVERNMENTAL FUNDS
TO THE STATEMENT OF NET ASSETS
JUNE 30, 2004**

Amounts reported for governmental activities in the statement of net assets are different because:

Total fund balance governmental funds (page nine)	\$ 1,295,573
Capital assets used in governmental activities are not financial resources and therefore are not reported in the funds.	370,239
Long term liabilities, including compensated absences, are not due and payable in the current period and therefore are not reported in the funds.	<u>(168,389)</u>
Net assets of governmental activities (page seven)	<u><u>\$ 1,497,423</u></u>

The accompanying notes are an integral part of these financial statements.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES
GOVERNMENTAL FUNDS
FOR THE YEAR ENDED JUNE 30, 2004

	<u>Major Funds</u>		<u>Total Non-Major Funds</u>	<u>Total Governmental Funds</u>
	<u>General Fund</u>	<u>DCSI Grants Fund</u>		
Revenues:				
State general fund appropriations	\$ 2,651,293	\$ -	\$ -	\$ 2,651,293
Governmental grants	-	3,032,256	730,476	3,762,732
Total revenues	2,651,293	3,032,256	730,476	6,414,025
Expenditures:				
Public Safety:				
Current:				
Personnel services	2,449,890	246,474	687,436	3,383,800
Contractual services	26,700	-	35,670	62,370
Other costs	177,196	1,067,472	13,480	1,258,148
Capital outlay	-	416,140	-	416,140
Total expenditures	2,653,786	1,730,086	736,586	5,120,458
Excess (deficiency) of revenues over expenditures	(2,493)	1,302,170	(6,110)	1,293,567
Other Financing Sources (Uses):				
Transfers to administrative office of District Attorney's	-	(5,000)	-	(5,000)
Net changes in fund balance	(2,493)	1,297,170	(6,110)	1,288,567
Fund balances, beginning of year	-	3,685	3,321	7,006
Fund balances, end of year	\$ (2,493)	\$ 1,300,855	\$ (2,789)	\$ 1,295,573

The accompanying notes are an integral part of these financial statements.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
RECONCILIATION OF STATEMENT OF REVENUES, EXPENDITURES
CHANGES IN FUND BALANCES
OF GOVERNMENTAL FUNDS TO THE STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED JUNE 30, 2004

Amounts reported for governmental activities in the statement of activities are different because:

Net change in fund balances total governmental funds (page eleven)		\$ 1,288,567
Governmental funds report capital outlays as expenditures, however, in the statement of activities, the cost of those assets is allocated over their estimated useful lives as depreciation expense. The amount by which capital outlay (\$416,140) exceeded depreciation (\$79,555) in the current period is:		336,585
Some expenses reported in the statement of activities do not require the use of current financial resources and, therefore, are not reported as expenditures in governmental funds.		<u>(43,287)</u>
Change in net assets of governmental activities (page eight)		<u><u>\$ 1,581,865</u></u>

The accompanying notes are an integral part of these financial statements.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
SCHEDULE OF REVENUES AND EXPENDITURES
BUDGET (NON-GAAP BUDGETARY BASIS) AND ACTUAL ON BUDGETARY BASIS
GENERAL FUND
FOR THE YEAR ENDED JUNE 30, 2004

	<u>Budget Original</u>	<u>Budget Final</u>	<u>Actual on Budgetary Basis</u>	<u>Variance Favorable (Unfavorable)</u>
Revenues:				
General and expert witness Compensation package	\$ 2,611,800	\$ 2,611,800	\$ 2,611,800	\$ -
	<u>-</u>	<u>39,493</u>	<u>39,493</u>	<u>-</u>
Total revenues	2,611,800	2,651,293	2,651,293	-
Expenditures:				
Personnel services	2,407,000	2,446,493	2,449,890	(3,397)
Contractual services	26,700	26,700	26,700	-
Other costs	<u>178,100</u>	<u>178,100</u>	<u>177,196</u>	<u>904</u>
Total expenditures	<u>2,611,800</u>	<u>2,651,293</u>	<u>2,653,786</u>	<u>(2,493)</u>
Excess (deficiency) of revenues over expenditures	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (2,493)</u>	<u>\$ (2,493)</u>

The accompanying notes are an integral part of these financial statements.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
SCHEDULE OF REVENUES AND EXPENDITURES
BUDGET (NON-GAAP BUDGETARY BASIS) AND ACTUAL ON BUDGETARY BASIS
DCSI GRANTS FUND
FOR THE YEAR ENDED JUNE 30, 2004

	<u>Budget Original</u>	<u>Budget Final</u>	<u>Actual on Budgetary Basis</u>	<u>Variance Favorable (Unfavorable)</u>
Revenues:				
Governmental grants	\$ 67,200	\$ 3,032,257	\$ 3,032,256	\$ (1)
Expenditures:				
Personnel services	62,800	812,490	246,474	566,016
Other costs	4,400	2,214,767	1,483,612	731,155
Total expenditures	<u>67,200</u>	<u>3,027,257</u>	<u>1,730,086</u>	<u>1,297,171</u>
Excess of revenues over expenditures	<u>-</u>	<u>5,000</u>	<u>1,302,170</u>	<u>1,297,170</u>
Other Financing Sources (Uses):				
Transfers to the administrative office of District Attorney's	<u>-</u>	<u>(5,000)</u>	<u>(5,000)</u>	<u>-</u>
Excess of revenues over expenditures and other financing sources (uses)	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 1,297,170</u>	<u>\$ 1,297,170</u>

The accompanying notes are an integral part of these financial statements.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
STATEMENT OF FIDUCIARY NET ASSETS
FIDUCIARY FUNDS
JUNE 30, 2004

	<u>Agency Funds</u>
ASSETS	
Cash	\$ 2,526
Total assets	2,526
 LIABILITIES	
Accounts payable and other liabilities	2,526
Total liabilities	2,526
 NET ASSETS	
Held in trust for:	
Individuals and other governments	-
Total net assets	\$ -

The accompanying notes are an integral part of these financial statements.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The financial statements of the Third Judicial District Attorney have been prepared in conformity with generally accepted accounting principles (GAAP) as applied to government units. The Government Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. The more significant of the government's accounting policies are described below.

A. Reporting Entity

The Third Judicial District Attorney (District Attorney) is given his authority under Section 24 of the New Mexico State Constitution and Sections 36-1-1 through 36-1-27 of the New Mexico State Statutes Annotated, 1978 Compilation, and is a component unit of the state of New Mexico. The District Attorney is elected to serve a four-year term by the qualified voters within the District, which comprises all of Doña Ana County. The function of the District Attorney involves criminal prosecutions of violators of state law and civil representation and advice to the counties served and the officers thereof.

The District Attorney's basic financial statements include all activities and accounts of the District Attorney's "financial reporting entity."

The financial reporting entity consists of the primary government, and another organization for which the nature and significance of their relationship with the primary government are such that exclusion would cause the reporting entity's financial statements to be misleading or incomplete.

The definition of the reporting entity is based primarily on the notion of financial accountability. A primary government is financially accountable for the organizations that make up its legal entity. It is also financially accountable for legally separate organizations if its officials appoint a voting majority of an organization's governing body, and either it is able to impose its will on that organization, or there is a potential for the organization to provide specific financial benefits to, or impose specific financial burdens, on the primary government. A primary government may also be financially accountable for governmental organizations that are fiscally dependent on it.

A primary government has the ability to impose its will on an organization if it can significantly influence the programs, projects, activities, or level of services performed or provided by the organization. A financial benefit or burden relationship exists if the primary government (a) is entitled to the organization's resources; (b) is legally obligated or has otherwise assumed the obligation to finance the deficits of, or provide financial support to, the organization; or (c) is obligated in some manner for the debt of the organization.

