

**FINANCIAL
STATEMENTS AND
REPORT OF
INDEPENDENT
CERTIFIED PUBLIC
ACCOUNTANTS**

**STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL**

June 30, 2009

atkinson

PRECISE. PERSONAL. PROACTIVE.

State of New Mexico
Office of the Attorney General

OFFICIAL ROSTER

June 30, 2009

Name	Title
Gary K. King	Attorney General
Albert J. Lama	Chief Deputy Attorney General
David K. Thomson	Deputy Attorney General
Elizabeth Glenn	Civil Division Director
Earl Holmes	Investigation Division
Mary Helen Baber	Prosecutions/Government Accountability
Jocelyn Torres	Litigation Division Director
Stephen Farris	Environment, Energy and Telecommunications Division Director
Karen Meyers	Consumer Protection Division Director
Evangeline J. Tinajero	Administrative Services Division Director
Margaret McLean	Criminal Appeals Division Director
Elizabeth Staley	Medicaid Fraud Division Director
Maria Sanchez Gagne	Border Violence Director

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REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

Honorable Gary King, Attorney General
Office of the Attorney General
and
Mr. Hector H. Balderas, State Auditor
Office of the State Auditor

We have audited the accompanying financial statements of governmental activities, each major fund, the budgetary comparisons for the General Fund and Major Special Revenue Funds and the aggregate remaining fund information of the Office of the Attorney General, as of and for the year ended June 30, 2009, which collectively comprise the Office of the Attorney General's basic financial statements, as listed in the table of contents. We have also audited the financial statements of each of the Office of the Attorney General's nonmajor governmental funds and budgetary comparison for nonmajor funds presented as supplementary information in the accompanying combining and individual fund financial statements as of and for the year ended June 30, 2009, as listed in the table of contents. These financial statements are the responsibility of the Office of the Attorney General's management. Our responsibility is to express opinions 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 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 used and the 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.

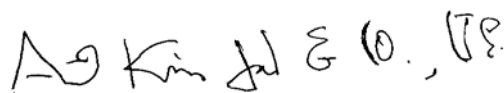
As discussed in Note B1, the financial statements of the Office of the Attorney General, State of New Mexico, are intended to present the financial position and changes in financial position, of only that portion of the governmental activities, each major fund, and the aggregate remaining fund information of the State of New Mexico that is attributable to the transactions of the Office of the Attorney General. They do not purport to, and do not, present fairly the financial position of the State of New Mexico as of June 30, 2009, and the changes in financial position, 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 Office of the Attorney General, as of June 30, 2009, and the respective changes in financial position and the respective budgetary comparisons of the General Fund and Major Special Revenue Funds 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 Office of the Attorney General as of June 30, 2009, and the respective changes in financial position and respective budgetary comparison for the nonmajor funds for the year then 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 October 16, 2009, on our consideration of the Office of the Attorney General's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grants 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.

Management's Discussion and Analysis on pages 3 through 9 is not a required part of the basic financial statements but is supplementary information required by accounting principles generally accepted in the United States of America. We have applied certain limited procedures, which consisted primarily 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. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by the U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and non-profit organizations* and is not a required part of the basic financial statements. The fiduciary combining schedule of changes in assets and liabilities – agency funds, schedule of cash accounts, joint powers agreements, and special appropriations listed as other supplementary information in the table of contents are presented for purposes of additional analyses 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.



Atkinson & Co., Ltd.

Albuquerque, New Mexico
October 16, 2009

MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED)
Required Supplementary Information

June 30, 2009

The Attorney General's Office (AGO) discussion and analysis provides the reader of the financial statements this narrative overview and analysis of the financial activities of the AGO for the fiscal year ended June 30, 2009. The financial statements have been prepared in accordance with Governmental Accounting Standards Board (GASB) Statement No. 34, *Basic Financial Statements and Management's Discussion and Analysis-for State and Local Governments*, and related GASB statements, which established financial reporting requirements for state and local governments throughout the United States. The requirements were developed by GASB to make annual reports more comprehensive and easier to understand and use.

The Basic Financial Statements

In compliance with requirements of accounting principles generally accepted in the United States of America (GAAP) the AGO's basic financial statements include the:

- Government-wide financial statements;
- Fund financial statements;
- Budget comparison statements;
- Notes to the financial statements.

In accordance with 2.2.2 New Mexico Administrative Code NMAC Section 2.2.2.10A.(2)(d), the audit opinion also covers additional information consisting of:

- Combining financial statements;

The Management's Discussion and Analysis (MD&A) is included as required supplementary information (RSI).

Government-Wide Financial Statements

The government-wide financial statements are designed to provide readers with a broad overview of the AGO's finances, in a corporate-like manner. These statements report information about the overall government without displaying individual funds or fund types. They distinguish between governmental activities and business-type activities. The AGO does not have any business-type activities.

The **Statement of Net Assets** presents information on all of the AGO's assets and liabilities, with the difference between the two reported as net assets. Increases or decreases in net assets may serve as a useful indicator of the AGO's financial position over time.

MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED) – CONTINUED
Required Supplementary Information

June 30, 2009

Government-Wide Financial Statements – Continued

The **Statement of Activities** presents information on how the AGO's net assets changed during the most recent fiscal year. Changes in net assets are reported when the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Therefore, revenues and expenses are included in this statement for some items that will result in cash flows in future fiscal periods (e.g., earned but unused vacation leave and uncollected accounts receivable).

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 AGO uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. The AGO's funds are 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 of spendable resources available at the end of the fiscal year. Such information may be useful in evaluating a government's near-term financing 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 by governmental activities in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the AGO'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 fund and governmental activities.

The AGO maintains one General Fund and five Special Revenue Funds. Information is presented in the governmental fund balance sheet and in the governmental fund statement of revenues, expenditures and changes in fund balance for the General Fund and for the Special Revenue Funds.

The AGO adopts an annual appropriated budget for its General Fund and for certain Special Revenue Funds. Budgetary comparison statements have been provided for the funds to demonstrate compliance with budgets.

MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED) – CONTINUED
Required Supplementary Information

June 30, 2009

Notes to the Financial Statements

The notes to the financial statements provide additional information that is essential to gain a full understanding of the data provided in the government-wide financial statements. The notes to the financial statements can be found on pages 20 through 43 of this report.

Budgetary Comparison

The budget comparison information required by GASB No. 34 for the major governmental funds and non-major governmental funds that have legally adopted annual budgets are presented as listed in the table of contents. The budgetary comparison present both the original and final budgets for the reporting period as well as the actual inflows, outflows, and balances, stated on a budgetary basis.

The Statements of Revenues and Expenditures – Budget and Actual are also presented as required by the Office of the State Auditor in 2.2.2. NMAC. This information is presented at the approved budget level to demonstrate compliance with legal requirements.

Government-Wide Condense Financial Information

Attorney General's Office Net Assets

<u>NET ASSETS</u>	<u>June 30, 2008</u>	<u>June 30, 2009</u>	<u>Change</u>
ASSETS			
Current assets	\$ 7,384,612	\$ 12,193,982	\$ 4,809,370
Capital assets, net	<u>205,664</u>	<u>163,124</u>	<u>(42,540)</u>
Total assets	<u>\$ 7,590,276</u>	<u>\$ 12,357,106</u>	<u>\$ 4,766,830</u>
LIABILITIES			
Current liabilities	\$ 4,045,341	\$ 8,720,962	\$ 4,675,621
Long-term liabilities	<u>155,546</u>	<u>209,288</u>	<u>53,742</u>
Total liabilities	<u>\$ 4,200,887</u>	<u>\$ 8,930,250</u>	<u>\$ 4,729,363</u>
NET ASSETS			
Invested in capital assets, net	\$ 205,664	\$ 163,124	\$ (42,540)
Restricted	4,024,544	4,081,768	57,224
Unrestricted	<u>(840,819)</u>	<u>(844,908)</u>	<u>(4,089)</u>
Net assets	<u>\$ 3,389,389</u>	<u>\$ 3,399,984</u>	<u>\$ 10,595</u>

MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED) – CONTINUED
Required Supplementary Information

June 30, 2009

Discussion of Statement of Net Assets

Net assets are derived by deducting total liabilities from total assets. Net assets decreased by \$37,467.

Current assets consist mostly of investments with the State Treasurer of \$11,273,440, and grants receivable of \$849,776.

The AGO reports balances in three categories of net assets; (1) invested in capital assets; (2) restricted and (3) unrestricted. The invested in capital assets balance is positive but the unrestricted balance is negative due to compensated absences.

Restricted net assets increased due to funds that have not yet been expended for water litigation and receipt of consumer settlement funds that are not revertible. The unrestricted deficit was affected by the positive change in net assets of \$37,467. There was a \$120,000 transfer made to the Environment department to support water litigation efforts.

Capital Asset and Debt Administration

The AGO's investment in capital assets for its governmental activities as of June 30, 2009 is \$163,124 (net of accumulated depreciation). This investment in capital assets consists mainly of office data processing, equipment, and vehicles.

Major capital asset events during the current fiscal year include depreciation expense totaling \$42,538.

As noted earlier, net assets may, over time, serve as a useful indicator of a government's financial position. In the case of the AGO, a net asset balance is reported at the close of the most recent fiscal year.

The AGO uses capital assets to provide its services; consequently, these assets are not available for future spending.

MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED) – CONTINUED
Required Supplementary Information

June 30, 2009

Liabilities

\$8,930,250 consists primarily of accounts payable, \$614,046, i.e., money that the AGO is obligated to pay; accrued salaries and benefits payable \$663,198; due to the State General Fund \$6,369,916; due to other state agencies \$98,326; and compensated absences payable \$844,908. Settlement amounts of \$3,500,000 have been received by the Office from the Pueblo of Pojoaque as of June 30, 2009 and this comprises a large part of the amount owed to the State General Fund.

Long-Term Debt

At the end of the current fiscal year, the AGO had total long-term debt outstanding of \$209,288 comprised of accumulated balances for compensated absences for payment to employees upon termination of their employment from the AGO if not utilized.

Employees can receive compensation for a maximum of 240 hours upon severance.

Discussion of Statement of Activities

This statement shows the components that decreased, in the aggregate, the AGO's net assets by \$160,139 during the year. Compared to the previous year, governmental activities (revenues, expenses and transfers) decreased by \$1,581,906. The change from prior year was caused mainly by decreased transfers out of the General Fund for water litigation. In fiscal year, 2008 \$1,859,000 was transferred to the New Mexico Environment Department and the Interstate Stream Commission. In fiscal year 2009 only \$120,000 was transferred to the Environment Department. Expenses increased by \$2,356,634 primarily because of increased spending for anticipated water litigation Texas regarding the waters of the Rio Grande and the hiring of 19 new employees in FY09 to work in various departments including Medicaid Fraud, Consumer Settlements, Investigations, and Civil departments.

State of New Mexico
Office of the Attorney General

MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED) – CONTINUED
Required Supplementary Information

June 30, 2009

Discussion of Statement of Activities – Continued

<u>ACTIVITIES FOR THE YEAR</u>	<u>June 30, 2008</u>	<u>June 30, 2009</u>	<u>Change</u>
Functional expenses:			
General government	\$ 16,765,078	\$ 19,121,712	\$ 2,356,634
Program revenues:			
Operating grants and contributions	<u>3,018,939</u>	<u>3,185,973</u>	<u>167,034</u>
Net (expense) revenue	(13,746,139)	(15,935,739)	(2,189,600)
General revenues:			
Transfers:			
State General Fund appropriations	15,670,000	16,475,300	805,300
Transfers in	-	-	-
Transfers (out)	<u>(2,084,000)</u>	<u>(502,094)</u>	<u>1,581,906</u>
Total general revenues and transfers	<u>13,586,000</u>	<u>15,973,206</u>	<u>2,387,206</u>
Change in net assets	(160,139)	37,467	197,606
Net assets, beginning of year	<u>3,549,528</u>	<u>3,389,389</u>	<u>(160,139)</u>
Net assets, end of year	<u>\$ 3,389,389</u>	<u>\$ 3,426,856</u>	<u>\$ 37,467</u>

The Office's Individual Governmental Funds

As the AGO completed the year, its governmental funds reported a combined fund balance of \$4,108,640 which is just above last year's total of \$3,961,474. The primary reason for the increase in fund balance is related to the changes in 3 individual funds. The fund balance of the General Fund decreased by \$509,376; the Medicaid Fraud Control Unit Special Revenue Fund increased by \$63,270; and the Consumer Settlements Fund balance increased by \$575,455 due to current year operating activities. Settlements revenue which the office generated during the fiscal year and which are now available for budget appropriation in the future are in the Consumer Settlements Special Revenue Fund.

