

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
ANNUAL FINANCIAL REPORT
FOR THE FISCAL YEAR ENDED
JUNE 30, 2008

Prepared by
Marcus, Fairall, Bristol + Co., L.L.P
Certified Public Accountants
6090 Surety Drive Suite 100
El Paso, Texas 79905
Telephone (915) 775-1040

INTRODUCTORY SECTION

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY**

GENERAL FUND ATTORNEYS

Susana Martinez	District Attorney
Susan Riedel	Chief Deputy District Attorney
Amy Orlando	Chief Deputy District Attorney
Jacinto Palomino	Deputy District Attorney
Nelson Goodin	Deputy District Attorney
Daniel Sewell	Senior Trial Attorney
Jeanne Quintero	Senior Trial Attorney
Lisa Bearisto	Senior Trial Attorney
Michael Wallace	Senior Trial Attorney
Heather Chavez	Senior Trial Attorney
Michael Heitz	Senior Trial Attorney
William Kinsella	Senior Trial Attorney
Dennis Fennell	Senior Trial Attorney
Catherine Beckett	Assistant Trial Attorney
Brad Springer	Assistant Trial Attorney
Deborah Dictson	Associate Trial Attorney

GRANT ATTORNEYS

James Dickens	Deputy District Attorney
Keythan Park	Senior Trial Attorney
Jennifer Padgett	Assistant Trial Attorney
Michelle Pickett	Assistant Trial Attorney

ADMINISTRATIVE STAFF

Kelly Kuenstler	District Office Manager
Manuel Terrazas	Assistant District Office Manager
Juliet Lucero	Chief Financial Officer

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
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FINANCIAL SECTION

INDEPENDENT AUDITORS' REPORT

Hector H. Balderas, New Mexico State Auditor
Susana Martinez, District Attorney
Third Judicial District Attorney
Las Cruces, New Mexico

We have audited the accompanying financial statements of the governmental activities, each major fund, and the aggregate remaining fund information of the Third Judicial District Attorney, as of and for the year-ended June 30, 2008, which collectively comprise the Third Judicial District Attorney's basic financial statements as listed in the table of contents. We have also audited the financial statements of each of the Third Judicial District Attorney's non-major governmental funds presented as supplementary information in the accompanying combining and individual fund financial statements as of and for the year-ended June 30, 2008, as listed in the table of contents. These financial statements are the responsibility of the Third Judicial District Attorney's management. Our responsibility is to express opinions on these basic financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and with 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 of the United States of America 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 opinions.

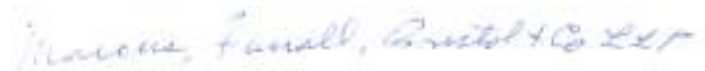
As discussed in Note 1, the financial statements of the state of New Mexico Third District Attorney, are intended to present the financial position, and the changes in financial position, where applicable, of only that portion of the governmental activities, each major fund, and the aggregate remaining 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, 2008, and the changes in its financial position, 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, 2008, and respective changes in financial position and respective budgetary comparisons of the General and SWBPI 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 non-major governmental fund of the Third Judicial District Attorney as of June 30, 2008, and the respective changes in financial position and the respective budgetary comparisons for the non-major governmental funds for the year ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated December 29, 2008 on our consideration of the Third Judicial District Attorney internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, 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 read in conjunction with this report in considering the results of our audit.

The Management's Discussion and Analysis on pages 3 through 7 are not a required part of the basic financial statements but are supplementary information required by the Governmental Accounting Standards Board. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.

Our audit was conducted for the purpose of forming opinions on the basic financial statements, and the combining and individual fund financial statements and budgetary comparisons of the Third Judicial District Attorney. The accompanying Schedule of Expenditures of Federal Awards are 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 additional schedule listed as "supporting schedules" in the table of contents are presented for purposes of additional analysis and are not a required part of the financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole."



El Paso, Texas
December 29, 2008

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
Management's Discussion and Analysis
June 30, 2008

The following is an overview of the financial condition for the Office of the Third Judicial District Attorney (District Attorney) for the fiscal year ended June 30, 2008. This narrative highlights the major aspects of the District Attorney's financial status for this period, and should be considered in conjunction with the information presented in other sections of this audit report.

Financial Highlights

The following items are the District Attorney's financial highlights for the fiscal year ended June 30, 2008:

- The assets of the District Attorney exceeded its liabilities as of June 30, 2008 by \$1,006,850 (net assets).
- The receipt of a significant grant award from the Southwest Border Prosecution Initiative. This has enabled the District Attorney's office to purchase up-to-date technology equipment and furniture not only for itself, but also for all surrounding law enforcement agencies that bring in criminal cases to the Office of the District Attorney.

Overview of the Financial Statements

This discussion and analysis is intended to serve as an introduction to the District Attorney's basic financial statements. The District Attorney's basic financial statements are comprised of three components: 1) government-wide financial statements, 2) fund financial statements, and 3) notes to the financial statements. This report also contains other supplementary information in addition to the basic financial statements themselves.

Basic Financial Statements

The basic financial statements are designed to provide readers with a broad overview of the District Attorney's finances, in a manner similar to a private-sector business.

The *statement of net assets* presents information on all of the District Attorney's assets and liabilities, with the difference between the two reported as *net assets*. Over time, increases or decreases in net assets may serve as a useful indicator of whether the financial position of the District Attorney is improving or deteriorating.

The *statement of activities* presents information showing how the government's net assets changed during the most recent fiscal year. All changes in net assets are reported as soon as the underlying event giving rise to the change occurs, *regardless of the timing of related cash flows*. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods (e.g., uncollected revenue and earned but unused vacation leave).

The balance sheets present information on all of the District Attorney's assets and liabilities, with the difference between the two reported as net assets. Over time, increases or decreases in net assets may serve as a useful indicator of whether the financial position of the District Attorney is improving or deteriorating. Net assets increase when revenues exceed expenses. Increases to assets without a corresponding increase to liabilities results in increased net assets, which indicate an improved financial position. The government-wide financial statements can be found at Exhibits A-1 and A-2 of this report.

Fund Financial Statements

A *fund* is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. The District Attorney, like other state and local governments, uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
Management's Discussion and Analysis
June 30, 2008

Fund Financial Statements (continued)

Governmental Funds

Governmental funds are used to account for essentially the same functions reported as governmental activities in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on near-term inflows and outflows and outflows of spendable resources, as well as on balances of spendable resources available at the end of the fiscal year. Such information may be useful in determining near-term requirements.

Because the focus of governmental funds is narrower than that of the government-wide financial statements, it is useful to compare the information presented for governmental funds with similar information presented for governmental activities in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the government's near term financing decisions. Both the governmental fund balance sheet and the governmental fund statement of revenues, expenditures, and changes in fund balances provide a reconciliation to facilitate this comparison between governmental funds and governmental activities.

In addition to the general fund, the District Attorney maintains four other individual governmental funds that are classified as special revenue funds. Information for the general fund and the SWBPI grants fund, both of which are considered to be major funds, is presented separately in the governmental fund balance sheet and statement of revenues, expenditures, and changes in fund balances. Individual fund data for each non-major governmental fund: High Intensity Drug Trafficking Area (HIDTA), Victim Assistance and Other Grants are provided following the notes to the financial statements.

The New Mexico Legislature makes annual appropriations for the District Attorney's general fund. Amendments to the budget require approval by the Budget Division of the Department of Finance and Administration (DFA). Over the course of the fiscal year, the District Attorney revised the budget of the special revenue funds several times. Budgetary comparison statements for the general and special revenue major fund are presented as Exhibits C-1 and C-2.