The District Attorney's Office has no component units.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

B. Government-Wide and Fund Financial Statements

The government-wide financial statements (i.e., the statement of net assets and the statement of changes in net assets) report information on all of the nonfiduciary activities of the primary government and its component unit. For the most part, the effect of interfund activity has been removed from these statements. *Governmental activities*, which normally are supported by taxes and intergovernmental revenues, are reported separately from *business-type activities*, which rely to a significant extent on fees and charges for support. Likewise, the *primary government* is reported separately from the *component unit*.

The statement of activities demonstrates the degree to which the direct expenses of a given function or segment are offset by program revenues. *Direct expenses* are those that are clearly identifiable with a specific function or segment. *Program revenues* include (1) charges to customers or applicants who purchase, use, or directly benefit from goods, services, or privileges provided by a given function or segment and (2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Taxes and other items not properly included among *program revenues* are reported instead as *general revenues*.

Separate financial statements are provided for the governmental funds, and fiduciary funds, even though the latter are excluded from the government-wide financial statements. Major individual governmental funds and major individual enterprise funds are reported as separate columns in the fund financial statements.

C. Measurement Focus, Basis of Accounting, and Financial Statement Presentation

The government-wide financial statements are reported using the *economic resources measurement focus* and the *accrual basis of accounting*. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows.

Grants and similar items are recognized as revenue as soon as all eligibility requirements imposed by the provider have been met.

Governmental fund financial statements are reported using the *current financial resources measurement focus* and the *modified accrual basis of accounting*. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be *available* when they are collectible within the current period. For this purpose, the District Attorney considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. Expenditures, generally are recorded when a liability is incurred, as under accrual accounting. However, debt service expenditures, as well as expenditures related to compensated absences and claims and judgments, are recorded only when payment is made.

The District Attorney reports the following major governmental funds:

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Measurement Focus, Basis of Accounting,
C. and Financial Statement Presentation (continued)

General Fund

The *general fund* is the general operating fund of the District Attorney. It is used to account for all financial resources except those require to be accounted for in another fund. Any unencumbered balance remaining in the General Fund at the end of the fiscal year reverts to the general fund of the state of New Mexico. The CAS number and description for the *general fund* of the District Attorney is 157 – Third Judicial District Attorney Regular.

DCSI Grants Fund (DCSI)

The *DCSI grants fund* is used to account for proceeds from the Drug Control and System Improvement Funds (DCSI) grant program and the Southwest Border Prosecution Initiative (SWBPI) and the expenditures there from. The DCSI grants and SWBPI reimbursements are from the United States Department of Justice. The authority for the creation and maintenance of the fund is the requirement of the funding sources to maintain a separate fund. The fund balance is nonreverting to the state of New Mexico's general fund as the source of revenues is the federal government. The Third Judicial District Attorney has determined that the *DCSI grants fund* is a major fund whose CAS number is 934.

The District Attorney reports the following non-major governmental funds:

High Intensity Drug Trafficking Area (HIDTA) Fund

The *HIDTA fund* is used to account for proceeds from the Office of National Drug Control Policy – High Intensity Drug Trafficking Area Grant, and the expenditures there from. The authority for the creation and maintenance of the fund is the requirement of the federal government to maintain a separate fund. The fund balance is nonreverting to the state of New Mexico's general fund as the source of revenues is the federal government. The District Attorney has determined that the *HIDTA fund* is a nonmajor fund whose CAS number is 936.

Victims of Crime Act (VOCA) Fund

The *Victim's Assistance fund* is used to account for the grant proceeds from the Victims of Crime Act (VOCA), Violence Against Women (VAWA) grants and Rural Domestic Violence & Child Victimization Enforcement grants, and the expenditures there from. The authority for the creation and maintenance of the fund is the requirement of the state of New Mexico Crime Victims Reparation Commission to maintain a separate fund. The fund balance is nonreverting to the state of New Mexico's general fund as the source of revenues is the federal government. The District Attorney has determined that the *Victim's Assistance fund* is a nonmajor fund whose CAS number is 933.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Measurement Focus, Basis of Accounting,
C. and Financial Statement Presentation (continued)

Other Grants Fund

The *Other Grants fund* is used to account for grant proceeds from the Department of Justice for the Community Gun Violence Prosecution Program and from the NM Crime Victims Reparation Commission for the 2000 Stop Violence Against Women federal subgrant award. The statutory authority for the Gun Violence Grant is supported under Public Law 106-113, 113 Stat 1501 (1999). The authority for the creation and maintenance of the fund is the requirement of the funding sources to maintain a separate fund. The fund balance is nonreverting to the state of New Mexico's general fund as the source of revenues is the federal government. The District Attorney has determined that the *Other Grants fund* is a nonmajor fund whose CAS number is 485.

Private-sector standards of accounting and financial reporting issued prior to December 1, 1989, generally are followed in government-wide statements to the extent that those standards do not conflict with or contradict guidance of the Governmental Accounting Standards Board.

As a general rule the effect of interfund activity has been eliminated from the government-wide financial statements. Exceptions to this general rule are charges between the government's risk management and various other functions of the government. Elimination of these charges would distort the direct costs and program revenues reported for the various functions concerned.

Amounts reported as *program revenues* include (1) charges to customers or applicants for goods, services, or privileges provided, (2) operating grants and contributions, and (3) capital grants and contributions, including special assessments. Internally dedicated resources are reported as *general revenues* rather than as *program revenues*.

The governmental fund types and agency funds for financial statement purposes follow the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues and other governmental fund financial resource increments are recognized in the accounting period in which they become measurable and available to pay liabilities of the current period (amounts collected within 60 days after year end).

Grant revenues are recognized as revenues when the related costs are incurred. All other revenues are recognized when they are received and are not susceptible to accrual, because they are usually not measurable until payment is actually received. Expenditure are recorded as liabilities when they are incurred, except for unmatured interest on general long term debt which is recognized when due, and certain compensated absences which are recognized when the obligations are expected to be liquidated with expendable available financial resources. When both restricted and unrestricted resources are available for use, it is the government's policy to use restricted resources first, and then unrestricted resources as they are recorded.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

C. Measurement Focus, Basis of Accounting,
and Financial Statement Presentation (continued)

Fiduciary Funds

Agency Funds

Agency funds are used to account for assets held by the District Attorney in a trustee capacity or as an agent for individuals, private organizations, other governments, and/or other funds. Agency funds are custodial in nature (assets equal liabilities) and do not involve measurement of results of operations.

D. Budgets

The District Attorney follows these procedures in establishing the budgetary data reflected in the financial statements:

1. Prior to September 15th, the District Attorney submits to the Department of Finance and Administration (DFA) an appropriation request for the fiscal year commencing the following July 1st. The appropriation request includes proposed expenditures and the means of financing them.
2. Budget hearings are scheduled before the New Mexico House Appropriations and Senate Finance Committees. The final outcome of these hearings is incorporated into the General Appropriations Act.
3. The Governor of the state of New Mexico within the legally prescribed time limit signs the Act into law.
4. The District Attorney submits, no later than May 1st, to DFA an annual operating budget by category and line item based upon the appropriation made by the Legislature. The DFA – Budget Division reviews and approves the operating budget, which becomes effective on July 1st. The Legislative Finance Committee and the State Budget Division must approve all subsequent budget adjustments. The budget for the current year was amended in a legal manner.
5. Legal budget control for expenditures and encumbrances is by expenditure category.
6. Formal budgetary integration is employed as a management control device during the fiscal year for the General Fund.
7. The budget for the General Fund is not adopted on a basis consistent with generally accepted accounting principles (GAAP). The budget treats encumbrances as expenditures. Budgetary comparisons presented for these funds in this report are on a non-GAAP budgetary basis.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

D. Budgets (continued)

8. Appropriations lapse at the end of the fiscal year except for those amounts encumbered. All accounts within the General Fund revert to the State General Fund.