The General Fund revenues and transfers increased compared to the previous year. Revenues and other financial sources increased by \$1,056,571 as a result of increased state appropriations and grant revenues while expenses and financing uses increased by \$424,138 due to increased expenses related to water litigation.

MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED) – CONTINUED
Required Supplementary Information

June 30, 2009

The Office's Individual Governmental Funds – Continued

The Medicaid Fraud Control Unit Special Revenue Fund revenues, expenses and transfers remained fairly constant compared to the previous year. Revenues and other financing sources increased by \$596,101, while expenses and other financing uses increased by \$108,130. The increases are attributed to increase grant expenditures associated with the Medicaid Fraud Program. Fund balance increased by \$63,270 comparing June 30, 2008 fund balance to June 30, 2009 fund balance.

The Consumer Settlements revenues, decreased by \$385,814 compared to the previous year while transfers to the general fund increased by \$150,000. Fund balance increased by \$575,455 comparing June 30, 2008 fund balance to June 30, 2009 fund balance.

General Fund Budgetary Highlights

The AGO's final budget included transfers from the Consumer Settlement Fund. Budgeted expenditures were higher than budgeted revenues due to prior year fund balance carry forward of \$783,530. Actual revenues were lower than budget amounts by \$564,551. Actual expenditures were a favorable variance of \$905,923 from the final approved budget, reflecting budget savings totaling \$341,372.

Medicaid Fund Budgetary Highlights

The Medicaid Fraud budget was lower than the original budget due to state-wide budget reductions of 2.5% authorized by Laws of 2008 SB 79. Budgeted revenues were slightly higher than budgeted expenditures. Actual revenues were lower than budgeted amounts by \$494,947. Actual expenditures were a favorable variance of \$599,996, reflecting budget savings totaling \$105,049.

Currently Known Facts, Decisions or Conditions

Legislation enacted by the Legislature and signed by the Governor extended the use of the Texas –v- New Mexico water litigation appropriation to fiscal year 2009. The Texas legislature has appropriated \$5.4 million dollars to vigorously litigate against New Mexico for water rights. The balance remaining after fiscal year 2009, \$264,727 is budgeted in fiscal year 2010.

Requests for Information

This financial report is designed to provide a general overview of the AGO finances for all interested parties. If you have questions about this report or need additional information, contact:

The Office of the Attorney General
Villagra Building
Santa Fe, New Mexico 87504

State of New Mexico
Office of the Attorney General

STATEMENT OF NET ASSETS

June 30, 2009

	<u>Governmental Activities</u>
ASSETS	
Cash in banks	\$ 380
Investments in the State General Fund Investment Pool	11,273,440
Due from Federal government	849,776
Accounts receivable, net	-
Other assets	16,332
Due from other state agencies, net	<u>54,054</u>
 Total current assets	 12,193,982
 Capital assets	 1,059,834
Less accumulated depreciation	<u>(896,710)</u>
 Total capital assets, net of depreciation	 <u>163,124</u>
 Total assets	 <u>\$ 12,357,106</u>
LIABILITIES	
Accounts payable	\$ 614,046
Accrued salaries and benefits payable	663,198
Due to State General Fund	6,369,916
Due to other state agencies	98,326
Deposits held for consumers and others	339,856
Compensated absences payable: current	<u>635,620</u>
 Total current liabilities	 8,720,962
 Compensated absences: Due after one year	 <u>209,288</u>
 Total liabilities	 8,930,250
NET ASSETS	
Investment in capital assets	163,124
Restricted:	
Consumer settlements	3,560,121
Water litigation funds	237,855
Antitrust Litigation	26,872
Medicaid Fraud Program income	247,693
Santa Rosa Prison riots	36,099
Unrestricted deficit	<u>(844,908)</u>
 Total net assets	 <u>3,426,856</u>
 Total liabilities and net assets	 <u>\$ 12,357,106</u>

The accompanying notes are an integral part of this financial statement.

State of New Mexico
Office of the Attorney General

STATEMENT OF ACTIVITIES

For the year ended June 30, 2009

	<u>Governmental Activities</u>
EXPENSES	
General government:	
Personal services and employee benefits	\$ 14,364,897
Other costs	2,694,634
Contractual services	2,019,643
Depreciation	<u>42,538</u>
Total expenses	19,121,712
PROGRAM REVENUES	
Operating grants and contributions	<u>3,185,973</u>
Total program revenues	<u>3,185,973</u>
Net (expense) revenue	(15,935,739)
GENERAL REVENUES AND TRANSFERS	
State General Fund appropriations - transfers in	16,475,300
Transfers (out)	(369,974)
Reversion expense-fiscal year 2009	<u>(132,120)</u>
Total general revenues and transfers	<u>15,973,206</u>
Change in net assets	37,467
Net assets, beginning of year, as previously stated	<u>3,389,389</u>
Net assets, end of year	<u><u>\$ 3,426,856</u></u>

The accompanying notes are an integral part of this financial statement.

State of New Mexico
Office of the Attorney General

BALANCE SHEET – GOVERNMENTAL FUNDS

June 30, 2009

	General Fund - 17000	Medicaid Fraud Control - 27800	Consumer Settlement - 54400	Other Non- Major Funds	Total Governmental Funds
ASSETS					
Cash in banks	\$ 200	\$ -	\$ -	\$ 180	\$ 380
Investments, State Treasurer	3,201,022	112,146	7,685,707	274,565	11,273,440
Due from Federal government	738,501	111,275	-	-	849,776
Due from other state agencies, net	54,054	-	-	-	54,054
Other assets	9,599	6,733	-	-	16,332
	\$ 4,003,376	\$ 230,154	\$ 7,685,707	\$ 274,745	\$ 12,193,982
 LIABILITIES AND FUND BALANCES					
Liabilities:					
Accounts payable	\$ 606,546	\$ 7,500	\$ -	\$ -	\$ 614,046
Accrued salaries and benefits payable	601,507	61,691	-	-	663,198
Due to State General Fund	2,512,088	71,918	3,785,910	-	6,369,916
Due to other state agencies	9,281	89,045	-	-	98,326
Deposits held for consumers and others	-	-	339,856	-	339,856
	3,729,422	230,154	4,125,766	-	8,085,342
 FUND BALANCES:					
Reserved for:					
Medicaid Fraud Program	-	-	-	247,693	247,693
Reserved for antitrust litigation	-	-	-	26,872	26,872
Water litigation	237,855	-	-	-	237,855
Consumer settlements	-	-	3,559,941	180	3,560,121
Santa Rosa Prison riots	36,099	-	-	-	36,099
Unreserved	-	-	-	-	-
	273,954	-	3,559,941	274,745	4,108,640
Total fund balances	273,954	-	3,559,941	274,745	4,108,640
Total liabilities and fund balances	\$ 4,003,376	\$ 230,154	\$ 7,685,707	\$ 274,745	\$ 12,193,982

The accompanying notes are an integral part of this financial statement.

State of New Mexico
Office of the Attorney General

**RECONCILIATION OF THE BALANCE SHEET
TO THE STATEMENT OF NET ASSETS –
GOVERNMENTAL FUNDS**

June 30, 2009

Total fund balance, governmental funds (balance sheet)	\$ 4,108,640
Amounts reported for governmental activities in the Statement of Net Assets are different because:	
Capital assets (net of accumulated depreciation) used in governmental activities are not financial resources and therefore, are not reported in the funds.	163,124
Long-term liabilities, including compensated absences payable, are not due and payable in the current period and, therefore, are not reported in the funds.	<u>(844,908)</u>
Net Assets of Governmental Activities in the Statement of Net Assets	<u><u>\$ 3,426,856</u></u>

The accompanying notes are an integral part of this financial statement.

State of New Mexico
Office of the Attorney General

**STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN
FUND BALANCES – GOVERNMENTAL FUNDS**

For the year ended June 30, 2009

	General Fund - 17000	Medicaid Fraud Control - 27800	Consumer Settlement - 54400	Other Non- Major Funds	Total Governmental Funds
REVENUES					
Federal operating grants	\$ 920,031	\$ 1,101,253	\$ -	\$ -	\$ 2,021,284
Medicaid Program Income	-	-	-	85,132	85,132
Retained settlement and other revenues	53,882	220	1,025,455	-	1,079,557
Total revenues	973,913	1,101,473	1,025,455	85,132	3,185,973
EXPENDITURES					
Current:					
Personal services and employee benefits	12,986,536	1,311,180	-	-	14,297,716
Other costs	2,388,711	238,828	-	67,095	2,694,634
Contractual services	2,005,840	13,803	-	-	2,019,643
Capital outlay	-	-	-	-	-
Total expenditures	17,381,087	1,563,811	-	67,095	19,011,993
(Deficiency) excess of revenues over expenditures	(16,407,174)	(462,338)	1,025,455	18,037	(15,826,020)
OTHER FINANCING SOURCES (USES)					
State General Fund appropriations	15,401,500	816,700	-	-	16,218,200
Compensation appropriation	226,300	30,800	-	-	257,100
Other financing sources-internal transfers	450,000	-	(450,000)	-	-
Other financing (uses)-transfers out	(120,000)	(249,974)	-	-	(369,974)
Reversions-fiscal year 2009	(60,202)	(71,918)	-	-	(132,120)
Total other financing sources (uses)	15,897,598	525,608	(450,000)	-	15,973,206
Net change in fund balances	(509,576)	63,270	575,455	18,037	147,186
FUND BALANCES - beginning of year	783,530	(63,270)	2,984,486	256,708	3,961,454
FUND BALANCES - end of year	<u>\$ 273,954</u>	<u>\$ -</u>	<u>\$ 3,559,941</u>	<u>\$ 274,745</u>	<u>\$ 4,108,640</u>

The accompanying notes are an integral part of this financial statement.

State of New Mexico
Office of the Attorney General

**RECONCILIATION OF THE STATEMENT OF REVENUES,
EXPENDITURES AND CHANGES IN FUND BALANCES
TO THE STATEMENT OF ACTIVITIES – GOVERNMENTAL FUNDS**

For the year ended June 30, 2009

Net change in fund balances - Governmental Funds \$ 147,186
(Statements of Revenues, Expenditures and Changes in Fund Balance)

Amounts reported for Governmental Activities in the Statement of Activities
are different because:

Capital outlays are reported as expenditures in governmental funds.
However, in the Statements of Activities, the cost of capital assets is
allocated over their estimated useful lives as depreciation expense. In the
current period, these amounts are:

Capital Outlay	\$ -	
Depreciation	<u>(42,538)</u>	
Excess (deficiency) of capital outlay over depreciation expense		(42,538)

Some items 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.

Increase in compensated absences		<u>(67,181)</u>
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Change in net assets of governmental activities (Statement of Activities)		<u>\$ 37,467</u>
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The accompanying notes are an integral part of this financial statement.