The basic governmental fund financial statements are presented as Exhibits B-1 through B-4.

Notes to the Financial Statement

The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements. The notes to the financial statements can be found on pages nineteen through twenty-nine of this report.

Analysis of Net Assets

Assets may serve over time as a useful indicator of the District Attorney's financial position. Assets exceeded liabilities by \$1,006,850 at the close of the current fiscal year.

The largest portion of the District Attorney's net assets, \$835,638, represents restricted net assets, which are available for restricted obligations.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
Management's Discussion and Analysis
June 30, 2008

Analysis of Net Assets (continued)

NET ASSETS			
June 30,			
	<u>2008</u>	<u>2007</u>	<u>Variance</u>
ASSETS			
Current assets	\$1,284,827	\$ 3,161,751	-59.36%
Capital assets, net of accumulated depreciation	171,212	163,302	4.84%
Total assets	<u>\$1,456,039</u>	<u>\$ 3,325,053</u>	<u>-56.21%</u>
LIABILITIES			
Current liabilities	\$ 254,540	\$ 1,992,672	-87.23%
Long-term liabilities	194,649	165,657	17.50%
Total liabilities	<u>449,189</u>	<u>2,158,329</u>	<u>-79.19%</u>
NET ASSETS			
Investment in capital assets	171,212	163,302	4.84%
Restricted	835,638	1,086,321	-23.08%
Unrestricted	-	(82,899)	100.00%
Total net assets	<u>\$1,006,850</u>	<u>\$ 1,166,724</u>	<u>-13.70%</u>

Beginning balances for net assets were restated by prior period adjustments as follows:

	Victim Assistance		
	<u>SWBPI</u>	<u>Program</u>	<u>Total</u>
Subsidiary accounts established during the conversion to the State SHARE Computer System that was not included in the financial statements of June 30, 2007	\$ 80,810	\$ -	\$ 80,810
Accounts receivable collected during the year ended June 30, 2007		58,369	<u>58,369</u>
Total reduction of net assets			139,179
Net assets - beginning			<u>1,166,724</u>
Net assets - beginning restated			<u>\$ 1,027,545</u>

The District Attorney's net assets decreased by \$20,695 for the year ended June 30, 2008. The decrease is attributed to an increase in expenses. Total revenues increased by \$768,186 and the expenses increased \$1,157,439 when compared to the previous year.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
Management's Discussion and Analysis
June 30, 2008

Analysis of Net Assets (continued)

Changes in Net Assets
For the Year-Ended June 30,

	<u>2008</u>	<u>2007</u>	<u>Variance</u>
REVENUES			
Program revenues	\$1,636,813	\$1,580,011	3.60%
General revenues	<u>4,185,622</u>	<u>3,474,238</u>	<u>20.48%</u>
Total revenues	<u>5,822,435</u>	<u>5,054,249</u>	<u>15.20%</u>
EXPENSES			
Public safety	<u>5,843,130</u>	<u>4,685,691</u>	<u>24.70%</u>
Total expenses	<u>5,843,130</u>	<u>4,685,691</u>	<u>24.70%</u>
(Decrease) increase in net assets	(20,695)	368,558	-105.62%
Net assets - beginning	<u>1,027,545</u>	<u>798,166</u>	<u>28.74%</u>
Net assets - ending	<u>\$1,006,850</u>	<u>\$1,166,724</u>	<u>-13.70%</u>

Governmental Activities

The principal operating fund of the District Attorney is the General Fund. Revenues are derived primarily from state appropriations.

The focus of the District Attorney's *governmental funds* is to provide information on near-term inflows, outflows, and balances of *spendable* resources. Such information is useful in assessing the District Attorney's financing requirements. In particular, *unreserved fund balance* may serve as a useful measure of a government's net resources available for spending at the end of the fiscal year.

Revenues for governmental functions overall totaled \$5,527,475 in the fiscal year-ended June 30, 2008, which represents an increase of \$473,226 from the fiscal year-ended June 30, 2007. Expenditures for governmental functions totaled \$5,822,048. This was an increase of approximately \$1,217,840 from the fiscal year-ended June 30, 2007. In the fiscal year-ended June 30, 2008, revenues for governmental functions exceeded expenditures by \$387. The increases in the revenues and expenditures were due to increased case loads.

The General Fund is the chief operating fund of the District Attorney. The General Fund revenue increased \$416,424 due to increased state appropriation required to handle the increased case load. The expenditures increased \$797,384 as a result of the increase in case load.

The grant revenue of SWBPI increased \$6,547 for the fiscal year ended June 30, 2008. To this the reserved for subsequent expenditures from the year ending June 30, 2007 in the amount of 1,003,511 was available in addition to the increase. The SWBPI grants fund had an increase of \$25,150 for the year ended June 30, 1008. The grant expenditures increased \$364,717. The remaining fund balance of \$1,028,661 is reserved for subsequent expenditures in accordance with the grant agreement.

The HIDTA grant revenue increased \$7,500. The grant expenditures also increased \$7,500. The remaining fund expenditures are in accordance with the grant agreement.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
Management's Discussion and Analysis
June 30, 2008

Governmental Activities (continued)

The VOCA grants fund revenue increased \$66,774 to aid with additional "Violence Against Women" cases. The grant expenditures increased \$74,177. The remaining fund balance of \$499 is reserved for subsequent expenditures in accordance with the grant agreement.

Capital Assets

The District Attorney's investment in net assets as of June 30, 2008 amounted to \$171,212 (net of accumulated depreciation). This investment in capital assets includes furniture and fixtures, equipment and vehicles. The following chart shows the breakdown of assets by classification:

Capital Assets (Net of Accumulated Depreciation)
June 30,

	<u>2008</u>	<u>2007</u>
Furniture and fixtures	\$ 9,051	\$ 12,549
Equipment	12,195	52,368
Vehicles	<u>149,966</u>	<u>98,385</u>
Net assets - ending	<u><u>\$171,212</u></u>	<u><u>\$163,302</u></u>

Economic Conditions

The District Attorney's office operates from state general fund appropriations; federal and state grants and awards and assistance from local governments for grant match purposes.

The District Attorney's office anticipates the following changes in the fiscal year ending June 30, 2008: a 19% increase in the state general fund, a 48% increase in SWBPI grant funds, no increase in HIDTA grant funds, no increase in Victim Assistance grant funds, and no increase in Other Grants funds.

