

**STATE OF NEW
MEXICO SENTENCING
COMMISSION**

FINANCIAL STATEMENTS

JUNE 30, 2008

Moss Adams LLP
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Albuquerque, New Mexico
(505) 830-6200

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SENTENCING COMMISSION

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STATE OF NEW MEXICO
SENTENCING COMMISSION
Official Roster
June 30, 2008

Chair – Joe Caldwell

Vice Chair – Billy Blackburn

Members

Cynthia Aragon
Hugh Dangler
Bob Cleavall
John Denko, Jr.
Mark Donatelli
Gary King
Gina Maestas
Lemuel Martinez
Arthur Pepin
Lynn Pickard
John Pope
Jerry Ritter
Suellyn Scarnecchia
David Schmidt
Martin Suazo
Joe R. Williams
Melissa Stephenson
Angie Vachio
Michael Vigil
Kent Waller

Staff

Michael Hall, Executive Director
Tony Ortiz, Deputy Director
Ladonna Laran, Budget Analyst and CFO

Independent Auditors' Report

T 505-830-6200
F 505-830-6282

Mr. Hector H. Balderas
New Mexico State Auditor
and
State of New Mexico
Sentencing Commission

We have audited the accompanying financial statements of the governmental activities, the major fund and budgetary comparison, of the State of New Mexico Sentencing Commission (Commission) as of and for the year ended June 30, 2008, which collectively comprise the Commission's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the Commission'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 the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

As discussed in Note 2, the financial statements of the Commission are intended to present the financial position, and the changes in financial position of only that portion of the governmental activities and the major fund of the State of New Mexico that is attributable to the transactions of the Commission. They do not purport to, and do not, present fairly the financial position of the State of New Mexico as of June 30, 2008, and the changes in its financial position, for the year then ended in conformity with accounting principles generally accepted in the United States of America.

Mr. Hector H. Balderas
New Mexico State Auditor
and
State of New Mexico
Sentencing Commission

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and the major fund of the Commission as of June 30, 2008, and the respective changes in financial position and the budgetary comparison for the general fund 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 December 15, 2008 on our consideration of the Commission's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Governmental Auditing Standards* and should be considered in assessing the results of our audit.

The management's discussion and analysis on pages 4 through 7 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 principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.

Moss Adams LLP

Albuquerque, New Mexico
December 15, 2008

**STATE OF NEW MEXICO
SENTENCING COMMISSION
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2008**

The Sentencing Commission (Commission) discussion and analysis is designed to (a) assist the reader in focusing on significant issues, (b) provide an overview of the Commission's financial activity, (c) identify changes in the Commission's financial position, (d) identify any material deviations from the financial plan (the approved budget), and (e) identify fund issues or concerns.

Since the Management's Discussion and Analysis (MD&A) is designed to focus on the current year activities, resulting changes and currently known facts, please read it in conjunction with the Commission's financial statements.

AGENCY BACKGROUND

Financial Highlights

The New Mexico Sentencing Commission (originally known as the Criminal and Juvenile Justice Coordinating Council) was created under Section 9-3-10 NMSA 1978 in 1994 and officially began its activities in September 1995. During the 2003 legislative session, House Bill 510 became law, changing the agency's name to New Mexico Sentencing Commission (Commission) and expanding its duties.

The legislature created the Commission to assess, monitor and report to the legislature on the impact of any enacted sentencing standards and guidelines on state and local correctional resources and programs and the need for further sentencing reform.

USING THIS ANNUAL REPORT

The financial report includes the sections described below.

Management Discussion and Analysis

This section includes information on the use of the annual report, and management's analysis of the financial position and results of operations for the Commission.

**STATE OF NEW MEXICO
SENTENCING COMMISSION
MANAGEMENT'S DISCUSSION AND ANALYSIS (CONTINUED)
June 30, 2008**

Government-Wide Financial Statements

The government-wide financial statements are designed to be corporate-like in that all governmental activities are consolidated into one column. The Commission has no business type activities. The focus of the Statement of Net Assets (Unrestricted Net Assets) is designed to be similar to a bottom line for the Commission and its governmental activities. This statement, for the first time, combines and consolidates governmental fund's current financial resources (short-term spendable resources) with capital assets and long term liabilities.