State of New Mexico
Office of the Attorney General

**STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND NET ASSETS –
BUDGET AND ACTUAL – MAJOR GOVERNMENTAL FUNDS –
GENERAL FUND (FUND 17000)**

For the year ended June 30, 2009

General Fund	Budget Original	Budget Final	Actual Amount Budgetary Basis	Variance Favorable (Unfavorable)
Revenue:				
Federal Operating Grants	\$ 1,411,730	\$ 1,465,130	\$ 920,031	\$ (545,099)
General fund Appropriation, Laws of 2008	15,241,600	15,241,600	15,241,600	-
Special Appropriations, Laws of 2009	159,900	159,900	159,900	-
Compensation package, Laws of 2008	226,300	226,300	226,300	-
Miscellaneous revenue	-	-	53,882	53,882
Other financing sources:	450,000	450,000	450,000	-
Total revenue and other financing sources (budget basis)	<u>\$ 17,489,530</u>	<u>\$ 17,542,930</u>	<u>\$ 17,051,713</u>	<u>\$ (491,217)</u>
Prior year fund balance carryforward	<u>\$ 783,530</u>	<u>\$ 783,530</u>	<u>\$ 783,530</u>	<u>\$ -</u>
General Fund	Budget Original	Budget Final	Actual Amounts Expended	Variance Favorable (Unfavorable)
Expenditures:				
Personal service/employee benefits	\$ 13,086,600	\$ 13,109,500	\$ 13,109,500	\$ -
Contractual services	726,000	670,400	670,400	-
Other	2,051,900	2,138,000	2,138,000	-
VAWA	1,048,464	1,048,464	744,482	303,982
ICAC	370,000	370,000	175,549	194,451
Animal Cruelty	77,900	77,900	22,271	55,629
Human Trafficking	82,000	82,000	77,427	4,573
Santa Rosa Prison Riots	100,000	100,000	63,901	36,099
Water litigation	610,196	610,196	372,341	237,855
Other financing uses:				
Water litigation	120,000	120,000	120,000	-
Total expenditures and other financing uses (budget basis)	<u>\$ 18,273,060</u>	<u>\$ 18,326,460</u>	<u>\$ 17,493,871</u>	<u>\$ 832,589</u>
Excess of revenues and other financing sources over expenditures and other financing uses (budget basis)	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 341,372</u>	<u>\$ 341,372</u>
Request to pay prior year bills out of 2010 budget			(7,216)	
Reversion expense-FY09			(60,202)	
Prior year fund balance not considered revenue			(783,530)	
Change in fund balance per statement of revenues, expenditures and changes in fund balance-general fund (GAAP Basis)			<u>\$ (509,576)</u>	

The accompanying notes are an integral part of this financial statement.

State of New Mexico
Office of the Attorney General

**STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND NET ASSETS –
BUDGET AND ACTUAL – MAJOR GOVERNMENTAL FUNDS –
MEDICAID FRAUD CONTROL FUND (FUND 27800)**

For the year ended June 30, 2009

Medicaid Fraud	Budget Original	Budget Final	Actual Amount Budgetary Basis	Variance Favorable (Unfavorable)
Revenue:				
General appropriations	\$ 530,800	\$ 516,700	\$ 516,700	\$ -
Supplemental appropriation	300,000	300,000	300,000	-
Federal grants	1,596,200	1,596,200	1,101,253	(494,947)
Compensation appropriations	30,800	30,800	30,800	-
Miscellaneous and other	-	-	220	220
Total revenue (Budget Basis)	<u>\$ 2,457,800</u>	<u>\$ 2,443,700</u>	<u>\$ 1,948,973</u>	<u>\$ (494,727)</u>
Medicaid Fraud	Budget Original	Budget Final	Actual Amounts Expended	Variance Favorable (Unfavorable)
Expenditures:				
Personal service/employee benefits	\$ 1,691,600	\$ 1,689,200	\$ 1,311,180	\$ 378,020
Contractual services	28,900	28,200	13,803	14,397
Other	407,300	396,300	238,747	157,553
Medicaid Claim	300,000	300,000	249,974	50,026
Total expenditures (Budget Basis)	<u>\$ 2,427,800</u>	<u>\$ 2,413,700</u>	<u>\$ 1,813,704</u>	<u>\$ 599,996</u>
Excess of revenues and other financing sources over expenditures and other financing uses (budget basis)			\$ 135,269	
Request to pay prior year bills out of 2010 budget			(81)	
Reversion expense			<u>(71,918)</u>	
Change in fund balance per statement of revenues, expenditures and changes in fund balance-general fund (GAAP Basis)			<u>\$ 63,270</u>	

The accompanying notes are an integral part of this financial statement.

State of New Mexico
Office of the Attorney General

**STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND NET ASSETS –
BUDGET AND ACTUAL – MAJOR GOVERNMENTAL FUNDS –
CONSUMER SETTLEMENTS FUND (FUND 54400)**

For the year ended June 30, 2009

	<u>Original Budget</u>	<u>Revised Budget</u>	<u>Actual- Budget Basis</u>	<u>Variance Favorable (Unfavorable)</u>
Revenues:				
Revenues and contributions	\$ -	\$ -	\$ 1,025,455	\$ 1,025,455
Total revenues	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 1,025,455</u>	<u>\$ 1,025,455</u>
Prior-year fund balance budgeted	<u>\$ -</u>	<u>\$ 450,000</u>	<u>\$ -</u>	<u>\$ -</u>
Expenditures:				
General government:				
Other financing uses	<u>\$ -</u>	<u>\$ 450,000</u>	<u>\$ 450,000</u>	<u>\$ -</u>
Total expenditures	<u>\$ -</u>	<u>\$ 450,000</u>	<u>\$ 450,000</u>	<u>\$ -</u>

Note: Historically, no legally adopted budget has been established for this fund. Revenues can vary significantly from year to year due to the nature of the fund. Consequently, there was no budget adopted for this fund for FY 2009.

The accompanying notes are an integral part of this financial statement.

State of New Mexico
Office of the Attorney General

**STATEMENT OF FIDUCIARY ASSETS AND LIABILITIES –
AGENCY FUNDS**

For the year ended June 30, 2009

	#08100 Dram Matter Cost Share	#69500 Victims Restitution	#70100 Special Trust	#70200 Cummins Settlement	#95000 Mylan Multistate Anti-trust	#12700 Buspar Multistate Anti-trust	Total Agency Funds
ASSETS							
Cash on deposit with State Treasurer	\$ 643	\$ 1,300	\$ 11,260	\$ 6,474	\$ 303,374	\$ 6,671	\$ 329,722
Interest receivable	-	-	-	86	11,574	256	11,916
Total assets	\$ 643	\$ 1,300	\$ 11,260	\$ 6,560	\$ 314,948	\$ 6,927	\$ 341,638
LIABILITIES							
Deposits held for consumers and others	\$ 643	\$ 1,300	\$ 11,260	\$ 6,560	\$ 314,948	\$ 6,927	\$ 341,638
Total liabilities	\$ 643	\$ 1,300	\$ 11,260	\$ 6,560	\$ 314,948	\$ 6,927	\$ 341,638

The accompanying notes are an integral part of this financial statement.

NOTES TO FINANCIAL STATEMENTS

June 30, 2009

NOTE A – HISTORY AND FUNCTIONS

The Office of the Attorney General, Department of Justice (Office) was created by Article V, Section 1 of the New Mexico Constitution, and the Attorney General is designated by law as the head of the Department of Justice (Section 8-5-1 through Section 8-5-16, NMSA, 1978 Compilation). The functions of the Office are to serve as the legal representative of the State in lawsuits, to represent State agencies, departments, board and commissions, as well as all State employees or officials involved in lawsuits relating to their official duties (providing the suit was not initiated by the State against that person), and to represent the Public Regulation Commission as specifically stated in the Constitution; to give opinions on legal questions asked by the Legislature, individual Legislators, State officials, and District Attorneys on matters related to their official duties; to act in any criminal or civil cases in which a county or the State is a party or has an interest, if the district attorney fails or refuses to act, and if the Attorney General determines that action is advisable; to investigate local matters in which the State has an interest, if directed to do so by the Governor, to maintain a register of charitable organizations; to assign lawyers or investigators to assure that elections are properly conducted; to enforce the Indian Arts and Crafts Sales Act, the Land Subdivision Act, the Unfair Practices Act, and the Open Meetings Act; to serve as a member of the Mortgage Finance Authority, the Risk Management Advisory Board, the State Commission of Public Records, the Judicial Council, the Compilation Commission and the Law Enforcement Academy Board.

Section 8-5-16, NMSA 1978 provides for an office of guardianship services within the Office to consolidate guardianship services currently existing in various state agencies and to negotiate and administer contracts for guardianship services with community service providers.

The Office also operates the Medicaid fraud control unit with the power to investigate or prosecute fraud and abuse in the Medicaid program.

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The financial statements of the Office of the Attorney General (Office) have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP) as applied to governmental units. The Office applies all relevant Governmental Accounting Standards Board (GASB) pronouncements and applicable Financial Accounting Standards Board (FASB) pronouncement and Accounting Principles Board (APD) opinions issued on or before November 30, 1989, unless they conflict with GASB pronouncements. The more significant of the Office's accounting policies are described below:

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

1. Reporting Entity and Component Units

The Attorney General is an elected official elected for a four-year term and can serve two terms in office. The Office is a component unit of the executive branch and these financial statements include all funds, programs and activities over which the Attorney General has oversight responsibility.

As component unit of the State of New Mexico, a phase one government, the Office implemented GASB Statement 34, *Basic Financial Statements – and Management’s Discussion and Analysis – for State and Local Governments* in fiscal year 2002.

The Office is not included in any other governmental “reporting entity” as defined in Section 2100, *Codification of Governmental Accounting and Financial Reporting Standards*, but would be included in a state-wide Comprehensive Annual Financial Report (CAFR).

In evaluating how to define the Office for financial reporting purposes, management has considered all potential component units. The decision to include a potential component unit in the reporting entity was made by applying the criteria set forth in GAAP. The basic—but not the only—criterion for including a potential component unit within the reporting entity is the governing body’s ability to exercise oversight responsibility. The most significant manifestation of this ability is financial interdependency. Other manifestations of the ability to exercise oversight responsibility include, but are not limited to, the selection of governing authority, the designation of management, the ability to significantly influence operations and accountability for fiscal matters. The other criterion used to evaluate potential component units for inclusion or exclusion from the reporting entity is the existence of special financing relationships, regardless of whether the Office is able to exercise oversight responsibilities. Based upon the application of these criteria, the Office of the Attorney General does not have any component units.

2. Basis Financial Statements – Government-Wide Statements

The Office’s basic financial statements include both government-wide (based on the Office as a whole) and fund financial statements and report information on all non-fiduciary activities. Both the government-wide and fund financial statements (within the basic statement) categorize primary activities as either governmental or business type. The Office is a single purpose government entity and has no business-type activities. In the government-wide Statement of Net Assets, the governmental activities are presented on a consolidated basis and are reflected on a full accrual, economic resource basis, which incorporates long-term assets and receivables, as well as long-term debt and obligations. The Office’s net assets are reported in three parts – invested in capital assets; restricted net

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

2. Basis Financial Statements – Government-Wide Statements – Continued

assets; and unrestricted net assets. When applicable, the effect of interfund activity is removed from the Statement of Net Assets in order to avoid a grossing-up effect on assets and liabilities within the statements.

The government-wide Statement of Activities reflects both the gross and net costs per functional category (general government) which are otherwise supported by general government revenues. The Statement of Activities reduces gross expense (including depreciation expense on capital assets) by related program revenues, operating and capital grants. Program revenue must be directly associated with the function (general government). Program revenues include 1) charges to applicants who purchase, use or directly benefit from goods, services or privileges provided by a given function or segment, 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment, and 3) consumer settlements awarded to the Office that are restricted to meeting the operational or capital requirements of a particular function or segment. The appropriation from the State General Fund is not included among program revenues, but instead is reported as general revenue.

The net cost by function is normally covered by general revenue. Since the Office only has one program, it does not employ indirect cost allocation.

The government-wide focus is more on the sustainability of the Office as an entity and the change in the Office's net assets resulting from the current year's activities.