Requests for Information

This financial report is designed to provide a general overview of the District Attorney's finances for all those with an interest in its finances. Questions concerning any of the information provided in this report or request for additional financial information should be addressed to:

Chief Financial Officer
845 N Motel Blvd.
Second Floor, Suite D
Las Cruces, New Mexico 88007

GOVERNMENT-WIDE FINANCIAL STATEMENTS

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
STATEMENT OF NET ASSETS
June 30, 2008

	Governmental Activities
ASSETS	
Investment with State Treasurer	\$ 868,648
Due from other governments	415,361
Prepaid expenses	818
Capital assets, net of accumulated depreciation	171,212
Total assets	\$ 1,456,039
 LIABILITIES	
Current liabilities:	
Accounts payable	\$ 32,381
Accrued payroll	178,052
Payroll taxes payable	41,854
Due to state general fund	2,253
Long-term liabilities:	
Current portion of compensated absences	64,883
Compensated absences	129,766
Total liabilities	449,189
 NET ASSETS	
Investment in capital assets	171,212
Restricted for subsequent events	835,638
Unrestricted	-
Total net assets	\$ 1,006,850

The accompanying notes are an integral part of these financial statements

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
STATEMENT OF ACTIVITIES
For the Fiscal Year Ended June 30, 2008

Functions/Programs	<u>Governmental Activities</u>
General government:	
Public safety	\$ 5,843,130
Total program expenses	<u>5,843,130</u>
Program revenues:	
Grants operational	<u>1,636,813</u>
Total program revenues	1,636,813
Net program expense	(4,206,317)
General revenues:	
State appropriations	
Total general revenues	3,890,622
Transfers State general fund appropriation	<u>294,960</u>
Total general revenues	<u>(4,185,622)</u>
Net increase (decrease) in net assets	(20,695)
Net assets - beginning	\$ 1,166,724
Restatement:	
Interest in SGFIP Warrants A BOA for SWBPI for previous year	(80,810)
Accounts receivable for Victim's Assistance in prior year	<u>(58,369)</u>
Net assets - beginning restated	<u>1,027,545</u>
Net assets - ending	<u>\$ (3,158,077)</u>

The accompanying notes are an integral part of these financial statements

GOVERNMENTAL FUNDS STATEMENTS

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
BALANCE SHEET – GOVERNMENTAL FUNDS
June 30, 2008

	General Fund	SWBPI Fund	Non-Major Fund	Total
ASSETS				
Investment with State Treasurer	\$170,835	\$ 814,213	\$(116,400)	\$ 868,648
Due from other governments	-	288,143	127,218	415,361
Prepaid expenses	818	-	-	818
Total assets	<u>\$171,653</u>	<u>\$1,102,356</u>	<u>\$ 10,818</u>	<u>\$1,284,827</u>
LIABILITIES AND FUND BALANCES				
Liabilities:				
Accounts payable	\$ 2,730	\$ 27,357	\$ 2,294	\$ 32,381
Accrued payroll	133,305	38,882	5,865	178,052
Payroll taxes payable	33,365	7,456	1,033	41,854
Due to state general fund	2,253	-	-	2,253
Total liabilities	<u>171,653</u>	<u>73,695</u>	<u>9,192</u>	<u>254,540</u>
Fund balances:				
Reserved for subsequent expenditures	-	1,028,661	1,626	1,030,287
Unreserved	-	-	-	-
Total fund balances	<u>-</u>	<u>1,028,661</u>	<u>1,626</u>	<u>1,030,287</u>
Total liabilities and fund balances	<u>\$171,653</u>	<u>\$1,102,356</u>	<u>\$ 10,818</u>	<u>\$1,284,827</u>

The accompanying notes are an integral part of these financial statements

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
GOVERNMENTAL FUNDS
RECONCILIATION OF THE BALANCE SHEET TO THE STATEMENT OF NET ASSETS
June 30, 2008

Total fund balances – governmental funds (Exhibit B-1) \$1,030,287

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

Capital assets used in governmental activities are not financial resources and therefore are not reported as assets in governmental funds. The cost of the assets is \$703,691, and the accumulated depreciation is \$532,479. 171,212

Long-term liabilities which consist of compensated absences are not payable in the current period and therefore are not reported as liabilities in the funds. The liabilities attributable to each fund is as follows:

General Fund	\$147,568	
SWBPI	18,167	
HIDTA	15,611	
Victim Assistance	8,406	
Other	<u>4,897</u>	
		<u>(194,649)</u>

Total net assets - governmental activities (Exhibit A-1) \$1,006,850

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 BALANCE – GOVERNMENTAL FUNDS
For the Year-Ended June 30, 2008

	General Fund	SWBPI Fund	Non-Major Fund	Total
Revenues:				
State general fund appropriations	\$ 3,890,662	\$ -	\$ -	\$ 3,890,662
Governmental grants	-	948,930	687,883	1,636,813
Total revenues	<u>3,890,662</u>	<u>948,930</u>	<u>687,883</u>	<u>5,527,475</u>
Expenditures:				
Current:				
Public safety	4,209,279	827,800	669,646	5,706,725
Capital outlay	19,205	95,980	-	115,185
Total expenditures	<u>4,228,484</u>	<u>923,780</u>	<u>669,646</u>	<u>5,821,910</u>
Excess (deficiency) of revenues over expenditures	<u>(337,822)</u>	<u>25,150</u>	<u>18,237</u>	<u>(294,435)</u>
Other Financing Sources (Uses):				
Transfers-State general fund appropriation	294,960	-	-	294,960
Transfers-Reversion to the State general fund -FY	(138)	-	-	(138)
Total other financing sources	<u>294,822</u>	<u>-</u>	<u>-</u>	<u>294,822</u>
Net change in fund balances	(43,000)	25,150	18,237	387
Fund balances - beginning	43,000	1,084,321	41,758	1,169,079
Less: prior period adjustments	<u>-</u>	<u>(80,810)</u>	<u>(58,369)</u>	<u>(139,179)</u>
Fund balances - beginning restated	<u>43,000</u>	<u>1,003,511</u>	<u>(16,611)</u>	<u>1,029,900</u>
Fund balances - ending	<u>\$ -</u>	<u>\$ 1,028,661</u>	<u>\$ 1,626</u>	<u>\$ 1,030,287</u>

The accompanying notes are an integral part of these financial statements

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
RECONCILIATION OF THE GOVERNMENTAL FUNDS, STATEMENT OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCES TO THE STATEMENT OF ACTIVITIES
For the Year-Ended June 30, 2008

Net Change in Fund Balances – Governmental Funds (Exhibit B-3) \$ 387

Capital outlays are reported in governmental funds as expenditures. However, in the statement of activities, the cost of those assets is allocated over their estimated useful lives as depreciation expense. The following schedule show the activity in the capital assets:

Capital assets reported as capital outlay expenditures	\$115,185	
Depreciation expense	<u>(107,275)</u>	
Depreciation expense not reported in governmental funds		7,910

In the statement of activities, certain operating expenses- compensated absences (vacations) - are measured by the amounts earned during the year. In the governmental funds, however, expenditures for these items are measured by the amount of financial resources used (essentially, the amounts actually paid). This year, vacation leave earned, \$249,731, exceeded the amounts used \$220,739 by \$28,992.

(28,992)

Change in Net Assets of Government Activities (Exhibit A-2) \$(20,695)

The accompanying notes are an integral part of these financial statements

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
General Fund
Statement of Revenues, Expenditure and Changes in Fund Net Assets
Budget (non-GAAP Basis) and Actual
For the Year-Ended June 30, 2008

	<u>Budgeted Amounts</u>		<u>Actual (Non-GAAP Basis)</u>	Variances
	<u>Original</u>	<u>Final</u>		<u>Favorable (Unfavorable) Final to Actual</u>
Revenues:				
State appropriation	<u>\$3,890,800</u>	<u>\$3,890,800</u>	<u>\$ 3,890,662</u>	<u>\$ (138)</u>
Total operating revenues	<u>3,890,800</u>	<u>3,890,800</u>	<u>3,890,662</u>	<u>(138)</u>
 Add: Required fund balance	 <u>43,000</u>	 <u>43,000</u>		
	<u><u>3,933,800</u></u>	<u><u>3,933,800</u></u>		
 Operating expenditures:				
Current:				
Personnel services	3,886,160	3,886,160	3,886,108	52
Contractual services	36,600	36,600	36,600	-
Other expenses	243,795	243,795	243,709	86
Capital outlay less than \$5,000 each item	43,000	43,000	43,000	-
Capital outlay	<u>19,205</u>	<u>19,205</u>	<u>19,205</u>	<u>-</u>
Total expenditures	<u><u>4,228,760</u></u>	<u><u>4,228,760</u></u>	<u><u>4,228,622</u></u>	<u><u>138</u></u>
 Excess (deficiency) of revenues over expenditures			 <u>(337,960)</u>	
 Other financing sources (uses):				
Transfers in State General Fund appropriation	294,960	294,960	294,960	-
Transfers out	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total other financing sources	<u><u>294,960</u></u>	<u><u>294,960</u></u>	<u><u>294,960</u></u>	<u><u>-</u></u>
 Changes in fund balance			 (43,000)	
Total fund balance - beginning			<u>43,000</u>	
Total fund balance - ending			<u><u>\$ -</u></u>	