E. Assets, Liabilities, and Net Assets or Equity

1. Cash

The District Attorney has defined cash to include cash on hand, demand deposits, and cash with the state treasurer.

2. Receivables and Payables

Activity between funds that are representative of lending/borrowing arrangements outstanding at the end of the fiscal year are referred to as either "due to/from other funds" or "advances to/from other funds". Advances between funds, as reported in the fund financial statements, are offset by a fund balance reserve account in applicable governmental funds to indicate that they are not available for appropriation and are not expendable available financial resources.

3. Interfund Activity

Interfund activity is reported as either loans, services provided, reimbursements or transfers. Loans are reported as interfund receivables and payables as appropriate and are subject to elimination upon consolidation. Services provided, deemed to be at market or near market rates, are treated as revenues and expenditures/expenses. Reimbursements are when one fund incurs a cost, charges the appropriate benefiting fund and reduces its related cost as reimbursement. All other interfund transactions are treated as transfers. Transfers between governmental funds are netted as part of the reconciliation to the government-wide financial statements.

4. Capital Assets

Capital assets, which include property, plant, and equipment, infrastructure, are reported in the applicable governmental or business-type activities columns in the government-wide financial statements. The District Attorney defines capital assets as assets with an initial, individual cost of more than \$1,000 and estimated useful life in excess of one year. Purchased or constructed assets are recorded at historical cost or estimated cost. Donated capital assets are recorded as estimated fair market value at the date of the donation. Costs other than personnel expenses for computer software developed internally are capitalized and depreciated over its useful life. Purchased software is recorded at historical cost.

Depreciation is provided over the assets' estimated useful lives using the straight-line method of depreciation. The range of estimated useful lives by type of asset is as follows:

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

E. Assets, Liabilities, and Net Assets or Equity (continued)

4. Capital Assets (continued)

Furniture and fixtures	7 years
Equipment and machinery	5 years
Automotive	5 years
Data processing	3 years

In the fund financial statements, capital assets used in governmental fund operations are accounted for as capital outlay expenditures of the governmental fund upon acquisition.

5. Compensated Absences

District Attorney employees may accumulate limited amounts of vacation pay which are payable to the employee upon termination or retirement. For governmental funds, expenditures are recognized during the period in which vacation costs become payable from available, expendable resources. A liability for amounts earned but not payable from available, expendable resources is reported in the government-wide financial statements.

District Attorney employees may accumulate limited amounts of sick leave. For governmental funds, expenditures are recognized during the period in which sick leave costs become payable from available, expendable resources. A liability for amounts earned but not payable from available, expendable resources is reported in the government-wide financial statements.

6. Net Assets

The government-wide and business-type activities fund financial statements utilize a net assets presentation. Net assets are categorized as follows:

Investment in capital assets, net of related debt – This category reflects the portion of net assets that are associated with capital assets less outstanding capital asset related debt.

Restricted – This category reflects the portion of net assets that have third party limitations on their use.

Unrestricted – This category reflects net assets of the District Attorney, not restricted for any project or other purpose.

7. Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004**

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

E. Assets, Liabilities, and Net Assets or Equity (continued)

8. Implementation of New Accounting Principles

Governmental Accounting Standards Board (GASB) Statement No. 34

The District Attorney has adopted the provisions of GASB Statement No. 34, *Basic Financial Statements-and Management's Discussion and Analysis-for State and Local Governments*. This statement affects the manner in which the District Attorney records transactions and presents financial information. State and local governments have traditionally used a financial reporting model substantially different from the one used to prepare private-sector financial reports.

GASB Statement No. 34 established new requirements and a new reporting model for the annual financial reports of state and local governments. The statement was developed to make annual reports of state and local governments easier to understand and more useful to the people who use governmental financial information to make decisions.

The District Attorney has recorded capital and certain other long-term assets and liabilities in the statement of net assets, and has reported all revenues and the cost of providing services under the accrual basis of accounting in the statement of activities.

GASB Statement 37

The District Attorney adopted the provisions of GASB Statement No. 37, *Basic Financial Statement-Management's Discussion and Analysis-for Local and Government: Omnibus*. This statement amends GASB Statement No. 34 to either (1) clarify certain provisions or (2) modify other provisions that GASB believes may have unintended consequences in some circumstances. Accordingly, the District Attorney considered the effect of this statement when adopting the provisions of GASB Statement No. 34 as previously described.

GASB Statement 38

The District Attorney adopted the provisions of GASB Statement No. 38, *Certain Financial Statement Note Disclosures*. This statement modifies, establishes, and rescinds certain financial statement disclosure requirements. Accordingly, footnote disclosures have been revised to conform to the provisions of GASB No. 38.

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004**

2. RECONCILIATION OF GOVERNMENT-WIDE AND FUND FINANCIAL STATEMENTS

Explanation of Certain Differences Between the Governmental Funds

A. Balance Sheet and the Governmental – Wide Statement of Net Assets

The governmental fund balance sheet includes reconciliation between *fund balance total governmental funds* and *net assets-governmental activities* as reported in the governmental-wide statement of net assets. One element of that reconciliation explains “long-term liabilities, including compensated absences, are not due and payable in the current period and, therefore, are not reported in the funds.” The details of this difference are as follows:

Capital assets	\$ 370,239
Compensated absences payable	<u>(168,389)</u>
Net adjustments to reduce fund balances total governmental funds to arrive at net assets governmental activities	<u>\$ 201,850</u>

Explanation of Certain Differences Between the Governmental Fund Statement of Revenues, Expenditures, and Changes in

B. Fund Balances and the Government-Wide Statement of Activities

The governmental fund statement of revenues, expenditures, and changes in fund balances includes reconciliation between *net changes in fund balances-total governmental funds* and *changes in net assets of governmental activities* as reported in the government-wide statement of activities. One element of that reconciliation explains that, “Governmental funds report capital outlay as expenditures; however, in the statement of activities the cost of those assets is allocated over their estimated useful lives and reported as depreciation expense.” The details of this difference are as follows:

Capital outlay	\$ 416,140
Depreciation expense	<u>(79,555)</u>
Net adjustment to decrease net changes in fund balances total governmental funds to arrive at changes in net assets of governmental activities	<u>\$ 336,585</u>

An element of that reconciliation states, “Some expenses reported in the statement of activities do not require the use of current financial resources and, therefore, are not reported as expenditures in governmental funds.” The details of this difference are as follows:

Compensated absences	\$ 30,552
Loss of disposal of vehicles	<u>12,735</u>
	<u>\$ 43,287</u>

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004**

3. CASH AND DEPOSITS

The District Attorney deposits cash in two financial institutions and with the New Mexico State Treasurer. A description of each is as follows:

Cash Deposited with Financial Institutions

Cash and cash equivalents include cash on hand; cash in banks, and cash with the New Mexico State Treasurer. As of June 30, 2004, the amount of cash and cash equivalents reported on the financial statements differs from the amount on deposit with the various institutions because of transactions in transit and outstanding checks. The locations and amounts deposited are as follows:

	Type of Account	Per Bank Balance 06/30/04	Reconciling Items	Reconciled Balance 06/30/04
<i>General Fund</i>				
New Mexico State Treasurer	Checking	\$ 97,654	\$ (10,645)	\$ 87,009
<i>Other Funds</i>				
NM State Treasurer HIDTA	Checking	(85,425)	-	(85,425)
NM State Treasurer VOCA	Checking	(77,192)	(478)	(77,670)
NM State Treasurer Other Grants	Checking	(13,520)	-	(13,520)
NM State Treasurer DCSI	Checking	1,396,397	(35,147)	1,361,250
Total		\$ 1,220,260	\$ (35,625)	\$ 1,184,635
<i>Agency Funds</i>				
Worthless Check Account:				
Bank of America, N.A. P.O. Box 27705 Albuquerque, NM 87125-7705				
	Checking	\$ 460	\$ -	\$ 460
Pre-Prosecution Account:				
Citizens Bank of Las Cruces P.O. Box 2108 Las Cruces, NM 88004-2108				
	Checking	2,066	-	2,066
Total		\$ 2,526	\$ -	\$ 2,526

Except for items in transit, the carrying value of deposits by the respective depositories equates to the carrying value by the District Attorney. New Mexico State Statutes authorize the district attorney to deposit cash with a bank, savings and loan association, or credit union whose deposits are insured by an agency of the United States. All cash deposits that exceed the Federal Deposit Insurance Corporation (FDIC) amount of \$100,000, are required to be collateralized with eligible securities, as described by New Mexico State Statutes, in amounts equal to at least 50% of the district attorney's carrying value of the deposits. Collateral pledged is held in safekeeping by other financial institutions. The pledged securities remain in the name of the financial institution. All deposits were covered by FDIC insurance at June 30, 2004.

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004**

3. CASH AND DEPOSITS (continued)

Cash Reported on Financial Statements

The amounts reported as cash for the primary government within the financial statements is composed of the following amounts.

Reconciled cash balances held at financial institution	\$	2,526
Reconciled cash balances held with the NM State Treasurer		<u>1,271,644</u>
Total cash reported on financial statements	\$	<u><u>1,274,170</u></u>
Statement of Net Assets:		
Cash	\$	1,448,259
Bank overdrafts		(176,615)
Statement of Fiduciary Net Assets:		
Agency funds		<u>2,526</u>
Total cash reported on financial statements	\$	<u><u>1,274,170</u></u>

The amounts of cash deposits can be classified in these three categories of credit risk:

Category 1 - Insured or collateralized with securities held by the District Attorney or by its agent in the District Attorney's name.

Category 2 – Collateralized with securities held by the pledging financial institution's trust department or agent in the District Attorney's name.

Category 3 – Uncollateralized or collateralized with securities held by the pledging financial institution, or by the trust department or agent but not in the District Attorney's name.

Deposits categorized by level of risk, are:

	Category 1	Category 2	Category 3
Balance per bank:			
Checking accounts	<u>\$ 2,526</u>	<u>\$ -</u>	<u>\$ -</u>

The category one value above represents only those amounts held in trust for other parties and does not include amounts of the District Attorney's operating bank account. The collateralization of the District Attorney's operating bank account is monitored by the State Treasurer's Office. The State Treasurer issues separate financial statements that disclose the collateral pledged to secure these deposits.

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004**

4. INTERFUND ACTIVITY

The major DCSI Fund has advanced funds in the amount of \$548 to the nonmajor HIDTA fund. The advance is expected to be repaid within one year.

The nonmajor HIDTA and VOCA funds have advanced funds in the amounts of \$3,229 and \$8,178, respectively, to the major general fund. The advances are expected to be repaid within one year.

5. CAPITAL ASSETS

Capital asset activity for the year ended June 30, 2004, was as follows:

	Balance 06/30/03	Additions	Deletions	Balance 06/30/04
Furniture and fixtures	\$ 20,581	\$ 2,350	\$ -	\$ 22,931
Equipment	26,728	210,279	-	237,007
Automotive	38,480	203,511	38,480	203,511
Totals	85,789	416,140	38,480	463,449
Less:				
Accumulated depreciation	(39,400)	(79,555)	25,745	(93,210)
Net capital assets	<u>\$ 46,389</u>	<u>\$ 336,585</u>	<u>\$ 12,735</u>	<u>\$ 370,239</u>

The District Attorney recorded depreciation expense of \$79,555 for the year ended June 30, 2004. The depreciation expense is a direct expense of the public safety function.

6. COMPENSATED ABSENCES

Accrued Annual Leave

Qualified employees accumulate annual leave as a rate of:

Years of Service	Hours Earned Per Month	Days Earned Per Month	Days of Maximum Accrual
1 month - 3 years	10	1 1/4	30
over 3 - 7 years	12	1 1/2	30
over 7 - 14 years	14	1 3/4	30
over 14 years - beyond	16	2	30

A maximum of 240 hours of accrued annual leave may be carried forward into the beginning of the next calendar year and any excess is lost. When employees terminate, they are compensated for accumulated unpaid annual leave as of the date of termination, up to the aforementioned maximums.

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004**

6. COMPENSATED ABSENCES (continued)

Accrued Sick Leave

Chapter 150, Laws of 1983 provided for the payment to employees for accumulated sick leave under certain conditions. Employees who have over 600 hours of accumulated sick leave can receive payment for the hours over 600 up to 120 hours on July 1st and January 1st of each year. However, the sick leave will be paid at fifty percent of the employee's regular hourly wage. A maximum of 120 hours of sick leave can be paid in one fiscal year. At retirement, employees can receive fifty percent payment for up to 400 hours for the hours over 600 hours of accumulated sick leave. Employees who terminate receive no payment for accumulated sick leave. Therefore, the only sick leave which has been accrued represents the hours earned at June 30, 2004, over 600 hours. Expenditures for accumulated sick leave pay for less than 600 hours will be recognized as employees take such absences. The current period adjustment recorded as a charge to the general government function for compensated absences is \$30,554. The amount recorded as a long-term liability in the government-wide statements for compensated absences consist of accrued annual leave and accrued sick leave as follows:

	Balance 06/30/03	Increase	Decrease	Balance 06/30/04	Amounts Due Within One Year
Accrued annual leave	\$ 136,462	\$ 173,026	\$ 141,099	\$ 168,389	\$ 141,098
Accrued sick leave	1,375	106	1,481	-	-
Total	<u>\$ 137,837</u>	<u>\$ 173,132</u>	<u>\$ 142,580</u>	<u>\$ 168,389</u>	<u>\$ 141,098</u>

In the past, approximately seventy percent has been paid by the general fund; twelve percent by the HIDTA fund; eight percent by the VOCA fund; six percent by the DCSI fund, and four percent by the other grant fund.

7. DUE TO STATE OF NEW MEXICO GENERAL FUND

As of June 30, 2004, the amount due to the New Mexico General Fund is \$826. This amount is composed of the following:

	Reversions	Disencumbered	Other	Total
04 Fiscal Year	<u>\$ -</u>	<u>\$ 826</u>	<u>\$ -</u>	<u>\$ 826</u>

8. OPERATING LEASES

The District Attorney has the following leases, which can be terminated due to lack of funding from the legislature with no penalty to the agency.

A 48-month lease for a postage meter was entered into on September 30, 2001, which require 16 quarterly payments of \$901. A lease for a telephone system was entered into on July 1, 2001, which require 60 monthly payments of \$906, however, several additions have increased the monthly payment to \$1,055. A lease for five (5) Cannon copiers was entered into on April 29, 2002, which require 60 monthly payments of \$888.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004

9. EXPENDITURES BEYOND APPROPRIATIONS

The District Attorney incurred expenditures beyond authorized appropriations within the following funds:

General Fund – The District Attorney’s authorized appropriations for personnel services \$2,446,493. The District Attorney exceeded the appropriation by \$3,397 for the fiscal year. Actual personnel expenditures amounted to \$2,449,890.