3. Basic Financial Statements – Fund Financial Statements

The fund financial statements, the balance sheet and statement of revenues, expenditures and changes in fund balances, are presented to report additional and detailed information about the Office. Emphasis is on the major funds of the governmental category. Non-major funds are summarized into a single column. The Office's major funds are the General Fund, Medicaid Fraud Control Unit Fund and the Consumer Settlements Fund.

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

3. Basic Financial Statements – Fund Financial Statements – Continued

The governmental funds in the fund financial statements are presented on a current financial resource and modified accrual basis of accounting. This is the manner in which these funds are normally budgeted. This presentation is deemed more appropriate to demonstrate legal and covenant compliance, to demonstrate the source and use of liquid resources and to demonstrate how the Office's actual experience conforms with the budget or fiscal plan. Since the governmental fund statements are presented on a different measurement focus and basis of accounting than the government-wide statements governmental column, a reconciliation is presented on the page following each statement, which briefly explains the adjustment necessary to transform the fund based financial statements into the governmental column of the government-wide presentation.

The Office's fiduciary funds are presented with the basic financial statements and the fund financial statements by type. Since by definition these assets are being held for the benefit of a third party and cannot be used to address activities or obligations of the government, these funds are not incorporated in the government-wide statements.

The focus is on the Office as a whole and the fund financial statements, including the major individual funds of the governmental category, as well as the fiduciary fund by category.

The financial transactions of the Office are recorded in individual funds, each of which is considered a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund balance, revenues, expenditures or expenses and other financing sources or uses. Government resources are allocated to, and accounted for, in individual funds based upon the purpose for which they are to be spent and the means by which spending activities are controlled.

The reporting model under GASB 34 sets forth the minimum criteria (percentage of the assets, liabilities, revenues or expenditures of either fund category or the governmental and enterprise combines) for the determination of major funds. The non-major funds are combined in a column in the fund financial statements and detailed in the combining sections.

The following fund types are used by the Office:

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

3. Basic Financial Statements – Fund Financial Statements – Continued

GOVERNMENTAL FUND TYPES

All governmental fund types are accounted for on a spending or financial flow measurement focus. Only current assets and current liabilities that are “available” are generally included on their balance sheets. Availability for purposes of revenue and liability recognition purposes is generally 60 days. Their reported fund balance (net current assets) is considered a measure of available spendable resources. Governmental fund operating statements present increases (revenues and other financing sources) and decreases (expenditures and other financing uses) in net current assets. Accordingly, they are said to present a summary of sources and uses of available spendable resources during a period. Due to their spending measurement focus, expenditure recognition for governmental fund types is limited to exclude amounts represented by noncurrent liabilities. Since they do not affect net current assets, such long-term amounts are not recognized as government fund type expenditures or fund liabilities.

General Fund – The General Fund is the general operating fund of the Office. It is used to account for all financial resources except those required to be accounted for in another fund. The General Fund is a major fund. The General Fund is made up of the following Central Accounting System (SHARE) Fund.

17000 General Operating- The operating account for the Office. This is a reverting fund.

Special Revenue Funds – The Special Revenue Funds are used to account for the proceeds of specific revenue sources (other than major capital projects) that are legally restricted to expenditures for specified purposes. The Office’s Special Revenue Funds are as follows:

08500 Antitrust Litigation Fund – The fund receives five percent of the proceeds awarded by courts in order to assist in defraying the cost incurred in initiating and litigating suits. The fund was authorized by the Laws of 1986, Chapter 19, Section 4, and is non-reverting. The Antitrust Litigation Fund is a non-major fund. There was no activity in FY 2009.

27800 Medicaid Fraud Control Fund – To account for the activity of the Medicaid Fraud Control Unit. Monies are derived from awards of the Federal Department of Health and Human Services and State General Fund Appropriations. The Authority for this fund and the Medicaid program income fund is 42 USC 1396b(a)(6) and 1396b(b)(3). Legal restrictions on expenditures and the authority for the creation of the fund are a result of the agreements between the Office of the Attorney General and the Department of Health and Human Services and the annual appropriation laws. The Medicaid Fraud Control Fund is a major fund and is reverting.

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

3. Basic Financial Statements – Fund Financial Statements – Continued

27500 Medicaid Program Income Fund – To account for program income derived Medicaid Fraud Program. Program income is received from Medicaid based on cost incurred in connection with Medicaid Fraud cases. Legal restrictions on expenditures and the authority for the creation of the fund are a result of the agreements between the Office of the Attorney General and the Department of Health and Human Services. The fund is a nonmajor fund and is nonreverting.

54400 Consumer Settlements Fund – To account for settlements received by the Office of the Attorney General from various court orders. The fund is authorized under Section 8-5-2 and 36-1-22, NMSA 1978, as amended. Funds are transferred to the Office's General Fund for expenditure in consumer protection and training. The Consumer Settlements Fund is a major fund and is nonreverting.

64900 Grant Fund – To account for the activity of the Native American Arts and Crafts Investigation and Prosecution Project to enforce the Indian Arts and Crafts Sales Act; private grants and charitable organization registration fees. Legal restrictions on expenditures and the authority for the creation of the grant fund are a result of Laws of 1998, Chapter 116, grant agreements and the Charitable Solicitation Act (Section 57-22-1 et. seq., NMSA 1978). (Reverting and non-reverting. General Fund appropriations are reverting). The Grant Fund is a non-major fund. There was no activity in FY 2009.

FIDUCIARY FUND TYPES

Fiduciary fund types include trust and agency funds, which are used to account for assets held by the Office in the capacity of trustee or agent.

Agency Fund. Agency funds are used to account for assets held as an agent for other governmental units, individuals and other funds. The agency funds are custodial in nature (assets equal liabilities) and do not involve measurement of results of operations. Agency funds of the Office are used to account for the proceeds of settlement and court decisions until the proceeds may be distributed to the proper recipients. The Office's agency funds are as follows:

08100	Dram Matter Cost Share Fund
69500	Victim Restitution Fund
70100	Special Trust Fund
70200	Cummins Settlement Fund
95000	Mylan Multi-State Antitrust Fund
12700	Buspar Multi-State Antitrust Fund

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

4. Measurement Focus, Basis of Accounting and Financial Reporting Presentation

Basis of accounting refers to the point at which revenues or expenditures are recognized in the accounts and reported in the financial statements. It relates to the timing of the measurements made, regardless of the measurement focus applied.

The government-wide financial statements and the fiduciary financial statements are presented using the economic resources measurement focus and the accrual basis of accounting. The governmental funds in the fund financial statements are presented on a modified accrual basis. Under the accrual method of accounting revenues, expenses, gains, losses, assets and liabilities resulting from exchange and non-exchange transactions are recognized in accordance with full accrual accounting and with the requirements of GASB Statement 33, Accounting and Financial Reporting for Non-exchange Transactions.

All governmental funds financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Under this method, revenues and other governmental fund financial resources increments are recognized in the accounting period in which they become susceptible to accrual – that is, when they become both measurable and available to finance expenditures of the current fiscal period; available meaning collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. Revenues are available if collected within sixty days of the end of the fiscal year.

Revenues from grants that are restricted for specific uses are recognized as revenues and as receivables when the related costs are incurred and all other eligibility requirements of the grant, if any, are met. Contributions and other monies held by other state and local agencies are recorded as a receivable at the time the money is made available to the specific fund. All other revenues are recognized when they are received and are not susceptible to accrual.

Expenditures are recorded as liabilities when incurred. An exception to this general rule is that accumulated unpaid annual, compensatory and certain sick leave are not accrued as current liabilities but as non-current liabilities. However, in the government-wide financial statements, both current and long-term are accrued. Expenditures charged to federal programs are recorded utilizing the cost principles described by the various funding sources. If both restricted and nonrestricted resources are available, the Office first applies restricted resources when expenditures are incurred.

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

4. Measurement Focus, Basis of Accounting and Financial Reporting Presentation – Continued

In applying the “susceptible to accrual” concept to intergovernmental revenues pursuant to GASB Statement No. 33, the provider should recognize liabilities and expenses and the recipient should recognize receivables and revenues when the applicable eligibility requirements including time requirements, are met. Resources transmitted before the eligibility requirement are met, under most circumstances, should be reported as advances by the provider and deferred revenue by the recipient.

5. Budgets and Budgetary Accounting

The State Legislature makes annual appropriations to the Office which lapse at fiscal year-end. Legal compliance is monitored through the establishment of a budget and financial control system which permits a budget-to-actual expenditure comparison. Expenditures may not legally exceed appropriations for each budget at the appropriation unit level. Budgeted appropriation unit amounts may be amended upon approval from the Budget Division of the State of New Mexico Department of Finance and Administration within the limitations as specified in the General Appropriations Act, Laws of 2006, Chapter 109, Section 3, Subsections N and O. The budget amounts shown in the financial statements are the final authorized amounts as legally revised during the year.

These procedures are followed in establishing the budgetary data reflected in the financial statements:

- a. No later than September 1, the Office submits to the Legislative Finance Committee (LFC) and the Budget Division of the Department of Finance and Administration (DFA) an appropriation request for the fiscal year commencing the following July 1. The appropriation request includes proposed expenditures and the means of financing them.
- b. Budget hearings are scheduled before the New Mexico House Appropriations and Senate Finance Committees. The final outcome of those hearings is incorporated into the State’s General Appropriations Act.
- c. The Act is signed into Law by the Governor of the State of New Mexico within the legally prescribed time limit, as which time the approved budget becomes a legally binding document.
- d. No later than May 1, the Office submits to DFA an annual operating budget by appropriation unit and object code based upon the appropriation made by the Legislature. The DFA Budget Division reviews and approves the operating budget which becomes effective on July 1. All subsequent budgetary adjustments must be approved by the Director of the DFA Budget Division and by LFC.

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

5. Budgets and Budgetary Accounting – Continued

- e. Budgetary control is exercised by the Office at the appropriation unit level. Budget Adjustment Requests (BARs) are approved by the DFA Budget Division.
- f. The budget for the General Fund and Special Revenue Funds are adopted on modified accrual basis per the General Appropriation Act, Laws of 2007, Chapter 109, Section 3, Subsections N and O. Budgetary comparisons presented in this report for the General Fund and Special Revenue Funds are on the budgetary basis which is modified accrual. However, there is a statutory exception. The budget 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 per Section 6-10-4 NMSA 1978. Those accounts payable that do not get paid timely must be paid out of the next year's budget. (There were no budgets for the Antitrust Litigation Fund, Grant Fund, or Consumer Settlements Fund for FY 2008-2009 due to inactivity). The Office paid \$7,216 of FY 2009 payables out of the FY 2010 budget from the general fund and \$87 from the Medicaid fraud control fund from the 2010 budget.
- g. The original budget differs from the final budgets presented in the budget comparison statements by any amendments made during the fiscal year.
- h. Appropriations lapse at the end of the fiscal year except for those amounts related to goods and services received by June 30th.

In accordance with the requirements of Section 2.2.2 10.A (2) (b) of 2.2.2. NMAC *Requirements for Contracting and Conducting Audits of Agencies* and the requirements established by GASB 34, footnote 53, the budgetary comparison statement for the General Fund has been included as part of the basic financial statements.

6. Accrued Compensated Absences

Annual leave and other compensated absences with similar characteristics are accrued as a liability as benefits are earned by employees if: the employees' right to receive compensation is attributable to services already rendered; and it is probable that the employer will compensate employees for benefits through paid time off or some other means, such as cash payments at termination or retirement.

When applicable, the compensated absence liability is presented in two parts in the government-wide financial statements, a current portion and a long-term portion. The current portion is in the amount expected to be expended during fiscal year 2009. It is an estimate management determined by applying a percentage to the June 30, 2009 liability. The percentage used was determined by comparing the amount actually paid out during fiscal year 2009 compared to the liability balance at June 30, 2008.