The accompanying notes are an integral part of these financial statements

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
SWBPI Grants Fund
Statement of Revenues, Expenditure and Changes in Fund Net Assets
Budget (non-GAAP Basis) and Actual
For the Year-Ended June 30, 2008

	Budgeted Amounts		Actual (Non-GAAP Basis)	Variances
	Original	Final		Favorable (Unfavorable) Final to Actual
Revenues:				
Federal grant	\$ 948,930	\$ 948,930	\$ 948,930	\$ -
Total operating revenues	948,930	948,930	948,930	-
 Add: Required fund balance	 1,003,521	 -		
	<u>1,952,451</u>	<u>948,930</u>		
 Operating expenditures:				
Current:				
Personnel services	283,073	683,073	549,608	133,465
Contractual service	100,000	200,000	60,504	139,496
Other expenses	383,409	736,359	217,688	518,671
Capital outlay	-	95,980	95,980	-
Total expenditures	<u>766,482</u>	<u>1,715,412</u>	<u>923,780</u>	<u>791,632</u>
 Excess (deficiency) of revenues over expenditures			 <u>25,150</u>	
 Other financing sources (uses)				
Transfers in	-	-	-	-
Transfers out	-	-	-	-
Total other financing sources	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
 Changes in fund balance			 25,150	
 Total fund balance - beginning		\$ 1,084,321		
Less: fund balance adjustment for previous year		<u>(80,810)</u>		
Balance - beginning restated			<u>1,003,511</u>	
 Total fund balance - ending			 <u>\$ 1,028,661</u>	

The accompanying notes are an integral part of these financial statements

NOTES TO FINANCIAL STATEMENTS

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENT
June 30, 2008

Note 1. Summary of Significant Accounting Policies

The financial statements of the Third Judicial District Attorney (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.

All governmental and business-type activities of the District Attorney follow FASB Statements and interpretations issued on or before November 30, 1989, Accounting Principles Board Opinions, and Accounting Research Bulletins, unless those pronouncements conflict with GASB pronouncements.

In June 1999, the GASB unanimously approved Statement No. 34, *Basic Financial Statements and Management Discussion and Analysis for State and Local Governments*. In June 2001, the GASB approved Statement No. 37, *Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments: Omnibus* and Statement No. 38, *Certain Financial Statement Note Disclosures*. Statement No. 37 clarifies and modifies Statement No. 34 and should be implemented simultaneously with Statement No. 34. Statement No. 38 modifies, establishes, and rescinds certain financial statement disclosures requirements.

The District Attorney implemented the provisions of GASB No.'s 34, 37 and 38 effective July 1, 2003. The Third Judicial District Attorney implemented the provisions of GASB No. 40 effective July 1, 2004. The District Attorney implemented the provisions of GASB No. 42, 43, 44, 45, 46, and 47 effective July 1, 2005.

A. Financial Reporting Entity

The District Attorney is given 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 or 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 STATEMENT
June 30, 2008

Note 1. Summary of Significant Accounting Policies (continued)

B. Government-Wide and Fund Financial Statements

The government-wide financial statements report information on all of the non-fiduciary activities of the primary government. For the most part, the effect of inter-fund activity has been removed from these statements.

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

Major individual governmental 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. State appropriations are recognized as revenues in the year for which they are levied. Grants and similar items are recognized as revenue as soon as all eligibility requirements imposed by the provider have been met. Neither fiduciary funds nor component units that are fiduciary in nature are included. Revenues, expenses, gains, losses, assets and liabilities resulting from non-exchange transactions are recognized in accordance with the requirements of GASB Statement No. 33, *Accounting and Financial Reporting for Non-exchange Transactions*.

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 or soon enough thereafter to pay liabilities of 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, expenditures related to compensated absences are recorded only when payment is made.

The District Attorney reports the following major governmental funds:

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 required 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 Share account number and description for the general fund of the District Attorney is 15700 – Third Judicial District Attorney Regular.

SWBPI Grants Fund – This fund, formerly titled DCSI, is used to account for proceeds from the Southwest Border Prosecution Initiative (SWBPI) and the expenditures there from. The 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 non-reverting 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 SWBPI grants fund is a major fund whose Share account number is 93400.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENT
June 30, 2008

Note 1. Summary of Significant Accounting Policies (continued)

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 non-reverting 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 non-major fund whose Share account number is 93600.

Victim Assistance Fund – The Victim Assistance fund is used to account for the grant proceeds from the Victims of Crime Act (VOCA), and the the Rural Domestic Violence & Child Victimization Enforcement grants, and the expenditures there from. The authority for the creation of the VOCA grant comes from Congress and is administered at the federal level through the U.S. Department of Justice Office for Victims of Crime. The state agencies sub-grant to the organizations that provide direct services to the victims of crime. It is administered by the U. S. Department of Justice’s Office on Violence Against Women. The authority for the creation of the Rural Domestic Violence and Child Victimization Enforcement Grant comes from Congress and is administered by the U.S. Department of Justice’s Office on Violence Against Women. 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 non-reverting 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 Assistance fund is a non-major fund whose Share account number is 93300.

Other Grants Fund – The Other Grants fund is used to account for grant proceeds from the County of Doña Ana, New Mexico to prevent fraud and exploitation of older adults in Doña Ana County. 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 non-reverting to the state of New Mexico’s general fund as the source of revenues is the County of Doña Ana. The District Attorney has determined that the Other Grants fund is a non-major fund whose Share account number is 48500.

Private-sector standards of accounting and financial reporting issued prior to December 13, 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 inter-fund 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 unrestricted resources first, and then restricted resources as they are recorded.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENT
June 30, 2008

Note 1. Summary of Significant Accounting Policies (continued)

D. Budgets and Budgetary Accounting

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 review 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 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 this State Agency is adopted on the modified accrual basis of accounting except for accounts payable accrued at the end of the fiscal year that do not get paid by the statutory deadline that must be paid out of the next year's budget.
8. For reverting funds, the unreserved fund balance must revert to the state general fund at the end of appropriation period.

E. Assets, Liabilities and Net Assets or Equity

Cash: The District Attorney has defined cash to include cash on deposit with the State Treasurer. The State Treasurer has final authority on all cash disbursements.

Receivables and Payables: Activity between funds that is representative of lending/borrowing arrangements outstanding at the end of the fiscal year is referred to as inter-fund balance. 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 from available resources.