VOCA Fund – The District Attorney’s authorized appropriations for personnel services was \$245,020. The District Attorney exceeded the appropriations by \$165. Actual personnel expenditures amounted to \$245,185.

HIDTA Fund – The District Attorney’s authorized appropriations for personnel services was \$345,775. The District Attorney exceeded the appropriations by \$180. Actual personnel expenditures amounted to \$345,955.

10. TRANSFER OF FUNDS

During the fiscal year, the District Attorney transferred \$5,000 from the major DCSI Grants Fund to the New Mexico Administrative Office of District Attorney’s. The CAS number is Agency 264, Fund 168.

During the fiscal year, the District Attorney transferred \$45,208 from the agency fund to the New Mexico Administrative Office of District Attorney’s. The CAS number is Agency 264, Fund 168.

11. RETIREMENT PLANS

Public Employees Retirement Act (PERA)

Substantially all of the District Attorney full-time employees participate in a public employee retirement system authorized under the Public Employees Retirement Act (Chapter 10, Article 11, NMSA 1978). The Public Employees Retirement Association (PERA) is the administrator of the plan, which is a cost-sharing multiple-employer defined benefit retirement plan. The plan provides for retirement, disability benefits and cost-of-living adjustments to plan members and beneficiaries. PERA issues a separate, publicly available financial report that includes financial statements and required supplementary information. That report may be obtained by writing to PERA, P.O. Box 2123, Santa Fe, NM 87504-2123.

Plan members are required to contribute 7.42% of their gross salary. The District Attorney is required to contribute 16.59% of the gross covered salary. The contributions requirements of plan members and the District Attorney are established under Chapter 10, Article 11 NMSA 1978. The requirements may be amended by acts of the legislature. The District Attorney contributions to PERA for the years ending June 30, 2004, 2003, and 2002, were \$399,563, \$378,107, and \$351,598, respectively, equal to the amount of the required contributions for each year.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004

12. POST EMPLOYMENT BENEFITS

The Retiree Health Care Act (Act) (Chapter 10, Article 7C, NMSA 1978) provides comprehensive core group health insurance for persons who have retired from certain public services in New Mexico. The Retiree Health Care Authority is the administrator of the plan. The purpose is to provide eligible retirees, their spouses, dependents, and surviving spouses and dependents with health insurance consisting of a plan, or optional plans, of benefits that can be purchased by funds flowing into the Retiree Health Care Fund and by co-payments or the out-of-pocket payments of eligible retirees.

Monies flow to the Retiree Health Care Fund on a pay-as-you-go basis from eligible employers and eligible retirees. Eligible employers consist of institutions of higher education, school districts, or other entities participating in the Public School Insurance Authority, state agencies, state courts, magistrate courts, municipalities or counties, which are affiliated under or covered by the Educational Retirement Act, Public Employees Retirement Act, Volunteer Firefighters Retirement Act, Judicial Retirement Act or the Magistrate Retirement Act.

Eligible retirees are: (1) retirees who make contributions to the fund for at least five years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the Retiree Health Care Act on the person's behalf, unless the person retires on or before July 1, 1995, in which event the time period for contribution becomes the time between July 1, 1990 and the date of retirement; or (2) retirees defined by the Act who retired prior to July 1, 1990.

Each participating employer makes contributions to the fund in the amount of 1.3% of each participating employee's annual salary. Each participating employee contributes to the fund an employee contribution equal to .65% of the employee's annual salary. Each participating retiree pays a monthly premium of fifty-seven dollars and sixty-five cents (\$57.65) for the basic single plan and an additional fee of five dollars (\$5.00) if the eligible participant retired prior to July 1, 1990, and made no contributions to the plan.

Contributions from participating employers and participating employees become the property of the Retiree Health Care Fund and are not refundable under any circumstances, including termination of employment or termination of the participating employer's operation or participation in the Retiree Health Care Act. The employer, employee, and retiree contributions are required to be remitted to the Retiree Health Care Authority on a monthly basis.

The Retiree Health Care Authority issues a separate, publicly available audited financial report that includes post employment benefit expenditures of premiums and claims paid, participant contributions (employer, employee, and retiree) and net expenditures for the fiscal year. The report also includes the approximate number of retirees participating in the plan. That report may be obtained by writing to the Retiree Health Care Authority, 810 West San Mateo Road, Santa Fe, NM 87505.

For the fiscal year ended June 30, 2004, the district attorney remitted \$31,310 in employer contributions and \$15,692 in employee contributions to the Retiree Health Care Authority.

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004**

13. RECONCILIATION OF BUDGETARY COMPARISON STATEMENTS

The following is a reconciliation of the budgetary comparison statements to the statements of revenues, expenditures and changes in fund balance of the governmental funds:

	General Fund	DCSI Fund
	<u> </u>	<u> </u>
Sources/Inflows of Resources:		
Actual amounts (budgetary basis) "available for appropriation" from the budgetary comparison statement	\$ 2,651,293	\$ 3,032,256
Differences - Budget to GAAP		
None	<u> -</u>	<u> -</u>
Total revenues as reported on the statement of revenues, expenditures, and changes in fund balances - governmental funds	<u>\$ 2,651,293</u>	<u>\$ 3,032,256</u>
Uses/Outflows of Resources:		
Actual amounts (budgetary basis) "total changes to appropriations" from the budgetary comparison statement	\$ 2,653,786	\$ 1,730,086
Differences - Budget to GAAP		
None	<u> -</u>	<u> -</u>
Total expenditures as reported on the statement of revenues, expenditures, and changes in fund balances - governmental funds	<u>\$ 2,653,786</u>	<u>\$ 1,730,086</u>
Other Sources (Uses) of Resources:		
Actual amounts (budgetary basis) transfer in and (out) from the budgetary comparison statement	\$ -	\$ (5,000)
Differences - Budget to GAAP		
None	<u> -</u>	<u> -</u>
Total other financing sources (uses) as reported on the statement of revenues, expenditures and balances - governmental funds	<u>\$ -</u>	<u>\$ (5,000)</u>

14. RISK OF LOSS

The District Attorney's Office is insured through the Risk Management Division of the General Services Department, which is accounted for as an internal service fund of the state of New Mexico. In general, Risk Management Division responds to suits against the State and state agencies, manages funds to provide unemployment compensation, tort liability insurance, workman's compensation, general and property insurance, and attempts to reduce the number of suits against the state and state agencies through the risk management process. The actuarial gains and losses of Risk Management Division were not available and are not included in this report. However, the District Attorney is not liable for more than the premiums paid.

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2004**

15. INDIVIDUAL FUND – DEFICIT FUND BALANCE

As of June 30, 2004, the General Fund 157 had a deficit fund balance of \$2,493 and the Victims of Crime Act (VOCA) Fund 933 had a deficit fund balance of \$3,915.

16. DISCLOSURE OF FINANCIAL INTEREST

The District Attorney conducts business with an employee of the District Attorney's office. The employee has a substantial interest, as owner, in a retail office supply company. The total amount of various office supplies bought for the District Attorney's office for the year ended June 30, 2004 was \$57,919.

In addition, between two and three juveniles are sent from the District Attorney's office to an after school program owned by the spouse of an employee of the District Attorney's office. The juveniles are being sent in order to provide consistency with their drug court counterparts. Total amount paid to the business for the after school program for the year ended June 30, 2004 was \$2,000.

Financial disclosure statements for the two relationships have been filed for 2004 with the Office of the Secretary of State.