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

6. Accrued Compensated Absences – Continued

Employees accumulate annual leave at a rate based on appointment date and length of continuous service. A maximum of 240 hours of annual leave may be carried forward after the pay period beginning in December and ending in January. When employees terminate, they are compensated at their current hourly rate for accumulated annual leave as of the date of termination, up to a maximum of 240 hours.

Employees accumulate sick leave at a rate of 3.69 hours per pay period. There is no limit to the amount of sick leave that an employee may accumulate. State agencies are allowed to pay fifty percent of each employee's hourly rate for accumulated sick leave over 600 hours, up to 120 hours. Payment may be made only once per fiscal year at a specified pay period in either January or July. Additionally, upon retirement, those employees with over 600 hours accumulated sick leave have the option to convert 400 hours of such leave to cash at one-half of their hourly rate.

Fair Labor Standards Act (FLSA) nonexempt employees accumulate compensation time at the rate of 1.5 times the number of hours worked, in excess of forty hours per week, based on their regular hourly rate. Exempt and classified employees who are FLSA exempt accumulate compensation time at the same rate as the number of hours worked. Exempt employees were precluded from carrying forward any unused compensation time into the next calendar year after December 31, 2003. Overtime must be pre-approved by management. Payment of this liability can be made by compensated leave time or cash payment.

In accordance with GASB 16, accrued compensated absences consist of accumulated annual leave, sick leave between 600 and 720 hours, and compensatory leave for employees, including the related employers' matching FICA and Medicare payroll taxes. Office General Fund resources have been used to liquidate accrued compensated absences.

7. Reversions

The General Appropriation Act of 2007, Chapter 28 Section 3, Subsection N, states that "For the purpose of administering the General Appropriation Act of 2007, the State of New Mexico shall follow the modified accrual basis of accounting for governmental funds in accordance with the manual of model accounting practices issued by the Department of Finance and Administration." In accordance with the Department of Finance and Administration's "*Basis of Accounting-Modified Accrual and the Budgetary Basis*," the Office has accrued as payables amounts owed for goods and services received by June 30, 2009. Any State General Fund appropriations remaining in General Fund (SHARE Fund 17000) and Medicaid Fraud Control Special Revenue Fund (SHARE Fund 27800) fund balance not reserved for, litigation, or consumer settlements is reverted to the State General Fund.

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

8. Net Assets/Fund Equity

In the government-wide financial statements net assets consist of three components: invested in capital assets, net of related debt; restricted; and unrestricted. The Office has no debt related to capital assets; therefore net assets invested in capital assets equal the capital assets, net of accumulated depreciation. Capital assets are defined as those tangible or intangible assets used in operations and having a useful life greater than a single reporting period.

The Office financial statement show net assets restricted of \$247,693 for Medicaid Fraud Program Income, \$3,560,121, restricted for Consumer Settlements, \$237,855 in water litigation, \$26,872 for Antitrust Litigation and \$36,099 for Santa Rosa prison riot litigation.

Net assets are reported as restricted when constraints are placed on net asset use are externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments or imposed by law through constitutional provisions or enabling legislation. Enabling legislation includes a legal enforceable requirement that resources be used only for the specific purposes stipulated in the legislation.

Legal enforceability means that a government can be lowered by an external party – such as citizens, public interest groups or the judiciary – to use resources only for the purposes specified by the legislation.

The amount of net assets restricted by enabling legislation is \$4,108,640 at June 30, 2009 which represents all restricted net assets reported on page 10.

These resources remaining in net assets were received or earned with the explicit understanding between the Office and the resource provider (grantor, contributor, other government or enabling legislation) that the funds would be used for a specific purpose. Generally, the Office would first apply restricted resources when an expense is incurred for purposes for which both restricted and unrestricted net assets are available. All remaining net assets that are not related to capital assets are shown as unrestricted.

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

8. Net Assets/Fund Equity – Continued

In the **fund financial statements** reservations of fund balance are created to either (1) satisfy legal covenants that require that a portion of the fund balance be segregated for (2) identify the portion of the fund balance that is not appropriable for future expenditures. Specific reservations of the fund balance account are summarized below:

Reserved for Water Litigation – This reserve for water litigation was authorized by Laws of 2008, Chapter 5, items 14 and 15 to assist the State of New Mexico in defending itself against litigation brought by Texas over water rights.

Reserved for Antitrust Litigation – This reserve for antitrust litigation was authorized by the Laws of 1986, Chapter 19, Section 4, in order to assist in defraying the costs incurred in initiating and litigating suits.

Reserved for Santa Rosa Prison Riots – This reserve for was authorized by Laws of 2008 Chapter 15, section 5, in for the prosecution of death penalty cases related to the 1999 Santa Rosa Prison Riots.

Reserved for Consumer Settlements – The reserve for consumer settlement is monies received by the Office in settlement of consumer and other legal proceedings and is restricted to reimbursement of the Office's expenditures, and thus is segregated to retain its identity as other state funds until such time as the legislature appropriates it for such use.

Reserved for Medicaid Fraud Program – This reserve for the Medicaid Fraud Program is monies earned for the investigative cost and fees related to Medicaid Fraud Cases that must be expended for Medicaid Fraud Program cases.

9. Federal Grants Receivable (Deferred Revenue)

Various reimbursement procedures are used for federal awards received by the Office. Consequently, timing differences between expenditures and program reimbursements can exist at any time during the fiscal year. Receivable balances at fiscal year-end represent an excess of modified accrual basis expenditures over cash reimbursements received to date. Conversely, deferred revenue balances represent an overdraw of cash (advances) in excess of modified accrual basis expenditures. Generally, receivable or deferred revenue balances caused by differences in the timing of cash reimbursements and expenditures will be reversed or returned to the grantor in the remaining grant period.

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

9. Federal Grants Receivable (Deferred Revenue) – Continued

Determining the amount of expenditures reimbursable by the federal government, in some cases, requires management to estimate allowable costs to be charged to the federal government. As a result of this and other issues, management provides an allowance for potential contractual allowances for federal revenue. Any changes in these estimates are recorded in the period that the estimate is changed. There are no allowances against federal receivables for fiscal year 2009.

10. Use of 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 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.

11. Capital Assets

Capital assets of the Office include data processing equipment, furniture and fixtures, equipment and automobiles. The Office does not have any infrastructure. Capital assets are defined in Section 12-6-10 NMSA 1978. Section 12-6-10 NMSA 1978, was amended effective June 19, 2005, changing the capitalization threshold of movable chattels and equipment from items costing more than \$1,000 to items costing more than \$5,000. The Office has adopted this change. Old inventory items that do not meet the new capitalization threshold will remain on the inventory list and continue to be depreciated. Any items received after July 1, 2005, have been added to the inventory only if they meet the new capitalization policy. Such assets are recorded at historical cost. Donated capital assets are recorded at estimated fair market value at the date of donation. Computer software which is purchased with data processing computer equipment is included as part of the capitalized computer equipment.

The cost of maintenance and repairs that do not add to the asset value or materially extend assets lives are not capitalized. The Office does not undertake major capital projects involving interest costs during the construction phase. There is no debt related to the capital assets. Capital assets of the Office are depreciated using zero salvage value and the straight-line method over the following estimated useful lives:

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

11. Capital Assets – Continued

Depreciation is provided over the assets estimated useful lives using the straight-line method of depreciation. Depreciable assets are equipment items with useful lives ranging from four (4) to ten (10) years.

	<u>Years</u>
Furniture/Fixtures	10
Equipment and Machinery	7-10
Automobiles	10
Data Processing Equipment	4-10
Library	10

There is no outstanding debt related to capital assets.

The Office utilizes facilities and buildings that are owned by the Property Control Division of the State of New Mexico General Services Department. These assets and the related depreciation expense are not included in the accompanying financial statements. GASB 34 requires the recording and depreciation of infrastructure assets, such as road, bridges, etc. The Office does not own any infrastructure assets.

NOTE C – CASH AND COLLATERAL

1. Cash in Banks

Cash on deposit with area banks amounting to \$380 represents amounts which are held for use by the agents of the Office. These deposits are insured by the Federal Deposit Insurance Corporation (FDIC) up to \$250,000.

State of New Mexico
Office of the Attorney General

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE C – CASH AND COLLATERAL – CONTINUED

2. Investments, State Treasurer

Investments of the Office consist of its interest in the State General Fund Pool, which is managed by the New Mexico State Treasurer. The fair value of the investments maintained at the New Mexico State Treasurer’s Office at June 30, 2009 is as follows:

Funds	SHARE Fund No.	Investment at State Treasurer's Office	Reconciling Items	Fair Value June 30, 2009
Major funds				
General Fund	17000	\$ 3,201,022	\$ -	\$ 3,201,022
Consumer Settlement Fund	54400	7,685,707	-	7,685,707
Medicaid Fraud Control Fund	27800	112,146	-	112,146
Total		10,998,875	-	10,998,875
Non Major Funds				
Medicaid Program Income Fund	27500	247,693	-	247,693
Anti-trust Litigations Fund	00085	26,872	-	26,872
Total		274,565	-	274,565
Agency Funds				
Victims Restitution	69500	1,300	-	1,300
Special Trust	70100	11,260	-	11,260
Cummins Settlement	70200	6,474	-	6,474
Mylan Multistate Anti-trust	95000	303,374	-	303,374
Buspar Multistate Anti-trust	12700	6,671	-	6,671
Dram Matter Cost Share	08100	642	-	643
Total		329,721	-	329,722
		<u>\$ 11,603,161</u>	<u>\$ -</u>	<u>\$ 11,603,162</u>

The Office did not have and was not authorized any other investments during the year ended June 30, 2009. For additional GASB 40 disclosure information related to the above investment pool, the reader should refer to the separate audit report of the New Mexico State Treasurer for the fiscal year ended June 30, 2009.

State of New Mexico
Office of the Attorney General

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE D – DUE FROM / TO OTHER STATE AGENCIES

The following are short-term amounts owed between other state agencies and are classified as due from other state agencies:

Due from other agencies

General Fund (SHARE 17000)

State General Fund (SHARE 85200)	\$	48,328
General Services Department (SHARE 17400)		5,726
Less: Allowance for uncollectibles		<u>-</u>
Net amount due from other state agencies	\$	<u>54,054</u>

Due to other state agencies

General Fund (SHARE 17000)

Department of Public Safety (SHARE 12800)	\$	9,281
<u>Medicaid fraud – (SHARE 27800)</u>		
Human Services Department (SHARE 65500)		<u>89,045</u>
Net amount due from other state agencies	\$	<u>98,326</u>

Amounts owed from the state general fund represent fiscal year 2008 reversion amounts transferred to the state general fund in fiscal year 2009 before the 2008 audit was completed. The audit revealed that no reversion amount was owed as of June 30, 2008. The Office intends to be reimbursed for the amount in fiscal year 2010. Amounts owed to the General Service Department represent amounts owed from various individuals and organizations for copying and other charges. The amounts will be collected in fiscal year 2010.

Amounts due to the Human Services Department include amounts owed for the Office's participation in Medicaid Fraud Cases. Amounts due to the Department of Public Safety include wire transfers received in fiscal year 2009 in error. The amounts are expected to be repaid in fiscal year 2010.

State of New Mexico
Office of the Attorney General

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE E – DUE FROM FEDERAL GOVERNMENT

Due from federal government represents the excess of expenditures over reimbursements received on Federal awards programs.