The Statement of Activities is focused on cost of various activities which are provided by the Commission's general and other revenues. This is intended to summarize and simplify the user's analysis of the cost of services.

Fund Financial Statements

The Commission only has one fund – the general fund.

The Governmental Fund presentation is presented on a sources and uses of liquid resources basis. This is the manner in which the financial plan (budget) is typically developed. The flow and availability of liquid resources is a clear and appropriate focus of any analysis of a government. Funds are established for various purposes and the financial statement allows the demonstration of sources and uses and/or budgeting compliance associated therewith.

Budgetary Comparisons

In addition to MD&A, GASB Statement No. 34 requires budgetary comparison schedules for the general fund and for each major governmental fund that has a legally adopted annual budget to be presented. The budgetary comparison schedules should present both the original and the final appropriated budgets for the reporting period as well as the actual inflows, outflows and balances, stated on the government's budgetary basis.

As required by the Office of the State Auditor under 2 NMAC 2.2, the Statements of Revenues and Expenditures – Budget and Actual are also presented. This information is provided at the approved budget level to demonstrate compliance with legal requirements.

STATE OF NEW MEXICO
 SENTENCING COMMISSION
 MANAGEMENT'S DISCUSSION AND ANALYSIS (CONTINUED)
 June 30, 2008

GOVERNMENT-WIDE FINANCIAL ANALYSIS

Statement of Net Assets – Governmental Activities

| | 2008 | 2007 |
|---------------------|------------------|---------------|
| Current assets | <u>\$ 91,018</u> | <u>50,000</u> |
| Current liabilities | <u>\$ 69,913</u> | <u>28,895</u> |
| Net assets | | |
| Unrestricted | <u>\$ 21,105</u> | <u>21,105</u> |

For more detailed information see the Statement of Net Assets.

The assets and liabilities increased due to a new grant that was received in 2008. Liabilities include a cash deficit of \$8,040.

Statement of Activities

The following schedule represents the revenues and expenses for government activities for the years ended June 30:

| | 2008 | 2007 |
|--------------------------------------|-------------------------|----------------------|
| State General Fund Appropriations | \$ 849,900 | 809,900 |
| Special Appropriations | 100,000 | - |
| Grant Revenue | 141,256 | - |
| Reversions to the State General fund | <u>(44)</u> | <u>(125)</u> |
| Total revenue | 1,091,112 | 809,775 |
| Program expenses | <u>1,091,112</u> | <u>940,068</u> |
| Change in net assets | - | (130,293) |
| Net assets, beginning of year | <u>21,105</u> | <u>151,398</u> |
| Net assets, end of year | <u>\$ 21,105</u> | <u>21,105</u> |

For more detailed information see the Statement of Activities.

Revenues and expenses increased as the Commission received a new grant during the year.

**STATE OF NEW MEXICO
SENTENCING COMMISSION
MANAGEMENT'S DISCUSSION AND ANALYSIS (CONTINUED)
June 30, 2008**

THE COMMISSION'S FUNDS

The Commission has one governmental fund, which is the General Fund.

BUDGETARY HIGHLIGHTS

There were no significant changes to the overall original operating budget. During 2008, the Commission received a new grant and expended \$141,256 under this grant during the year. While it should have been, this activity was not budgeted.

FINANCIAL CONTACT

The Commission's financial statements are designed to present users with the general overview of the Commission's finances and to demonstrate the Commission's accountability. If you have questions about the report or need additional financial information, contact the Commission's CFO at 2808 Central SE, Room 107A, Albuquerque, New Mexico 87106.

STATE OF NEW MEXICO
 SENTENCING COMMISSION
 STATEMENT OF NET ASSETS
 June 30, 2008

| | Governmental Activities |
|---------------------------------------|----------------------------|
| ASSETS | |
| Due from other state agencies | \$ 91,018 |
| Total assets | <u>91,018</u> |
| LIABILITIES | |
| Cash deficit - due to State Treasurer | 8,040 |
| Due to UNM | 61,018 |
| Due to State General fund | <u>855</u> |
| Total Liabilities | <u>69,913</u> |
| NET ASSETS | |
| Unrestricted | <u><u>\$ 21,105</u></u> |

See Notes to Financial Statements.