STATE OF CALIFORNIA
DEPARTMENT OF REVENUE
SAN FRANCISCO

AUDITED FINANCIAL STATEMENTS



THE UNIVERSITY OF CHICAGO
LIBRARY
540 EAST 57TH STREET
CHICAGO, ILLINOIS 60637
TEL: 773-936-3000

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
COMBINING BALANCE SHEET – NON-MAJOR FUNDS
JUNE 30, 2004

	<u>HIDTA Fund</u>	<u>VOCA Fund</u>	<u>Other Grants Fund</u>	<u>Total</u>
ASSETS				
Grant receivables	\$ 93,128	\$ 72,110	\$ 16,785	\$ 182,023
Due from other funds	3,229	8,178	-	11,407
Total assets	<u>\$ 96,357</u>	<u>\$ 80,288</u>	<u>\$ 16,785</u>	<u>\$ 193,430</u>
LIABILITIES AND FUND BALANCES				
Liabilities:				
Bank overdraft	\$ 85,425	\$ 77,670	\$ 13,521	\$ 176,616
Accrued payroll	10,307	6,533	2,215	19,055
Due to other funds	548	-	-	548
Total liabilities	96,280	84,203	15,736	196,219
Fund Balances:				
Unreserved, designated for future expenditures				
Special revenue fund	77	(3,915)	1,049	(2,789)
Total liabilities and fund balances	<u>\$ 96,357</u>	<u>\$ 80,288</u>	<u>\$ 16,785</u>	<u>\$ 193,430</u>

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
COMBINING STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCE – NON-MAJOR FUNDS
FOR THE YEAR ENDED JUNE 30, 2004

	<u>HIDTA</u> <u>Fund</u>	<u>VOCA</u> <u>Fund</u>	<u>Other Grants</u> <u>Fund</u>	<u>Total</u>
Revenues:				
State appropriations	\$ 345,775	\$ 288,128	\$ 96,573	\$ 730,476
Expenditures:				
Current:				
Personnel services	345,955	245,185	96,296	687,436
Contractual services	-	35,670	-	35,670
Other costs	-	13,480	-	13,480
Total expenditures	<u>345,955</u>	<u>294,335</u>	<u>96,296</u>	<u>736,586</u>
Excess (deficiency) of revenues over expenditures	<u>(180)</u>	<u>(6,207)</u>	<u>277</u>	<u>(6,110)</u>
Fund balance, beginning of year	<u>257</u>	<u>2,292</u>	<u>772</u>	<u>3,321</u>
Fund balance, end of year	<u>\$ 77</u>	<u>\$ (3,915)</u>	<u>\$ 1,049</u>	<u>\$ (2,789)</u>

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
SCHEDULE OF REVENUES AND EXPENDITURES
BUDGET (NON-GAAP BUDGETARY BASIS) AND ACTUAL ON BUDGETARY BASIS
NON-MAJOR FUND
OTHER GRANTS FUND
FOR THE YEAR ENDED JUNE 30, 2004

	<u>Budget Original</u>	<u>Budget Final</u>	<u>Actual on Budgetary Basis</u>	<u>Variance Favorable (Unfavorable)</u>
Revenues:				
Governmental grant	\$ 216,200	\$ 96,573	\$ 96,573	\$ -
Expenditures:				
Personnel services	<u>216,200</u>	<u>96,573</u>	<u>96,296</u>	<u>277</u>
Excess (deficiency) of revenues over expenditures	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 277</u>	<u>\$ 277</u>

The accompanying notes are an integral part of these financial statements.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
SCHEDULE OF REVENUES AND EXPENDITURES
BUDGET (NON-GAAP BUDGETARY BASIS) AND ACTUAL ON BUDGETARY BASIS
NON-MAJOR FUND
HIDTA FUND
FOR THE YEAR ENDED JUNE 30, 2004

	<u>Budget Original</u>	<u>Budget Final</u>	<u>Actual on Budgetary Basis</u>	<u>Variance Favorable (Unfavorable)</u>
Revenues:				
Governmental grant	\$ 345,800	\$ 345,775	\$ 345,775	\$ -
Expenditures:				
Personnel services	341,400	345,775	345,955	(180)
Other costs	<u>4,400</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total expenditures	<u>345,800</u>	<u>345,775</u>	<u>345,955</u>	<u>(180)</u>
Excess (deficiency) of revenues over expenditures	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (180)</u>	<u>\$ (180)</u>

The accompanying notes are an integral part of these financial statements.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
SCHEDULE OF REVENUES AND EXPENDITURES
BUDGET (NON-GAAP BUDGETARY BASIS) AND ACTUAL ON BUDGETARY BASIS
NON-MAJOR FUND
VOCA FUND
FOR THE YEAR ENDED JUNE 30, 2004

	<u>Budget Original</u>	<u>Budget Final</u>	<u>Actual on Budgetary Basis</u>	<u>Variance Favorable (Unfavorable)</u>
Revenues:				
Governmental grant	\$ 542,800	\$ 294,170	\$ 292,062	\$ (2,108)
Expenditures:				
Personnel services	419,300	245,020	245,185	(165)
Contractual services	82,000	35,670	35,670	-
Other costs	<u>41,500</u>	<u>13,480</u>	<u>13,480</u>	<u>-</u>
Total expenditures	<u>542,800</u>	<u>294,170</u>	<u>294,335</u>	<u>(165)</u>
Excess (deficiency) of revenues over expenditures	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (2,273)</u>	<u>\$ (2,273)</u>

The accompanying notes are an integral part of these financial statements.

SUPPLEMENTARY FINANCIAL INFORMATION



**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
SCHEDULE OF ENCUMBRANCES
FOR THE YEAR ENDED JUNE 30, 2004**

	Encumbrances Per DFA 06/30/04	Amount Disencumbered	Reclassified as Accounts Payable	Valid Encumbrances 06/30/04
2004 Fiscal Year:				
Transportation	\$ 900	\$ 75	\$ 825	\$ -
Maintenance/repairs	880	808	72	-
Telephone/telecommunications	2,346	786	1,560	-
	<u>4,126</u>	<u>1,669</u>	<u>2,457</u>	<u>-</u>
Total general fund	<u>\$ 4,126</u>	<u>\$ 1,669</u>	<u>\$ 2,457</u>	<u>\$ -</u>
2004 Fiscal Year:				
Professional services	\$ 9,905	\$ 6,457	\$ 3,448	\$ -
Institute travels	270	-	270	-
Other expenses	1,350	170	1,180	-
Maintenance and repair	469	-	469	-
Medical, lab, personnel	100	57	43	-
Uniform	810	-	810	-
Court reporting	50	-	50	-
Postage and maintenance	217	-	217	-
Telephone	34,209	31,160	3,049	-
Data processing	33,864	2,985	30,879	-
Outstate travel	82	82	-	-
Outstate meals	552	552	-	-
	<u>81,878</u>	<u>41,463</u>	<u>40,415</u>	<u>-</u>
Total DCSI fund	<u>\$ 81,878</u>	<u>\$ 41,463</u>	<u>\$ 40,415</u>	<u>\$ -</u>
2004 Fiscal Year:				
Instate travel	\$ 223	\$ 223	\$ -	\$ -
Instate meals	32	32	-	-
Professional services	95	95	-	-
Printing and photo	146	146	-	-
Data processing	14	14	-	-
	<u>510</u>	<u>510</u>	<u>-</u>	<u>-</u>
Total VOCA fund	<u>\$ 510</u>	<u>\$ 510</u>	<u>\$ -</u>	<u>\$ -</u>

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
SCHEDULE OF CHANGES IN ASSETS AND LIABILITIES
AGENCY FUNDS
FOR THE YEAR ENDED JUNE 30, 2004