NOTE F – CAPITAL ASSETS

The capital assets activity for the year ended June 30, 2009, is as follows:

	Adjusted Audit Balance June 30, 2008	Additions in FY 09	Deletions in FY 09	Balance June 30, 2009
Capital Assets				
Data processing	\$ 759,061	\$ -	\$ -	\$ 759,061
Equipment	127,905	-	-	127,905
Library	1,632	-	-	1,632
Furniture and fixtures	127,034	-	-	127,034
Vehicles	44,202	-	-	44,202
	<u>1,059,834</u>	<u>-</u>	<u>-</u>	<u>1,059,834</u>
Total capital assets	<u>\$ 1,059,834</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 1,059,834</u>
Accumulated Depreciation				
Data processing	\$ 587,505	\$ 35,314	\$ -	\$ 622,819
Equipment	112,048	4,417	-	116,465
Library	1,632	-	-	1,632
Furniture and fixtures	108,785	2,807	-	111,592
Vehicles	44,202	-	-	44,202
	<u>854,172</u>	<u>42,538</u>	<u>-</u>	<u>896,710</u>
Total accumulated depreciation	<u>\$ 854,172</u>	<u>\$ 42,538</u>	<u>\$ -</u>	<u>\$ 896,710</u>
Net Capital Assets				
Data processing	\$ 171,556	\$ (35,314)	\$ -	\$ 136,242
Equipment	15,857	(4,417)	-	11,440
Library	-	-	-	-
Furniture and fixtures	18,249	(2,807)	-	15,442
Vehicles	-	-	-	-
	<u>205,662</u>	<u>(42,538)</u>	<u>-</u>	<u>163,124</u>
Net capital assets	<u>\$ 205,662</u>	<u>\$ (42,538)</u>	<u>\$ -</u>	<u>\$ 163,124</u>

The Office does not have any debt related to capital assets. Depreciation expense for the current year was \$42,538. There are no assets that are nondepreciable.

State of New Mexico
Office of the Attorney General

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE G – COMPENSATED ABSENCES PAYABLE

Employees are entitled to accumulate annual leave at a graduated rate based on years of service. A maximum of 240 hours can be carried forward at calendar year-end. The Office has recognized a liability of \$844,908 in the Statement of Net Assets for annual leave based on current pay rates and hours accumulated at June 30, 2009. The General Fund is used to liquidate compensated absences when paid out.

A summary of changes in the compensated absences payable for the year ended June 30, 2009, is as follows:

	Balance June 30, 2008	Increase	(Decrease)	Balance June 30, 2009
Current compensated absences payable	\$ 622,181	\$ 144,262	\$ (130,823)	\$ 635,620
Long-term compensated absences payable	155,546	577,034	(523,292)	209,288
 Total compensated absences payable	 <u>\$ 777,727</u>	 <u>\$ 721,296</u>	 <u>\$ (654,115)</u>	 <u>\$ 844,908</u>

NOTE H – REVERSIONS AND AMOUNTS – DUE TO STATE GENERAL FUND

The following is a summary of the amount due to the State General Fund at June 30, 2009:

	General Fund	Medicaid Fraud Control Fund	Consumer Settlement Fund	Total All funds
Balance, June 30, 2008	\$ 108,419	\$ 104,905	\$ 1,500,000	\$ 1,713,324
Additions:				
Reversion expense-FY 2009	60,202	71,918	-	132,120
Settlement receipts - FY 2009	2,445,241	-	2,285,910	4,731,151
Stale dated warrants	6,645	-	-	6,645
Deletions:				
Payments to State General Fund - FY 2008	<u>(108,419)</u>	<u>(104,905)</u>	<u>-</u>	<u>(213,324)</u>
Balance, June 30, 2009	<u>\$ 2,512,088</u>	<u>\$ 71,918</u>	<u>\$ 3,785,910</u>	<u>\$ 6,369,916</u>

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE H – REVERSIONS AND AMOUNTS – DUE TO STATE GENERAL FUND – CONTINUED

Pueblo of Pojoaque Settlement

In fiscal year 2008, the Attorney General entered into an agreement with the State Legislative Committee to increase its annual base budget of consumer settlement fund balance. The increase in annual appropriation was conditional on reverting future Pueblo of Pojoaque settlement funds to the State General Fund. As of fiscal year 2009, \$3,500,000 million in settlement funds was received and owed to the State General Fund.

Total Petrochemicals USA INC. Settlement

In fiscal year 2009 the Office received \$2,445,241 in settlement amounts from Petrochemicals USA, Inc. The amounts are owed to the state general fund and will be reverted in fiscal year 2010.

NOTE I – ACCRUED SALARIES

A portion of payroll expenditures pertaining to the year ended June 30, 2009, was paid on July 2, 2009. Since the disbursements did not occur until subsequent to June 30, 2009, accrued salaries and employee benefits payable totaling \$663,198 has been reflected in the statement of net assets.

NOTE J – PERA PENSION PLAN

Plan Description – Substantially all of the Office’s 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. That report may be obtained by writing to PERA, P.O. Box 2123, Santa Fe, New Mexico 87504-2123. That report is also available on PERA’s website at www.pera.state.nm.us.

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE J – PERA PENSION PLAN – CONTINUED

Funding Policy – Plan members are required to contribute 7.42% of their gross salary. The Office is required to contribute 16.59% of the gross covered salary. The contribution requirements of the plan members and the Office are established under Chapter 10, Article 11, NMSA 1978. The requirements may be amended by acts of the legislature. The Office's employer contributions to PERA for the years ending June 30, 2009, 2008 and 2007 were \$1,818,298, \$1,636,150, \$1,517,078, respectively, equal to the amount of the required contributions for each year.

NOTE K – POST-EMPLOYMENT BENEFITS – STATE RETIREE HEALTH CARE PLAN

Plan description. The Office of the Attorney General 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 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.

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

**NOTE K – POST-EMPLOYMENT BENEFITS – STATE RETIREE HEALTH CARE PLAN –
CONTINUED**

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 January 1, 1998, 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 Office's contributions to the RHCA for the year ended June 30, 2009, 2008, and 2007 were \$127,710, \$117,360, and \$114,760, respectively, which equal the required contributions for each year.

NOTE L – COMMITMENTS AND CONTINGENCIES

Operating Lease Obligations – Commitment

The Office of the Attorney General is committed under several leases for office space, grounds and various equipment. These leases are considered for accounting purposes to be operating leases. Lease expenditures for the year ended June 30, 2009, amounted to \$598,672.

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE L – COMMITMENTS AND CONTINGENCIES – CONTINUED

Operating Lease Obligations – Commitment – Continued

The following is a schedule by years of future minimum lease rental payments required under operating leases that have initial or remaining non-cancellable lease terms in excess of one year as of June 30, 2009:

2010	\$	559,662
2011		390,123
2012		31,981
2013		-
Thereafter		-
		<hr/>
	\$	<u>981,766</u>

Federal Grants – Contingency

The Office of the Attorney General receives federal grants which may be refundable in the event that all terms of the grants are not complied with. In fiscal year 2007 and 2008, Medicaid conducted an audit of the administration of grant payments received under the Medicaid Fraud Program. The final determination report was issued on June 19, 2009 and required the Office to transfer \$249,974 to the U.S. Department of Health Human Services for unsupported draw downs during the period of 1999 through 2003. Laws of 2009, section 6, item 5, appropriated \$300,000 for purposes of paying the claim. The claims was paid on June 29, 2009, the excess amount of \$50,026 is included in reversion expense for fiscal year 2009.

NOTE M – RISK MANAGEMENT

The Office obtains coverage through Risk Management Division of the State of New Mexico General Services Department. This coverage includes liability and civil rights, property, vehicle, employer bond, workers' compensation, group insurance and state unemployment. These coverages are designed to satisfy the requirements of the State Tort Claims Act. All employees of the Office are covered by blanket fidelity bond up to \$5,000,000 with a \$1,000 deductible per occurrence by the State of New Mexico for the period July 1, 2008 through June 30, 2009. There have been no reductions in coverage by risk category for the year ending June 30, 2009. There have been no settlements in excess of insurance coverage in the last three years.

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE N – OTHER DISCLOSURE

As indicated in Note A, under Section 8-5-2 (NMSA 1978, as amended) the Attorney General is directed to prosecute and defend in all actions and proceedings where the State may be a party or have an interest. The Office is also authorized to compromise and settle civil actions under the management and control of the Attorney General pursuant to Section 36-1-22 (NMSA 1978, as amended).

Revenues received are the result of investigation and settlement of enforcement actions brought pursuant to the New Mexico Unfair Practices Act, Section 57-12-1, et. eq., (NMSA 1978, as amended). Cases have been brought against a number of corporations and business organizations that were alleged to be in violation of the State's laws and regulations on deceptive and misleading trade practices.

Pursuant to Orders issued by the Judicial Courts of New Mexico and formal Assurances of Discontinuance, the companies agreed to change their business practices and to make contributions to consumer education/protection efforts managed by the Office of the Attorney General. The Court Orders and Assurances are binding and based on the statutory provisions cited above, as well as Section 57-12-8 and 57-12-9 of the Unfair Practices Act. These Court Orders and Assurances mandate that the Office of the Attorney General receive the payments from the settling parties, manage the funds, and use the monies only for consumer protection and education purposes.

The Office is currently involved in a water rights litigation with the State of Texas. They have entered into Joint Powers Agreements with the NM Environment Department and the Interstate Stream Commission to collectively prepare for any possible lawsuit that Texas could bring forth. There is no contingent loss to the Office associated with this matter.

The Office has been successful through the Consumer Protection Division in obtaining court ordered settlements from various nationally known vendors.

State of New Mexico
Office of the Attorney General

NOTES TO FINANCIAL STATEMENTS – CONTINUED

June 30, 2009

NOTE O – TRANSFERS

The following amounts were transferred between funds within the Office’s fund structure; to other agencies or received by the Office from other agencies:

Transfers between funds

From Fund	To Fund	From (To) Transfer Amount	Purpose of the Transfer
54400	17000	<u>\$ 450,000</u>	Transfers were made to fully utilize available consumer alert and education programs.

Transfers to other agencies

Agency	To Fund	Transfer Amount	Purpose of the Transfer
NMED	75800	<u>\$ 120,000</u>	Water litigation

Transfers from other agencies

To Fund	From Fund	Transfer Amount	Purpose of the Transfer
17000	85300	\$ 15,401,500	General fund appropriations-Legal services
27800	85300	816,700	General fund appropriations-Medicaid Fraud Program
17000	85300	226,300	Compensation increases
27800	85300	<u>30,800</u>	Compensation increases
Total		<u>\$ 16,475,300</u>	

No transfers were inconsistent with the purposes of the funds involved.

NOTE P – NEW ACCOUNTING STANDARDS

Government Accounting Standards Board (GASB) Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions* has been issued. This standard was issued to provide increased clarity for fund balance type definitions and for classification rules for fund balances. This standard will be implemented for the FY 2011.

SUPPLEMENTARY INFORMATION

State of New Mexico
Office of the Attorney General

COMBINING BALANCE SHEET – NONMAJOR GOVERNMENTAL FUNDS

June 30, 2009

	Medicaid Program Income - 27500	Antitrust Litigation - 08500	Grant - 64900	Total Non- Major Funds
ASSETS				
Investments, State Treasurer	\$ 247,693	\$ 26,872	\$ -	\$ 274,565
Cash in banks	-	-	180	180
	\$ 247,693	\$ 26,872	\$ 180	\$ 274,745
FUND EQUITY				
Reserved for Medicaid Fraud Program	\$ 247,693	\$ -	\$ -	\$ 247,693
Reserved for antitrust litigation	-	26,872	-	26,872
Reserved for consumer settlements	-	-	180	180
	\$ 247,693	\$ 26,872	\$ 180	\$ 274,745

Fund 08500 and 64900 had no activity for the year.

No budget was prepared for these funds due to their small balances and inactivity.