Interfund Activity: Interfund activity is reported as 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.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENT
June 30, 2008

Note 1. Summary of Significant Accounting Policies (continued)

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

Capital Assets: Capital assets, which include property, plant, and equipment, are reported in the applicable governmental column in the government-side financial statements. Capital assets including computer software are defined by the government as assets with an initial, individual cost of more than \$5,000 (amount not rounded) and an estimated useful life in excess of one year. Such assets are recorded at historical cost or estimated historical cost if purchased or constructed. Pursuant to the implementation of GASB Statement No. 34, the historical cost of infrastructure assets, (retroactive to 1979) are to be included as part of the governmental capital assets reported in the government-wide statements. Donated capital assets are recorded at estimated fair market value at the date of donation. The costs of normal maintenance and repairs that do not add to the value of the asset or materially extend assets lives are not capitalized. 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:

<u>Assets</u>	<u>Years</u>
Furniture and fixtures	7
Equipment and machinery	5
Automotive	5
Data processing (Including Computer Software)	3

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.

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 are paid from available, expendable resources.

Net Assets: The government-wide financial statements utilize a net assets presentation. Net assets are categorized as follows:

Investment in Capital Assets - In the fund financial statements, investment in capital assets are reported net of depreciation.

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

Unrestricted Net Assets – This category reflects net assets of the Agency, not restricted for any project or other purpose.

Estimates: The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENT
June 30, 2008**

Note 2. Reconciliation of Government-wide and Fund Financial Statements

Explanation of Certain Differences Between the Governmental Funds 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	\$ 171,212
Compensated absences payable	<u>(194,649)</u>
Net adjustments to reduce fund balances total governmental funds to arrive at net assets governmental activities	\$ <u>(23,437)</u>

Explanation of Certain Differences Between the Governmental Fund Statement of Revenues, Expenditures, and Changes in 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	\$ 115,185
Depreciation expense	<u>(107,275)</u>
Net adjustments to reduce net changes in fund balances total governmental funds to arrive at changes in net assets of governmental activities	\$ <u>7,910</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	\$ 28,992
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Note 3. Reconciliation Between Modified Accrual and Budget

The District Attorney did not request that any prior year bills be paid out of the FY 09 budget; therefore, there are no differences between modified accrual basis expenditures in the fund financial statements and the budget basis expenditures shown in the budget comparison.

Note 4. Investment in the State Treasurer General Fund Investment Pool

The New Mexico State Treasurer has the authority to invest money held in demand deposits and not immediately needed for the operation of state government in securities in accordance with Sections 6-10-10 I through O, NMSA 1978 as amended.

As of June 30, 2008, the District Attorney had \$868,648 invested with the Statewide Human Resources Accounting and Management Reporting System (SHARE) fund 853 in an STO-SGFIP account. No reconciliation was provided by the State as of December 29, 2008. There are no cash depository accounts.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENT
June 30, 2008

Note 4. Investment in the State Treasurer General Fund Investment Pool (continued)

Credit Risk

The State's investment policy does not further limit its investment choices other than those noted above per New Mexico State Statutes.

Interest Rate Risk

The interest credit rate risk of this investment is as follows:

New MexicoGrow LGIP AAAm rated \$ 868,648 24-day WAM

Note 5. Grants Receivable

Amounts due from governmental grants as of June 30, 2008, consisted of the following:

SWBPI Grant fund	\$	288,143
HIDTA Grant fund		54,051
Victim Assistance Grant fund		65,562
Other Grants fund		7,605
Total	\$	415,361

Note 6. Capital Assets

Summary of changes in capital assets is as follows:

<u>Description</u>	<u>Balance</u> <u>6/30/2007</u>	<u>Additions</u>	<u>Deletions</u>	<u>Balance</u> <u>6/30/2008</u>
Capital assets being depreciated:				
Furniture and fixtures	\$ 33,871	\$ -	\$ 17,100	\$ 16,771
Equipment	296,210	-	10,467	285,743
Vehicles	285,992	115,185	-	401,177
	616,073	115,185	27,567	703,691
Less accumulated depreciation for:				
Furniture and fixtures	21,322	3,498	17,100	7,720
Equipment	243,842	40,173	10,467	273,548
Vehicles	187,607	63,604	-	251,211
	452,771	107,275	27,567	532,479
Total net assets	\$163,302	\$ 7,910	\$ -	\$171,212

Current depreciation expense amounts to \$107,275. All of the depreciation was charged to assets in the General Fund.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENT
June 30, 2008

Note 7. Compensated Absences

Qualified employees accumulate annual leave at a rate of:

<u>Years of Service</u>	<u>Hours Earned Per Month</u>	<u>Days Earned Per Month</u>	<u>Days of Maximum Accrual</u>
Less than 4 years	10	1.250	30
4-8 years	11	1.375	30
8-12 years	12	1.500	30
12-16 years	13	1.625	30
Beyond 16 years	14	1.750	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.

<u>Description</u>	<u>Balance 6/30/07</u>	<u>Additions</u>	<u>Deletions</u>	<u>Balance 6/30/08</u>	<u>Due within One Year</u>
Compensated Absences	\$ 165,657	\$ 249,731	\$ 220,739	\$ 194,649	\$ 64,883

Seventy-six percent of the compensated absences are to be paid by the General fund; nine percent by the SWBPI fund; eight percent by the HIDTA fund; four percent by the Victim Assistance fund, and three percent by the Other Grants fund.

Note 8. Reversion to State of New Mexico General Fund

In accordance with NMAC 2.2.2.12A(6), as of June 30, 2008, the amount due to the New Mexico General Fund is as follows:

	<u>Appropriation</u>	<u>Reversion</u>
Reversion to State General Fund 08 Fiscal Year	\$ 3,890,800	\$ 138

Note 9. Inter-agency Transfers

The inter-agency transfers as of June 30, 2008, consisted of funds transferred from the State General Fund Share Account 853 in the amount of \$294,960 to the District Attorney's General Fund account 15700.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENT
June 30, 2008

Note 10. Net Assets Fund Balance - Restated

The net assets beginning balance were restated as follows:

	General Fund	SWBPI Fund	HIDTA Fund	Victim Assistance	Other Grants	Balance per audit June 30, 2007
Fund balance - beginning	\$43,000	\$1,084,321	\$ 77	\$ 41,681	\$ -	\$ 1,169,079
Capital assets						163,302
Compensation liability						(165,657)
Net assets - beginning						<u>1,166,724</u>
Accounts receivable collected during the year ended June 30, 2007				(58,369)		(58,369)
Subsidiary established during the conversion to the State SHARE computer system that was not included in the financial statements of June 30, 2007		(80,810)				(80,810)
Fund balance - beginning restated						<u><u>\$ 1,027,545</u></u>

The prior year financial statements were not corrected and reissued.

Note 11. 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 lease for a postage meter was entered into on June 13, 2005, which requires 3 monthly payments of \$248 and 45 monthly payments of \$281.

A lease for five Cannon copiers was entered into on July 13, 2007, which requires 60 monthly payments of \$2,100.

Note 12. Retirement Plans

Plan Description. 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, survivor 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 for the plan. That report may be obtained by writing to PERA, P.O. Box 2123, Santa Fe, NM 87504-2123. The report is also available on PERA's website at www.PERA.state.nm.us.

Funding Policy. 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, 2008, 2007, and 2006 were \$593,485, \$484,018, and \$444,425, respectively, equal to the amount of the required contributions for each year.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
NOTES TO FINANCIAL STATEMENT
June 30, 2008

Note 13. Post Employment Benefits – State Retiree Health Care

Plan Description. The District Attorney contributes to the New Mexico Retiree Health Care Fund, a cost-sharing multiple-employer defined benefit postemployment healthcare plan administered by the New Mexico Retiree Health Care Authority (RHCA). The RHCA provides health care insurance and prescription drug benefits to retired employees of participating New Mexico government agencies, their spouses, dependents, and surviving spouses and dependents. The RHCA Board was established by the Retiree Health Care Act (Chapter 10, Article 7C, NMSA 1978). The Board is responsible for establishing and amending benefit provisions of the healthcare plan and is also authorized to designate optional and/or voluntary benefits like dental, vision, supplemental life insurance, and long-term care policies.