	Balance June 30, 2003	Additions	Deletions	Balance June 30, 2004
Assets				
Cash - worthless checks	\$ 490	\$ 6,911	\$ 6,941	\$ 460
Cash - pre-prosecution	2,735	37,598	38,267	2,066
Total assets	<u>\$ 3,225</u>	<u>\$ 44,509</u>	<u>\$ 45,208</u>	<u>\$ 2,526</u>
Liabilities				
Due to NM State Treasurer	<u>\$ 3,225</u>	<u>\$ 44,509</u>	<u>\$ 45,208</u>	<u>\$ 2,526</u>

ADDITIONAL FEDERAL INFORMATION

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED JUNE 30, 2004**

Federal Grantor/Pass Through Grantor/Program Title	Federal CFDA No.	Pass-through Entity ID No.	Federal Expenditures
<u>Executive Office of the President</u>			
Passed through the Office of National Drug Control Policy High Intensity Drug Trafficking Area (H.I.D.T.A.) Operation Up the Ladder Cooperative Agreement	None Assigned	12 PSNP 553	\$ 345,955
<u>U.S. Department of Justice</u>			
Passed through Office of Justice Programs/ Violence Against Women Office Rural Domestic Violence & Child Victimization Enforcement Grant Program	16.589	1998-WR-VX-0028	252,634
Passed through Office of Justice Programs/ Bureau of Justice Assistance/ State of New Mexico Crime Victims Reparation Commission Victims of Crime Act (VOCA) Grant	16.575	2003-VA-671	41,700
Passed through Office of Justice Programs/ Bureau of Justice Assistance/ Community Gun Violence Prosecution Program	16.609	2002-GP-CX-0104	96,296
NM Department of Public Safety Drug Control and System Improvement Formula Grant Program DCSI Region VII	16.579	01-MJTF-REG-VII	12,256
Passed through the Office of Justice Program/ Bureau of Justice Assistance/ Southwest Border Prosecution Initiative	None Assigned	None Assigned	<u>1,722,829</u>
Total U.S. Department of Justice			<u>2,125,715</u>
Total Expenditures of Federal Awards			<u><u>\$ 2,471,670</u></u>

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED JUNE 30, 2004**

1. BASIS OF PRESENTATION

The accompany schedule of expenditures of federal awards includes the federal grant activity of the Third Judicial District Attorney and is prepared in the accrual basis of accounting. The information in the schedule is presented in accordance with the requirements of OMB Circular A-133, *Audits of State, Local Governments, and Non-Profit Organizations*, therefore, some amounts presented in this schedule may differ from amounts presented in, or used in the preparation of the basic financial statements.

2. RECONCILIATION OF FEDERAL AWARDS TO FINANCIAL STATEMENTS

As stated in Note 1, the schedule of federal awards has been prepared on the accrual basis of accounting. As such, the expenditures are directly traceable to the applicable governmental funds financial statements, without reconciliation.

3. OTHER NOTES

There was no non-cash assistance or grants to sub-recipients for the fiscal year ended June 30, 2004.

ADDITIONAL INDEPENDENT AUDITORS' REPORTS

Report on Internal Control Over Financial Reporting and on
Compliance and Other Matters Based on an Audit of Financial Statements
Performed In Accordance with *Government Auditing Standards*

Domingo P. Martinez, CGFM, State Auditor
and
Susana Martinez, District Attorney
State of New Mexico, Third Judicial District
Las Cruces, New Mexico

We have audited the financial statements of the governmental activities, each major fund, the aggregate remaining fund information, and each major fund budgetary information of the state of New Mexico's Third Judicial District Attorney as of and for the year ended June 30, 2004, which collectively comprises the Third Judicial District Attorney's basic financial statements, and have issued our report thereon dated November 30, 2004. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Third Judicial District Attorney's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide an opinion on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be material weaknesses. A material weakness is a reportable condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Third Judicial District Attorney's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion.

The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* and that are described in the accompanying schedule of findings and questioned costs as items 2004-01, 2004-02, 2004-03, and 2004-04.

This report is intended solely for the information and use of management, others within the agency, the New Mexico State Auditor, the New Mexico State Legislature, and its committees, the New Mexico Department of Finance and Administration, and is not intended to be and should not be used by anyone other than these specified parties.

Fierro + Fierro, P.A.

Fierro & Fierro, P.A.
Las Cruces, New Mexico

November 30, 2004

Report on Compliance With Requirements Applicable
To Each Major Program and Internal Control
Over Compliance in Accordance with OMB Circular A-133

Domingo P. Martinez, CGFM, State Auditor
and
Susana Martinez, District Attorney
State of New Mexico, Third Judicial District
Las Cruces, New Mexico

Compliance

We have audited the compliance of the Third Judicial District Attorney 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, 2004. The Third Judicial District Attorney's major federal programs are identified in the summary of auditor's 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 Third Judicial District Attorney's management. Our responsibility is to express an opinion on the Third Judicial District Attorney'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 Third Judicial District Attorney'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 of the Third Judicial District Attorney's compliance with those requirements.

In our opinion, the Third Judicial District Attorney complied, in all material respects, with the requirements referred to above that are applicable to each of its major federal programs for the year ended June 30, 2004.

Internal Control Over Compliance

The management of the Third Judicial District Attorney is responsible for establishing and maintaining effective internal control over compliance with the requirements of laws, regulations, contracts and grants applicable to federal programs. In planning and performing our audit, we considered the Third Judicial District Attorney'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 and to test and report on internal control over compliance in accordance with OMB Circular A-133.

Our consideration of the internal control over compliance would not necessarily disclose all matters in the internal control that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level risk that noncompliance with applicable requirements of laws, regulations, contracts and grants that would be material in relation to a major federal program being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over compliance and its operation that we consider to be material weaknesses.

This report is intended solely for the information and use of management, others within the organization, the Office of the New Mexico State Auditor, the New Mexico State Legislature and its committees, the New Mexico Department of Finance and Administration, and 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.

Fierro + Fierro, P.A.

Fierro & Fierro, P.A.
Las Cruces, New Mexico

November 30, 2004

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED JUNE 30, 2004**

Section I - Summary of Audit Results

Financial Statements

Type of auditors' report issued: Unqualified

Internal control over financial reporting:

- Material weakness (es) identified _____ Yes X No
- Reportable condition (s) identified that are not considered to be material weaknesses _____ Yes X No

Noncompliance material to financial statements noted _____ Yes X No

Federal Awards

Internal control over major programs:

- Material weakness (es) identified _____ Yes X No
- Reportable condition (s) identified that are not considered to be material weaknesses _____ Yes X None reported

Type of auditors' report issued on Compliance with major programs: Unqualified

- Any audit findings disclosed that are required to be reported in accordance with Section 510(a) of Circular A-133 _____ Yes X No

Program tested as major programs include:

Program	CFDA No.
Southwest Border Prosecution Initiative	None Assigned

- The threshold for distinguishing Types A and B programs was \$300,000.
- Auditee qualified as low-risk auditee? X Yes _____ No

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED JUNE 30, 2004

Section II - Findings – Financial Statements

Item 2004-01 – Legal Compliance With General Fund Budget

Statement of Condition – During the fiscal year ended June 30, 2004, the District Attorney remitted payment for personnel services in excess of the adopted budget of the general fund. The budgeted expenditures for fund category 200 personnel services were \$2,446,493. The actual expenditures for the year were \$2,449,890. The excess expenditures beyond the authorized budget were \$3,397.

During the fiscal year ended June 30, 2004, the District Attorney remitted payment for personnel services in excess of the adopted budget in the Victim's Assistance Program fund. The budgeted expenditures for fund category 200 personnel services were \$245,020. The actual expenditures for the year were \$245,185. The excess expenditures beyond the authorized budget were \$165.