State of New Mexico
Office of the Attorney General

**COMBINING STATEMENT OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCES –
NONMAJOR GOVERNMENTAL FUNDS**

For the year ended June 30, 2009

	Medicaid Program Income - <u>27500</u>	Antitrust Litigation - <u>08500</u>	<u>Grant - 64900</u>	<u>Total Non- Major Funds</u>
REVENUES				
Other revenues	\$ 85,132	\$ -	\$ -	\$ 85,132
Total revenues	85,132	-	-	85,132
EXPENDITURES				
General government				
Current	-	-	-	-
Other services	<u>67,095</u>	<u>-</u>	<u>-</u>	<u>67,095</u>
Total expenditures	<u>67,095</u>	<u>-</u>	<u>-</u>	<u>67,095</u>
Excess (deficiency) of revenues over expenditures	18,037	-	-	18,037
Fund balance, beginning of year	<u>229,656</u>	<u>26,872</u>	<u>180</u>	<u>256,708</u>
Fund balances, end of year	<u><u>\$ 247,693</u></u>	<u><u>\$ 26,872</u></u>	<u><u>\$ 180</u></u>	<u><u>\$ 274,745</u></u>

State of New Mexico
Office of the Attorney General

**STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND NET ASSETS –
BUDGET AND ACTUAL – NONMAJOR GOVERNMENTAL FUNDS –
MEDICAID FRAUD PROGRAM INCOME FUND (FUND 27500)**

For the year ended June 30, 2009

	<u>Original Budget</u>	<u>Revised Budget</u>	<u>Actual- Budget Basis</u>	<u>Variance Favorable (Unfavorable)</u>
Revenues:				
Program income	\$ -	\$ -	\$ 85,132	\$ 85,132
Total revenues	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 85,132</u>	<u>\$ 85,132</u>
Prior year fund balance	<u>\$ -</u>	<u>\$ 229,656</u>	<u>\$ -</u>	<u>\$ -</u>
Expenditures:				
General government:				
Other	\$ -	\$ 229,000	\$ 67,095	\$ 161,905
Total expenditures	<u>\$ -</u>	<u>\$ 229,000</u>	<u>\$ 67,095</u>	<u>\$ 161,905</u>

OTHER SUPPLEMENTARY INFORMATION

State of New Mexico
Office of the Attorney General

FIDUCIARY FUNDS

For the year ended June 30, 2009

Agency Funds

The agency funds of the Office of the Attorney General are used to account for the proceeds of settlements and court decisions until the proceeds may be distributed to the proper recipients.

Dram Matter Cost Share Fund (SHARE Fund #08100)
Victim Restitution Fund (SHARE Fund #69500)
Special Trust Fund (SHARE Fund #70100)
Cummins Settlement Fund (SHARE Fund #70200)
Mylan Multi-State Antitrust Fund (SHARE Fund #95000)
Buspar Multi-State Antitrust Fund (SHARE Fund #12700)

State of New Mexico
Office of the Attorney General

**COMBINING STATEMENT OF CHANGES IN ASSETS AND LIABILITIES –
ALL AGENCY FUNDS**

June 30, 2009

	Balance June 30, 2008	Additions	(Deletions)	Balance June 30, 2009
<u>Victims Restitution Fund (SHARE #69500)</u>				
ASSETS				
Investments, state treasurer	\$ 1,300	\$ -	\$ -	\$ 1,300
Interest receivable	-	-	-	-
Total assets	\$ 1,300	\$ -	\$ -	\$ 1,300
LIABILITIES				
Deposits held for consumers and others	\$ 1,300	\$ -	\$ -	\$ 1,300
Total liabilities	\$ 1,300	\$ -	\$ -	\$ 1,300
 <u>Special Trust Fund (SHARE #70100)</u>				
ASSETS				
Investments, state treasurer	\$ 11,260	\$ -	\$ -	\$ 11,260
Interest receivable	-	-	-	-
Total assets	\$ 11,260	\$ -	\$ -	\$ 11,260
LIABILITIES				
Deposits held for consumers and others	\$ 11,260	\$ -	\$ -	\$ 11,260
Total liabilities	\$ 11,260	\$ -	\$ -	\$ 11,260
 <u>Cummins Settlement Fund (SHARE #70200)</u>				
ASSETS				
Investments, state treasurer	\$ 6,474	\$ -	\$ -	\$ 6,474
Interest receivable	38	86	38	86
Total assets	\$ 6,512	\$ -	\$ -	\$ 6,560
LIABILITIES				
Deposits held for consumers and others	\$ 6,512	\$ 86	\$ 38	\$ 6,560
Total liabilities	\$ 6,228	\$ -	\$ -	\$ 6,560

State of New Mexico
Office of the Attorney General

**COMBINING STATEMENT OF CHANGES IN ASSETS AND LIABILITIES –
ALL AGENCY FUNDS – CONTINUED**

June 30, 2009

	<u>Balance</u> <u>June 30, 2008</u>	<u>Additions</u>	<u>(Deletions)</u>	<u>Balance</u> <u>June 30, 2009</u>
<u>Mylan Multistate Antitrust Fund (SHARE #95000)</u>				
ASSETS				
Investments, state treasurer	\$ 303,480	\$ -	\$ 106	\$ 303,374
Interest receivable	9,238	4,142	1,806	11,574
	<u>\$ 312,718</u>	<u>\$ 4,142</u>	<u>\$ 1,912</u>	<u>\$ 314,948</u>
Total assets	<u>\$ 312,718</u>	<u>\$ 4,142</u>	<u>\$ 1,912</u>	<u>\$ 314,948</u>
LIABILITIES				
Deposits held for consumers and others	\$ 312,718	\$ 4,142	\$ 1,912	\$ 314,948
	<u>\$ 312,718</u>	<u>\$ 4,142</u>	<u>\$ 1,912</u>	<u>\$ 314,948</u>
Total liabilities	<u>\$ 312,718</u>	<u>\$ 4,142</u>	<u>\$ 1,912</u>	<u>\$ 314,948</u>
 <u>Buspar Multistate Antitrust Fund (SHARE #12700)</u>				
ASSETS				
Investments, state treasurer	\$ 6,671	\$ -	\$ -	\$ 6,671
Interest receivable	205	91	40	256
	<u>\$ 6,876</u>	<u>\$ 91</u>	<u>\$ 40</u>	<u>\$ 6,927</u>
Total assets	<u>\$ 6,876</u>	<u>\$ 91</u>	<u>\$ 40</u>	<u>\$ 6,927</u>
LIABILITIES				
Deposits held for consumers and others	\$ 6,876	\$ 51	\$ -	\$ 6,927
	<u>\$ 6,876</u>	<u>\$ 51</u>	<u>\$ -</u>	<u>\$ 6,927</u>
Total liabilities	<u>\$ 6,876</u>	<u>\$ 51</u>	<u>\$ -</u>	<u>\$ 6,927</u>
 <u>Dram Matter Cost Share (SHARE #08100)</u>				
ASSETS				
Investments, state treasurer	\$ 642	\$ -	\$ -	\$ 642
Interest receivable	-	-	-	-
	<u>\$ 642</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 642</u>
Total assets	<u>\$ 642</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 642</u>
LIABILITIES				
Deposits held for consumers and others	\$ 642	\$ -	\$ -	\$ 642
	<u>\$ 642</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 642</u>
Total liabilities	<u>\$ 642</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 642</u>

State of New Mexico
Office of the Attorney General

**COMBINING STATEMENT OF CHANGES IN ASSETS AND LIABILITIES –
ALL AGENCY FUNDS – CONTINUED**

June 30, 2009

	<u>Balance</u> <u>June 30, 2008</u>	<u>Additions</u>	<u>(Deletions)</u>	<u>Balance</u> <u>June 30, 2009</u>
<u>Total - All Agency Funds</u>				
ASSETS				
Investments, state treasurer	\$ 329,828	\$ -	\$ 106	\$ 329,722
Interest receivable	9,481	4,309	1,884	11,906
	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Total assets	<u>\$ 339,309</u>	<u>\$ 4,309</u>	<u>\$ 1,990</u>	<u>\$ 341,628</u>
LIABILITIES				
Deposits held for consumers and others	\$ 339,309	\$ 2,435	\$ 106	\$ 341,638
	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Total liabilities	<u>\$ 339,309</u>	<u>\$ 2,435</u>	<u>\$ 106</u>	<u>\$ 341,638</u>

State of New Mexico
Office of the Attorney General

SCHEDULE OF CASH ACCOUNTS

June 30, 2009

Account Name	SHARE Fund No. Account Number	Balance per Depository	Reconciling Items		Reconciled Balance at June 30, 2009
			Outstanding Warrants	Other	
Governmental Fund Types					
Wells Fargo Bank:					
General Fund-Petty Cash Fund	17000	\$ 200	\$ -	\$ -	\$ 200
Grant Fund-Checking	64900	180	-	-	180
		<u>\$ 380</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 380</u>
Total Governmental Fund Types		<u>\$ 380</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 380</u>
Total - All Cash		<u>\$ 380</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 380</u>

State of New Mexico
Office of the Attorney General

SCHEDULE OF JOINT POWERS AGREEMENTS

For the year ended June 30, 2009

1. Participant: New Mexico Environment Department

Party responsible: Office of the Attorney General

Purpose: Technical work in preparation for water litigation

Dates of agreement: July 1, 2008 – June 30, 2009

Total estimated amount of project: \$757,280

Amount agency contributed during this fiscal year: \$120,000

Audit responsibility: Office of the Attorney General

Fiscal agent: Office of the Attorney General

Agency where revenues/expenditures are reported: Office of the Attorney General

2. Participant: Interstate Stream Commission

Party responsible: Office of the Attorney General

Purpose: Technical work in preparation for water litigation

Dates of agreement: July 1, 2008 – June 30, 2009

Total estimated amount of project: \$5,524,000

Amount agency contributed during this fiscal year: \$0

Audit responsibility: Office of the Attorney General

Fiscal agent: Office of the Attorney General

Agency where revenues/expenditures are reported: Office of the Attorney General

State of New Mexico
Office of the Attorney General

SCHEDULE OF SPECIAL APPROPRIATIONS

June 30, 2009

Description	Authority	Appropriation Period	SHARE Fund	Total Appropriations	Prior Year Expenditures
Texas Water Litigation	Laws 2008, Sec 5, Item 15, Water Litigation	2008-2009	17000	\$ 3,000,000	\$ 2,807,470
Texas Water Litigation	Laws 2008, Sec 5, item 14, Water Litigation	2008-2010	17000	2,400,000	1,862,334
Santa Rosa Prison Riots	Laws of 2008, Sec 5, Ch 15	2008-2010	17000	100,000	-
Human Trafficking	Laws of 2009, Ch 6, Section 2, 1011	2008-2009	17000	82,000	-
Animal Cruelty	Laws of 2009, Ch 6, Section 2, 1012	2008-2009	17000	77,900	-
Medicaid Fraud Program Audit findings	Laws of 2009, Section 6, Item 5	2008-2009	278000	300,000	-

<u>Current Year Expenditures</u>	<u>Prior Year Reversion Amount</u>	<u>Current Year Reversion Amount</u>	<u>Outstanding Encumbrances</u>	<u>Unencumbered Balance</u>	
\$ 192,530	\$ -	\$ -	\$ -	\$ -	
299,811	-	-	-	237,855	Restricted net assets
63,901	-	-	-	36,099	Restricted net assets
77,427	-	4,573	-	-	
22,271	-	55,629	-	-	
249,974	-	50,026	-	-	

State of New Mexico
Office of the Attorney General

SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

For the year ended June 30, 2009

Federal Agency/ Grantor/Program or Cluster Title	Federal CFDA Number	Grant Amount	Pass-Through Entity Identifying Number	Federal Expenditures
U.S. Department of Health and Human Services:				
Direct Programs:				
Medicaid Fraud Control Unit:				
01-07-01-NM-5050 (Major Program)	93.775	\$ 1,492,000		<u>\$ 1,101,253</u>
Total U.S. Department of Health and Human Services				1,101,253
 U.S. Department of Justice:				
Direct Programs:				
Office of Juvenile Justice and Delinquency Prevention:				
Investigative Satellite Initiative -				
Internet Crimes Against Children (ICAC)	16.542	681,822		175,549
Violence Against Women Act (VAWA)				
Child Victimization	16.589	1,494,792		<u>744,482</u>
Total U.S. Department of Justice				<u>920,031</u>
Total expenditures of federal awards				<u><u>\$ 2,021,284</u></u>

Notes to Schedule of Expenditures of Federal Awards

A. Basis of Presentation

The Schedule of Expenditures of Federal Awards was prepared using the modified accrual basis of accounting.