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 RHCA plan on the person's behalf unless that person retires before the employer's RHCA effective date, in which the event the time period required for employee and employer contributions shall become the period of time between the employer's effective date and the date of retirement; 2) retirees defined by the Act who retired prior to July 1, 1990; 3) former legislators who served at least two years; and 4) former governing authority members who served at least four years.

The RHCA issues a publicly available stand-alone financial report that includes financial statements and required supplementary information for the postemployment healthcare plan. That report and further information can be obtained by writing to the Retiree Health Care Authority at 4308 Carlisle NE, Suite 104, Albuquerque, NM 87107.

Funding Policy. The Retiree Health Care Act (Section 10-7C-13 NMSA 1978) authorizes the RHCA Board to establish the monthly premium contributions that retirees are required to pay for healthcare benefits. Each participating retiree pays a monthly premium according to a service based subsidy rate schedule for the medical plus basic life plan plus an additional participation fee of five dollars if the eligible participant retired prior to the employer's RHCA effective date or is a former legislator or former governing authority member. Former legislators and governing authority members are required to pay 100% of the insurance premium to cover their claims and the administrative expenses of the plan. The monthly premium rate schedule can be obtained from the RHCA or viewed on their website at www.nmrhca.state.nm.us.

The Retiree Health Care Act (Section 10-7C-15 NMSA 1978) is the statutory authority that establishes the required contributions of participating employers and their employees. The statute requires each participating employer to contribute 1.3% of each participating employee's annual salary; each participating employee is required to contribute .65% of their salary.

Employers joining the program after 1/1/98 are also required to make a surplus-amount contribution to the RHCA based on one of two formulas at agreed-upon intervals.

The RHCA plan is financed on a pay-as-you-go basis. The employer, employee and retiree contributions are required to be remitted to the RHCA on a monthly basis. The statutory requirements for the contributions can be changed by the New Mexico State Legislature.

The District Attorney's contributions to the RHCA for the years ended June 30, 2008, 2007 and 2006 were \$44,865, \$36,815 and \$34,683, respectively, which equal the required contributions for each year.

Note 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 attempt 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 STATEMENT
June 30, 2008

Note 15. Disclosure of Financial Interest

There were no other related party transactions during the fiscal year ended June 30, 2008.

SUPPLEMENTARY INFORMATION

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
BALANCE SHEET – SPECIAL REVENUES FUNDS
June 30, 2008

	<u>HIDTA</u> <u>Fund</u>	<u>Victim Assistance</u> <u>Fund</u>	<u>Other Grants</u> <u>Fund</u>	<u>Totals</u>
ASSETS				
Investment with State Treasurer	\$ (53,974)	\$ (55,871)	\$ (6,555)	\$ (116,400)
Due from other governments	<u>54,051</u>	<u>65,562</u>	<u>7,605</u>	<u>127,218</u>
Total assets	<u>\$ 77</u>	<u>\$ 9,691</u>	<u>\$ 1,050</u>	<u>\$ 10,818</u>
LIABILITIES AND FUND BALANCES				
Liabilities:				
Accounts payable	\$ -	\$ 2,294	\$ -	\$ 2,294
Accrued payroll	-	5,865	-	5,865
Payroll taxes payable	<u>-</u>	<u>1,033</u>	<u>-</u>	<u>1,033</u>
Total liabilities	<u>-</u>	<u>9,192</u>	<u>-</u>	<u>9,192</u>
Fund balance:				
Reserved for subsequent expenditures	<u>77</u>	<u>499</u>	<u>1,050</u>	<u>1,626</u>
Total fund balance	<u>77</u>	<u>499</u>	<u>1,050</u>	<u>1,626</u>
Total liabilities and fund balances	<u>\$ 77</u>	<u>\$ 9,691</u>	<u>\$ 1,050</u>	<u>\$ 10,818</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 – SPECIAL REVENUES FUNDS
For the Year-ended June 30, 2008

	HIDTA Fund	Victim Assistance Fund	Other Grants Fund	Totals
REVENUES:				
Federal grants	\$353,276	\$ 291,557	\$ 43,050	\$687,883
Total revenues	<u>353,276</u>	<u>291,557</u>	<u>43,050</u>	<u>687,883</u>
EXPENDITURES:				
Current:				
Personnel services	353,276	240,554	42,000	635,830
Contract services	-	25,963	-	25,963
Other expenses	-	7,853	-	7,853
Total Expenditures	<u>353,276</u>	<u>274,370</u>	<u>42,000</u>	<u>669,646</u>
Excess (deficiency) of revenues over expenditures	<u>-</u>	<u>17,187</u>	<u>1,050</u>	<u>18,237</u>
OTHER FINANCING SOURCES (USES):				
Operating transfers in	-	-	-	-
Operating transfers (out)	-	-	-	-
Total other financing sources	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Net change in fund balance	<u>-</u>	<u>17,187</u>	<u>1,050</u>	<u>18,237</u>
Fund balance - beginning	77	41,681	-	41,758
Less: prior period adjustment for accounts receivable	<u>-</u>	<u>(58,369)</u>	<u>-</u>	<u>(58,369)</u>
Fund balance - beginning restated	<u>77</u>	<u>(16,688)</u>	<u>-</u>	<u>(16,611)</u>
Fund balance - ending	<u>\$ 77</u>	<u>\$ 499</u>	<u>\$ 1,050</u>	<u>\$ 1,626</u>

The accompanying notes are an integral part of these financial statements

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
HIDTA Fund
Statement of Revenues, Expenditures and Changes in Fund Net Assets
Budget (Non-GAAP Basis) and Actual
For the Year-Ended June 30, 2008

	Budgeted Amounts		Actual (Non-GAAP Basis)	Variances
	Original	Final		Favorable (Unfavorable) Final to Actual
Revenues:				
Federal grants	\$353,276	\$353,276	\$ 353,276	\$ -
Total operating revenues	353,276	353,276	353,276	-
 Add: Required fund balance	 -	 -		
	<u>353,276</u>	<u>353,276</u>		
 Operating expenditures:				
Current:				
Personnel expenses	438,000	353,276	353,276	-
Total expenditures	438,000	353,276	353,276	-
 Excess (deficiency) of revenues over expenditures			 -	
 Other financing sources (uses):				
Transfers in	-	-	-	-
Transfers out	-	-	-	-
Total other financing sources	-	-	-	-
 Changes in fund balance			 -	
 Total fund balance - beginning			 <u>77</u>	
 Total fund balance - ending			 <u>\$ 77</u>	

The accompanying notes are an integral part of these financial statements

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
Victim Assistance Fund
Statement of Revenues, Expenditures and Changes in Fund Net Assets
Budget (Non-GAAP Basis) and Actual
For the Year-Ended June 30, 2008