During the fiscal year ended June 30, 2004, the District Attorney remitted payment for personnel services in excess of the adopted budget in the HIDTA Program fund. The budgeted expenditures for fund category 200 personnel services were \$345,775. The actual expenditures for the year were \$345,955. The excess expenditures beyond the authorized budget were \$180.

Criteria – Section 6-6-6 of the New Mexico State Statutes prohibits any payments in excess of the approved budget. The District Attorney officials and personnel have the obligation to follow applicable New Mexico State Statutes.

Effect – Noncompliance with New Mexico State Statutes subject the District Attorney officials and personnel to punishment as defined by State statutes.

Cause – The May and June budget projections showed a positive balance in the personnel line items mentioned. Therefore, the office spent according to estimated expenditures. The over expenditures were an error based on incorrect projections. They were not a deliberate noncompliance with New Mexico State Statutes.

Recommendation – We recommend that management review its procedures to monitor expenditures and budget restrictions to ensure compliance with applicable State statutes.

Views of Responsible Officials and Planned Corrective Actions – Management intends to run monthly budget projects on all line items within each fund in order to ensure compliance with Section 6-6-6 of the New Mexico State Statutes.

Item 2004-02 – Employee vs. Independent Contractor

Statement of Condition – The District Attorney's Office has entered into contractual agreements with individuals that favor employment relationships. These positions include the general secretarial services and general clerical assistance. Many of these individuals keep time sheets signed and approved by district attorney supervisors, are paid biweekly, are provided state owned equipment and office space to perform their work assignments, and are ultimately under the control of the District Attorney's office.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED JUNE 30, 2004

Section II - Findings – Financial Statements (continued)

Item 2004-02 – Employee vs. Independent Contractor (continued)

Criteria – The Internal Revenue Service (IRS) uses Revenue Ruling 87-41 to note that employee status exists when the person for whom the services are performed has the right to control and direct the worker. It is not necessary that the employer actually direct or controls the work, only that the employer has the right to do so.

Effect – Misclassifications of employees as contract labor subjects the District Attorney's office to payroll taxes, interest and penalties. Since some of these payments are designated as withholding taxes, the IRS can make personal claims against the responsible parties.

Cause – Two of the positions mentioned were actually stationed at the Las Cruces Police Department. Their work was not under direct control of the Third Judicial District Attorney's office; therefore it is the position of this District Attorney's office that their terms did not favor employment relationships. One secretarial position was contracted for a brief period of time while being stationed at the District Attorney's office. Once the agency determined that this position would be functioning full time at the District Attorney's office, it was converted into a temporary full time position and placed in the Southwest Border Grant Budget. The Department of Finance and Administration ultimately approved this position.

Recommendation – We recommend that the District Attorney's office carefully re-evaluate its view of the position of the office manager as contract labor to ensure compliance with applicable Internal Revenue Service employment rules and regulations.

Views of Responsible Officials and Planned Corrective Actions – Based on the auditors advice, the District Attorney's office will require contract laborers to submit invoices rather than time sheets. Furthermore, they will not be provided state owned equipment.

Tax Withholding and Reporting of
Item 2004-03 – Authorized Commuting in Assigned Vehicles

Statement of Condition – We discovered employees of the District Attorney's office who were specifically assigned a state owned vehicle for official state business and who are also using the vehicle for commuting but not maintaining a vehicle mileage log. The value of commuting usage of the assigned vehicles was not included in the employee's gross income, with biweekly withholding of FICA and federal and state income taxes, for each day of commuting use.

Criteria – For those personnel that use the vehicles for commuting purposes and are not maintaining a vehicle mileage log qualifying for the Internal Revenue Service Law Enforcement Exemption, a taxable value of \$3.00 per day (\$1.50 per one-way commute), shall be included in income for every day of commuting usage of their assigned vehicle, with biweekly withholdings and annual reporting on Form W-2, as per Internal Revenue Code Section 61 and Regulation 1.61.a.

Effect – Noncompliance with federal rules and regulations subjects the District Attorney officials and personnel to punishment as defined by federal law.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED JUNE 30, 2004

Section II - Findings – Financial Statements (continued)

*Tax Withholding and Reporting of
Item 2004-03 – Authorized Commuting in Assigned Vehicles (continued)*

Cause – The District Attorney's office had previously never owned agency vehicles used for commuting purposes. The District Attorney's office utilizes state vehicle guidelines produced by the Administrative Office of the District Attorneys as a means for administration of the vehicles. The employees who are required to maintain mileage logs did maintain mileage logs. The employees who chose to pay the \$3.00 per day did not keep mileage logs.

Recommendation – We recommend that the District Attorney's office calculate appropriate amounts to be included in taxable income of affected employees. It is also recommended that the office establish procedures to allow the payroll officer to input the taxable value reflected on each employee's biweekly time sheet for each applicable day.

Views of Responsible Officials and Planned Corrective Actions – Although the income was not reported and the taxes were not deducted biweekly, the \$3.00 per day will be included in these employee's income for the 2004 calendar year. It is being added as a lump sum for the last pay period of the calendar year. Therefore, this income will still be subject to 2004 taxes and actually be reported on Form W-2. Furthermore, the District Attorney's office has established procedures to begin to reflect the taxable value on each of these employee's biweekly time sheets.

Item 2004-04 – Purchase Commitments Made Prior to Encumbrance Approval

Statement of Condition – During the test of procurement for goods and services, we noted several instances of purchase commitments made to vendors prior to purchase documents approval by the Department of Finance and Administration (DFA).

Criteria – As per NMAC 1.15.4.302, a purchase document is a form used by state agencies to reserve their budget for specific purchase, i.e., to record encumbrances and reserve or designate fund balances. Purchase documents must be secured on all purchases of goods and services in excess of \$1,500.

Effect – Without encumbrance and pre-approval, errors in over budget, disallowed items over purchases could occur and not be detected on a timely basis.

Cause – The District Attorney's office admits that on two (2) occasions funds were obligated prior to encumbering. This was a flaw in the internal procedures of the fiscal office and a flaw in the communication flow from the management to the fiscal office. This procedural problem has been corrected.

Recommendation – We recommend that the District Attorney's office review its policies and procedures regarding encumbrances. Furthermore, we recommend that management communicate with the purchasing officer and related personnel concerning compliance with such policy and procedures.

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED JUNE 30, 2004**

Section II - Findings – Financial Statements (continued)

Item 2004-04 – Purchase Commitments Made Prior to Encumbrance Approval (continued)

Views of Responsible Officials and Planned Corrective Actions – The management of the District Attorney's office reviewed its procedures regarding encumbrances several months prior to the audit and found the internal mechanism that was flawed regarding encumbrances. New procedures were created in June 2004 regarding encumbering funds prior to the expenditure of funds.

Prior Year Audit Findings

None.

Section III - Findings And Responses – Major Federal Award Program Audit

None.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
EXIT CONFERENCE
JUNE 30, 2004

This report was discussed during the exit conference held in Las Cruces, New Mexico on December 3, 2004. Present for the District Attorney's Office was Susana Martinez, District Attorney; Kelly Kuenstler, District Office Manager; and Juliet Lucero, Chief Financial Officer. Present for the auditing firm was Rose Fierro, CPA.

The auditing firm of Fierro & Fierro, Certified Public Accountants, prepared the financial statements of the Third Judicial District Attorney as of June 30, 2004. The District Attorney's management has reviewed and approved the financial statements and related notes, and they believe that the District Attorney's books and records adequately support them.

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2.7.2005