B. Noncash Assistance

The Department did not receive any federal awards in the form of noncash assistance or loan assistance during the year.

State of New Mexico
Office of the Attorney General

SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS – CONTINUED

For the year ended June 30, 2009

Reconciliation of Federal Expenditures
to expenditures per the Statement of Revenues, Expenditures,
and Changes in Fund Balance

State expenditures	\$ 16,990,709
Federal expenditures	<u>2,021,284</u>
Total expenditures per statement of revenues expenditures and changes in fund balance	<u>\$ 19,011,993</u>



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**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**

Honorable Gary King, Attorney General
Office of the Attorney General
and
Mr. Hector H. Balderas, State Auditor
Office of the State Auditor

We have audited the accompanying financial statements of governmental activities, each major fund, the budgetary comparison for the General Fund and Major Special Revenue Funds and the aggregate remaining fund information of the Office of the Attorney General (the Office), as of and for the year ended June 30, 2009, which collectively comprise the Office of the Attorney General's basic financial statements, as listed in the table of contents. We have also audited the financial statements of each of the Office of the Attorney General's nonmajor governmental funds and respective budgetary comparison presented as supplementary information in the accompanying combining and individual fund financial statements as of and for the year ended June 30, 2009, as listed in the table of contents, and have issued our report thereon dated October 16, 2009. 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 State of New Mexico, Office of the Attorney General'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 Office's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Office'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 of 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 Office'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 Office's financial statements that is more than inconsequential will not be prevented or detected by the Office's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the Office'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. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses as described above.

Compliance and Other Matters

As a part of obtaining reasonable assurance about whether the Office'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 no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain matters that are required to be reported under *Government Auditing Standards* Paragraph 5.14 and 5.16 and Section 12-6-5 NMSA 1978, which are described in the accompanying schedule of findings and questioned costs as finding 09-01 and 09-02.

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

Handwritten signature in black ink, appearing to read "Atkinson & Co., Ltd." with a stylized flourish at the end.

Atkinson & Co., Ltd.

Albuquerque, New Mexico
October 16, 2009



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

Honorable Gary King, Attorney General
Office of the Attorney General
and
Mr. Hector H. Balderas, State Auditor
Office of the State Auditor

Compliance

We have audited the compliance of the State of New Mexico, Office of the Attorney General (Office) with the types of compliance requirements described in the *U.S. Office of Management and Budget (OMB) Circular A-133 Compliance Supplement* that are applicable to its major federal program for the year ended June 30, 2009. The State of New Mexico, Office of the Attorney General's major federal program is 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 State of New Mexico, Office of the Attorney General's management. Our responsibility is to express an opinion on the State of New Mexico, Office of the Attorney General'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 State of New Mexico, Office of the Attorney General'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 State of New Mexico, Office of the Attorney General's compliance with those requirements.

In our opinion the Office of the Attorney General complied, in all material respects, with the requirements referred to above that are applicable to its major federal program for the year ended June 30, 2009.

Internal Control Over Compliance

The management of the State of New Mexico, Office of the Attorney General 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 State of New Mexico, Office of the Attorney General's internal control over compliance with requirements that could have a direct and material effect on its 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, and accordingly we do not express an opinion on the effectiveness of the State of New Mexico, Office of the Attorney General's internal control over compliance.

A control deficiency in an entity's internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect noncompliance with a type of compliance requirement of a federal program on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to administer a federal program such that there is more than a remote likelihood that noncompliance with a type of compliance requirement of a federal program that is more than inconsequential will not be prevented or detected by the entity's internal control.

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

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over compliance that we consider to be material weakness as defined above.

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



Atkinson & Co., Ltd.

Albuquerque, New Mexico
October 16, 2009

State of New Mexico
Office of the Attorney General

SCHEDULE OF FINDINGS AND QUESTIONED COSTS

For the year ended June 30, 2009

I. Summary of Auditor's Results

Financial Statements

Type of auditor's report issued: Unqualified

Internal control over financial reporting:

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

Noncompliance material to financial statements noted? No

Federal Awards

Internal control over major programs:

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

Type of auditor's report issued on compliance for major programs: Unqualified

Any audit findings disclosed that are required to be reported in accordance with section 510(a) of OMB Circular A-133? No

Identification of major programs:

CFDA Number

Name of Federal Program

93.775

U.S. Department of Health and Human Services –
Medicaid Fraud Control Unit

Dollar threshold used to distinguish between type A and type B programs: \$300,000

Auditee qualified as low-risk auditee? No

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

For the year ended June 30, 2009

II. Findings – Findings and Questioned Costs – Major Federal Award Programs Audit

	<u>Questioned Costs</u>
U.S. Department of Health and Human Services – State Medicaid Fraud Control Unit	None

III. Status of Prior Audit Findings

2007-1	Depreciation for Capital Assets not reconciled-resolved
2007-6	Deficit Cash Balance-resolved
2007-7	Due from Federal Awards Not Reconciled-resolved
2008-1	Deficit Fund Balances/ Budgeting-resolved
2008-2	Reversions not submitted timely-resolved

IV. Current Audit Findings

Financial Statement Findings Required by *Government Auditing Standards*

None

Findings in Accordance with OMB Circular A-133

None

Findings in Accordance with 2.2.2. NMAC

09-01 Contract Lapse
09-02 Procurement Violation

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

For the year ended June 30, 2009

FINDING 09-01 – CONTRACT LAPSE

Condition:

A prior administration procured outside legal services under contract for certain drug damage litigation. During FY 2009, the original contract for these services lapsed and was not timely renewed nor was it retroactively approved. Work was performed by the contractor during the lapsed period. As the litigation was ongoing, the contract was renewed and received all necessary approvals approximately four months after the original contract terminated. The contract type was on a contingent basis and no payments were made under the contract at any time. Another similar contract lapsed but was retroactively renewed. Five other contracts reviewed were timely purchased or renewed.

Criteria:

NMAC 2.40.2.-13 and 13-1-118 through 13-1-125 NMSA governing the approval of contracts for the purchase of professional services requires the review of professional services contracts as to form, legal sufficiency and budgetary requirements by the Department of Finance and Administration.

Also Procurement Code statute 13-1-95 NMSA 1978 requires that all procurements not otherwise excepted by the code be conducted by the Office of the State Purchasing Agent.

Cause:

The contract was ongoing from a prior administration and the contract compensation was on a contingency basis. As such no payments were required from the Office of the Attorney General even at settlement. Additionally, the contractor did not contact the Attorney general's office about contract renewal which had a relative short period to expiration at the time of change in administrations. These conditions may have caused the inadvertent lapse in contract renewal.

Effect:

A period of time occurred when the rights and obligations of the State of New Mexico under this contract were not legally documented. The contract had lapsed and work was performed by the contractor during the lapsed period. As such, unexpected or non optimum outcomes for the State of New Mexico could have occurred.

Recommendation:

A contract renewal schedule should be reemphasized to all appropriate staff to allow the initiation of contract renewals on a timely basis.

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

For the year ended June 30, 2009

FINDING 09-01 – CONTRACT LAPSE – CONTINUED

Management Response:

The Attorney General's Office became aware of this condition during an audit of contracts that needed to be renewed. To safeguard any possibility of unlawful spending, the Office notified the contractor that the contract had lapsed and that all work and expenditures must cease. No costs were accrued during the lapse period.

To assure that this condition would not repeat itself, a renewal schedule was instituted and both the Administrative Services Division and the Litigation Division review the schedule to assure that all contracts are properly in force or submitted for renewal timely as deemed appropriate. The Attorney General's Office is committed to assurance that all contracts are issued, managed and reviewed in accordance with NMAC 2.40.-13 and 13-1-118 through 13-1-125 NMSA and any other applicable provisions of the Procurement Code.

FINDING 09-02 – PROCUREMENT VIOLATION

Condition:

In fiscal year 2008 the Office received special appropriations in the amount of \$77,900 "to pay costs associated with the enforcement of animal cruelty laws through the animal cruelty task force." During our testing of all the expenditures related to the special appropriation we noted the following conditions:

- 1) The Office paid the New Mexico Sheriffs and Police Association (NMSPA) conference registration fees for animal cruelty task force training without a properly executed contract in place. The amount paid was \$9,300 and was paid in April of 2009.
- 2) The Office did not specify any goods or services for the amount paid to NMSPA and no purchase order was established when the conference event took place.
- 3) One expenditure relating to animal cruelty task force training in the amount of \$1,268.27 was not coded properly. A separate code had been established to track animal cruelty expenditures separately from other expenditures; however, the code was not used.

Criteria:

Procurement Code statute 13-1-98 J NMSA 1978 exempts conference registration fees from the requirements of the procurement code up to \$5,000. It states the provisions of the procurement code shall not apply to minor purchases not exceeding five thousand dollars (\$5,000) consisting of magazine subscriptions, conference registration fees and other similar purchases where prepayments are required.

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

For the year ended June 30, 2009

FINDING 09-02 – PROCUREMENT VIOLATION – CONTINUED

Criteria – Continued:

Procurement Code statute 13-1-95 NMSA 1978 requires that all procurements not otherwise excepted by the code be conducted by the Office of the State Purchasing Agent.

Procurement Code statute 13-1-125 NMSA 1978 provides that “a state agency or a local public body may procure services, construction or items of tangible personal property having a value not exceeding ten thousand dollars (\$10,000) by issuing a direct purchase order to a contractor based upon the best obtainable price.”

Effect:

The \$9,300 paid by the Office of Attorney General was for sponsorship of a one day Animal Cruelty Prevention conference was presented as part of a larger four-day event put on by the New Mexico Sheriffs and Police Association (NMSPA) during the same time and location. The level of funding provided and the lack of a contract for what costs were specifically covered may have led to the payment of unauthorized expenditures of NMSPA program costs beyond the Animal Cruelty conference segment authorized by the legislation. Also lack of properly executed contracts with vendors could result in vendor overbillings, or future unauthorized payments to vendors

Cause:

The conference for animal cruelty training was held on March 19th, 2009 and the Animal Cruelty Task Force did not provide a list of registered participants until March 18th 2009 at 5:00 pm. The Office’s Administrative Services Division was not aware that the exemption code had a \$5,000 maximum level and thought a contract was not required.

Recommendation:

We recommend the Office work with the Animal Cruelty Task Force on future conferences to obtain registration listings in a more timely manner. In addition we recommend the administration service division personnel attend procurement training offered by the State Purchasing Division to ensure all relevant aspects of the procurement code are understood as they relate to the Office’s future procurements of goods and services from vendors.

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

For the year ended June 30, 2009

FINDING 09-02 – PROCUREMENT VIOLATION – CONTINUED

Management Response:

The Attorney General's Office inadvertently erred in thinking that the expenditures for the Conference were covered by exemptions granted to the Office for small contracts, subscriptions and registrations. Individually, the expenditures did not exceed the limits. However, we are now aware that Department of Finance and Administration feels the cumulative expenditure would have required a contract. Additionally, the untimely submission by the vendor of information to prepare vouchers and purchase orders further complicated the purchase. With guidance received from Department of Finance and Administration we assured that there were no improper expenditures. We have instituted safeguards to assure that this error will not occur in the future. Administrative Services staff has been directed to seek assistance and guidance when making purchases that may exceed the \$5,000 exemption. Additionally, staff will be scheduled to attend trainings offered by the State Purchasing Division.

State of New Mexico
Office of the Attorney General

FINANCIAL STATEMENT PREPARATION

June 30, 2009

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

EXIT CONFERENCE

An exit conference was held on December 9, 2009, to discuss the audit. The following individuals were in attendance:

State of New Mexico – Office of the Attorney General

Gary King, Attorney General
Albert J. Lama, Deputy Attorney General
Evangeline Tinajero, Administrative Services Division Director
Tammy Herrera, Finance Manager

Independent Auditor – Atkinson & Co., Ltd.

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

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