	<u>Budgeted Amounts</u>		<u>Actual (Non-GAAP Basis)</u>	Variances
	<u>Original</u>	<u>Final</u>		Favorable (Unfavorable) Final to Actual
Revenues:				
Federal grants	<u>\$361,981</u>	<u>\$291,557</u>	<u>\$ 291,557</u>	<u>\$ -</u>
Total operating revenues	<u>361,981</u>	<u>291,557</u>	<u>291,557</u>	<u>-</u>
 Add: Required fund balance	 <u>-</u>	 <u>-</u>		
	<u><u>361,981</u></u>	<u><u>291,557</u></u>		
 Operating expenditures:				
Current:				
Personnel expenses	257,135	275,120	240,554	34,566
Contract service	64,000	51,892	25,963	25,929
Other costs	25,000	34,969	7,853	27,116
Total expenditures	<u>346,135</u>	<u>361,981</u>	<u>274,370</u>	<u>87,611</u>
 Excess (deficiency) of revenues over expenditures			 <u>17,187</u>	
 Other financing sources (uses)				
Transfers in	-	-	-	-
Transfers out	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total other financing sources	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
 Changes in fund balance			 17,187	
 Total fund balance - beginning		\$ 41,681		
Less: prior period adjustment for accounts receivable		<u>(58,369)</u>		
Balance beginning restated			<u>(16,688)</u>	
 Total fund balance - ending			 <u><u>\$ 499</u></u>	

The accompanying notes are an integral part of these financial statements

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
Other Grants Fund
Statement of Revenues, Expenditures and Changes in Fund Net Assets
Budget (Non-GAAP Basis) and Actual
For the Year-Ended June 30, 2008

	Budgeted Amounts		Actual (Non-GAAP Basis)	Variances
	Original	Final		Favorable (Unfavorable) Final to Actual
Revenues:				
Federal grants	\$ 42,000	\$ 67,126	\$ 43,050	\$ (24,076)
Total operating revenues	<u>42,000</u>	<u>67,126</u>	<u>43,050</u>	<u>(24,076)</u>
 Add: Required fund balance	 <u>-</u>	 <u>-</u>		
	<u><u>42,000</u></u>	<u><u>67,126</u></u>		
 Operating expenditures:				
Current:				
Personnel expenses	42,000	42,000	42,000	-
Total expenditures	<u>42,000</u>	<u>42,000</u>	<u>42,000</u>	<u>-</u>
 Excess (deficiency) of revenues over expenditures			 <u>1,050</u>	
 Other financing sources (uses)				
Transfers in	-	-	-	-
Transfers out	-	-	-	-
Total other financing sources	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
 Changes in fund balance			 1,050	
 Total fund balance - beginning			 <u>-</u>	
 Total fund balance - ending			 <u><u>\$ 1,050</u></u>	

The accompanying notes are an integral part of these financial statements

SUPPORTING SCHEDULES

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
Schedule of Joint Powers Agreements
June 30, 2008

**Communities Against Senior Exploitation Program
(C.A.S.E)**

Participants: County of Doña Ana, New Mexico and 3rd Judicial District Attorney's Office
Responsible Party: 3rd Judicial District Attorney's Office
Description: To prevent fraud and exploitation of older adults in Doña Ana County
Period: 11/1/06 through 6/20/07, renewable annually
Project Costs: \$144,000 in salaries
Third Judicial Contributions: The District Attorney agrees to create and fund a prosecutor position within the District Attorney's Office for the C.A.S.E. Program at an annual rate of \$72,000 and a secretary position at an annual rate of \$32,000.
Audit Responsibility: 3rd Judicial District Attorney's Office

The accompanying notes are an integral part of these financial statements

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
Schedule of Expenditures of Federal Awards
June 30, 2008

	CFDA Number	Grant Number	Award Amount	State Spent	Federal Spent
U.S. Department of Justice, passed through New Mexico Department of Public Safety, Southwest Border Prosecution Initiative	16.000	N/A	\$ 948,930		\$ 923,780
Executive Office of the President, passed through the Office of National Drug Control Policy, High Intensity Drug Trafficking Area (HIDTA) Operation Up the Ladder Cooperative Agreement	07.999	I7PSNP553Z	353,276		353,276
U.S. Department of Justice, passed through Office of Justice Programs/Violence & Child Victimization Enforcement Grant Program	16.589	2004-WR-AX-0056	712,048		274,370
Thru the District Attorney's Office of Doña Ana county Funding for a communities against senior exploitation program established program		DAC 07-150	42,000	42,000	
Total Funds Available			<u>\$ 2,056,254</u>	<u>\$ 42,000</u>	<u>\$ 1,551,426</u>

Note 1. Basis of Presentation

The above Schedule of Expenditures of federal awards includes the federal grant activity of the Third Judicial District Attorney and is presented on the accrual basis of accounting. The information in this schedule is presented in accordance with the requirements of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." Therefore, some amounts presented in this schedule may differ from amounts presented in, or used in preparation of, the basic financial statements.

The accompanying notes are an integral part of these financial statements

COMPLIANCE SECTION

**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***

Hector H. Balderas
New Mexico State Auditor
Susana Martinez, District Attorney
Third Judicial District Attorney
Las Cruces, New Mexico

We have audited the financial statements of the governmental activities, each major fund and the aggregate remaining fund information, the budgetary comparisons for the general fund and major special revenue funds, and the combining and individual funds and budgetary comparisons presented as supplemental information of the State of New Mexico Third Judicial District Attorney as of and for the year-ended June 30, 2008, and have issued our report thereon dated December 29, 2008. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and with 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 as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Third Judicial District Attorney's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the District Attorney's internal control over financial reporting.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course or performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the District Attorney's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the District Attorney's financial statements that is more than inconsequential will not be prevented or detected by the District Attorney's internal control. We consider the deficiency described as finding 2007-01 in the accompanying schedule of findings and questioned costs to be a significant deficiency in internal control over financial reporting.

A material weakness is a significant deficiency, or a combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial will not be prevented or detected by the District Attorney's internal control.

Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in the internal control that might be significant deficiencies, and accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we believe that the significant deficiency described above is not a material weakness.

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 non-compliance or other matters that are required to be reported under *Government Auditing Standards* and which are described in the accompanying schedule of findings and questioned costs as item 2007-01, 2008-02 and 2008-03.

The District Attorney's responses to the findings identified in our audit are in the accompanying Schedule of findings and questioned costs. We did not audit the District Attorney's response and accordingly, we express no opinion on it.

This report is intended solely for the information and use of the management, Federal and State Awarding agencies and the Office of the New Mexico State Auditor, the New Mexico Legislature, and 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.



El Paso, Texas
December 29, 2008

**REPORT ON COMPLIANCE WITH REQUIREMENTS
APPLICABLE TO EACH MAJOR PROGRAM AND ON INTERNAL CONTROL
OVER COMPLIANCE IN ACCORDANCE WITH OMB CIRCULAR A-133**

Hector H. Balderas
New Mexico State Auditor
Susana Martinez, District Attorney
Third Judicial District Attorney
Las Cruces, New Mexico

Compliance

We have audited the compliance of the State of New Mexico Third Judicial District Attorney with the types of compliance requirements described in the U.S. Office of Management and Budget (OMB) A-133 *Compliance Supplement* that are applicable to each of its major federal programs for the year-ended June 30, 2008. 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 assurances 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 on 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, 2008.

Internal Control Over Compliance

The management of the Third Judicial District Attorney is responsible for establishing and maintaining effective internal control over compliance with requirements of laws, regulations, contracts, and grants applicable to federal programs. In planning and performing our audit, we considered the 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, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the Third Judicial District Attorney's internal control over compliance.

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

A *control deficiency* in an agency's internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect noncompliance with a type of compliance requirement of a federal program on a timely basis. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects the agency's ability to administer a federal program such that there is more than a remote likelihood that noncompliance with a type of compliance requirement of a federal program that is more than inconsequential will not be prevented or detected by the agency's internal control. The deficiencies in internal control over compliance are described in the accompanying schedule of findings and questioned costs and we consider item 2008-01 to be a significant deficiency.

A material weakness is a significant deficiency, or a combination of significant deficiencies, that results in more than a remote likelihood that material noncompliance with a type of compliance requirement of a federal program will not be prevented or detected by the agency's internal control.

The District Attorney's response to the finding identified in our audit is described in the accompanying schedule of findings and questioned costs. We did not audit the District Attorney's response and accordingly, we express no opinion on it.

This report is intended solely for the information and use of the management, Federal and State Awarding agencies and the Office of the New Mexico State Auditor, the New Mexico Legislature, and 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.



Marcus, Fairall, Bristol + Co., LLP
El Paso, Texas

December 29, 2008

**STATE OF NEW MEXICO
 THIRD JUDICIAL DISTRICT ATTORNEY
 SCHEDULE OF FINDINGS AND QUESTIONED COSTS
 For the Year-Ended June 30, 2008**

Section I – Summary of Auditor’s Results

Financial Statements

Type of auditors’ report issued: Unqualified

Internal control over financial reporting:

- Material weakness (es) identified? _____ Yes _____ X No
- Significant deficiency (ies) identified that are not considered to be material weaknesses? _____ X Yes _____ None reported

Noncompliance material to financial statements noted? _____ X Yes _____ No

Federal Awards

Internal control over major programs:

- Material weakness (es) identified? _____ Yes _____ X No
- Significant deficiency (ies) identified that are not considered to be material weakness (es)? _____ X Yes _____ 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

Identification of Major Programs:

CDFA Number

16.000

U.S. Department of Justice, Passed through New Mexico Department of Public Safety, Southwest Border Prosecution Initiative

07.999

Executive Office of the President, Passed through the Office of National Drug Control Policy, High Intensity Drug Trafficking Area (HIDTA) Operation Up the Ladder Cooperative Agreement, #I7PSNP553Z

Dollar threshold used to distinguish between Type A and Type B programs

\$ 300,000

Auditee qualified as low-risk auditee _____ X Yes _____ No

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
CURRENT YEAR SCHEDULE OF FINDINGS
For the Year-Ended June 30, 2008

Section II - Reportable Findings and Questioned Costs - Financial Statement

Prior Year Reportable Findings and Questioned Costs

Finding 2007-01 Investment Reconciliation and Investment Summary Report – Repeated-modified.

Current Year Reportable Findings and Questioned Costs

Finding 2007-01 Investment Reconciliation and Investment Summary Report

Condition

Investment accounts were not reconciled timely. Investment balances were not reconciled to the investments by fund by the state agency responsible for the investment funds.

Criteria

Cash control and cash reporting is an integral part of any internal control system. OMB Circular A-133 Sec. 300 (b) and 6-6-3 NMSA 1978 require adequate internal control be established by the State.

Effect

The investment statement by fund report is not reconciled to the investment account, thus investment balance reported by individual fund may not be correct.

Cause

The current personnel of the Third Judicial District Attorney's Office does not receive a State of New Mexico Treasurer's Report which would allow a reconciliation of investment to fund balance, therefore; the agency is unable to reconcile investment and fund balance.

Recommendation

Investment balances must be reconciled on a timely basis and then reconciled to the accounting records.

Response

The audit finding will be discussed with the State of New Mexico's Treasury Department by the 3rd Judicial District Attorney's Office Chief Financial Officer and immediate implementation will be requested.

Finding 2008-02 Audit Report Submission to the New Mexico State Auditor

Condition

The audit report was not completed and forwarded to the New Mexico State Auditor in a timely manner. The report was delivered January 12, 2009.

Criteria

As per SAO 2.2.2.9 (A)(I)(d), the New Mexico State Audit contract calls for this audit report to be delivered by December 15, 2008.

Effect

Delays in submission of the audit report affect the reporting of financial information to the other state agencies and local governments.

Cause

Additional time was needed to conduct the exit interview due to the illness of the lead auditor, Jack Fairall, CPA, of Marcus, Fairall, Bristol & Co, LLP on the day scheduled for the exit interview.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
CURRENT YEAR SCHEDULE OF FINDINGS
For the Year-Ended June 30, 2008

Section II - Reportable Findings and Questioned Costs - Financial Statement (continued)

Recommendation

Submit audit reports on a timely basis.

Response

Every effort will be made to assure all future audits are submitted in a timely basis.

Finding 2008-03 Employee Insurance Benefits for Dependents

Condition

Employee insurance benefits for dependents were paid for dependent life insurance which was not included in income to the employee on their respective employee form W-2.

Criteria

The requirement as stated in the Internal Revenue Code Rev. 1.274-57(k)(3). The benefits are considered to be income to the employee.

Effect

The employees' income was underestimated by the amount of the insurance premium paid for the dependent's life insurance.

Cause

The State of New Mexico Department of Finance & Administration is responsible for the preparation of all State of New Mexico's W-2 forms. W-2 forms should include as income, dependent life insurance premiums. The State of New Mexico Department of Finance & Administration does not include dependent life insurance premiums as income on employee's W-2 forms. The employees of the payroll department in the 3rd Judicial District Attorney's Office do not prepare the W-2 form nor do they exercise any control over the preparation of the W-2 form.

Recommendation

Dependent Life Insurance Premiums are required to be included on the employees' W-2. The State of New Mexico Department of Finance & Administration must include these fringe benefits on employees' W-2s.

Response

The audit finding will be discussed with the State of New Mexico's Department of Finance & Administration by the 3rd Judicial District Attorney's Office Chief Financial Officer and immediate implementation will be requested.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
CURRENT YEAR SCHEDULE OF FINDINGS
For the Year-Ended June 30, 2008

Section III - Reportable Findings and Questioned Costs – Major Federal Awards

Current Year Reportable Findings and Questioned Costs:

Finding 2008-01 Employees Being Paid As Personal Service Contractors

Condition

The District Attorney employed 24 individuals on an hourly basis to destroy closed cases on the premises and reporting the compensation as personal services contractors.

Criteria

Personal services contractors are in substance employees. The District Attorney is liable for the employees' share of the FICA and employer FICA match on the contract payments made to these individuals.

Effect

If an employee is classified as an independent contractor and there is no reasonable basis for doing so, there is a liability for employment taxes for that worker in accordance with the Internal Revenue Code Section 3509.

Cause

The District Attorney has the right to control what the worker does and how the worker does his or her job. The business aspect of the worker's job controlled by the District Attorney was how the worker is paid whether expenses are reimbursed, the tools and supplies provided. All of these requirements were met for these personal service contractors. They should have been considered employees.

Recommendation

The District Attorney should place these individuals on the payroll as employees and pay the required employment tax. An alternative would be to lease these individuals from an employee leasing firm to perform the services required. The leasing company would be responsible for the employment tax.

Response

This recommendation will be implemented.

STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT ATTORNEY
Passed Journal Entries
June 30, 2008

An exit conference was held on December 29, 2008 with Jack W. Fairall, CPA, of Marcus, Fairall, Bristol + Co., L.L.P., and the following personnel from the Office of the Third Judicial District Attorney:

Susana Martinez
Juliet Lucero

District Attorney
Chief Financial Officer

Compilation of Financial Statement

The financial statements presented in this report were compiled by the auditors, Marcus, Fairall, Bristol + Co., L.L.P. However, the contents of their financial statements remain the responsibility of the management. The individuals responsible for the accounting and reporting function possess the skills and knowledge to apply generally accepted accounting principles in recording the agency's financial transactions or preparing its financial statements.