STATE OF NEW MEXICO
 SENTENCING COMMISSION
 STATEMENT OF ACTIVITIES
 Year Ended June 30, 2008

| | | Program Revenues | | Net (Expense) Revenue and Changes in Net Assets |
|---|----------------|-------------------------|---------------------|--|
| | Expenses | Charges for Services | Operating Grants | Governmental Activities |
| Governmental Activities | | | | |
| Judicial research services | \$ (1,091,112) | - | 141,256 | (949,856) |
| General Revenues | | | | |
| State General Fund appropriations | | | | 849,900 |
| State General Fund - special appropriations | | | | 100,000 |
| Reversions to the State General Fund | | | | (44) |
| | | | | 949,856 |
| Change in net assets | | | | - |
| Net assets, beginning of year | | | | 21,105 |
| Net assets, end of year | | | | \$ 21,105 |

See Notes to Financial Statements.

STATE OF NEW MEXICO
 SENTENCING COMMISSION
 BALANCE SHEET - GOVERNMENTAL FUNDS
 June 30, 2008

| | <u>General Fund</u> |
|--|-------------------------|
| ASSETS | |
| Due from other state agencies | \$ 91,018 |
| Total assets | <u>\$ 91,018</u> |
| LIABILITIES AND FUND BALANCE | |
| Liabilities | |
| Cash deficit - due to State Treasurer | \$ 8,040 |
| Due to UNM | 61,018 |
| Due to State General Fund | 855 |
| Total liabilities | <u>69,913</u> |
| Fund balance | |
| Unreserved, designated for subsequent year expenditures | <u>21,105</u> |
| Total liabilities and fund balance | <u>\$ 91,018</u> |

See Notes to Financial Statements.

STATE OF NEW MEXICO
SENTENCING COMMISSION
RECONCILIATION OF THE BALANCE SHEET
TO THE STATEMENT OF NET ASSETS -
GOVERNMENTAL FUNDS
Year Ended June 30, 2008

| | |
|---|------------------|
| Fund balances - total governmental fund | \$ 21,105 |
| Net assets of governmental activities | <u>\$ 21,105</u> |

See Notes to Financial Statements.

STATE OF NEW MEXICO
SENTENCING COMMISSION
STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES -
GOVERNMENTAL FUNDS
Year Ended June 30, 2008

| | General Fund |
|--|-------------------------|
| Expenditures | |
| Current | |
| In-state travel | \$ 5,956 |
| Professional services | 1,085,156 |
| Total expenditures | <u>1,091,112</u> |
| Other Financing Sources (Uses) | |
| State General Fund appropriations | 849,900 |
| State General Fund - special appropriation | 100,000 |
| Grant revenue | 141,256 |
| Reversions to the State General Fund | (44) |
| | <u>1,091,112</u> |
| Excess (deficiency) of revenues over expenditures and other financing sources | - |
| Fund balances, beginning of year | <u>21,105</u> |
| Fund balances, end of year | <u><u>\$ 21,105</u></u> |

See Notes to Financial Statements.

STATE OF NEW MEXICO
SENTENCING COMMISSION
RECONCILIATION OF THE STATEMENT OF REVENUES,
EXPENDITURES, AND CHANGES IN FUND BALANCES
OF GOVERNMENTAL FUNDS
TO THE STATEMENT OF ACTIVITIES -
GOVERNMENTAL FUNDS
Year Ended June 30, 2008

Net change in fund balances - total governmental fund \$ -

Change in net assets of governmental activities \$ -

See Notes to Financial Statements.

STATE OF NEW MEXICO
 SENTENCING COMMISSION
 STATEMENT OF REVENUES AND EXPENDITURES -
 BUDGET AND ACTUAL GENERAL FUND
 Year Ended June 30, 2008

| | Budget Original | Final | Actual | Variance Favorable (Unfavorable) |
|----------------------------|--------------------|---------|-----------|--|
| Revenues | | | | |
| General Fund appropriation | \$ 849,900 | 849,900 | 849,900 | - |
| Grant revenue | - | - | 141,256 | 141,256 |
| Special appropriations | 100,000 | 100,000 | 100,000 | - |
| Reversions to the State | - | - | (44) | (44) |
| | <hr/> | <hr/> | <hr/> | <hr/> |
| Total revenues | 949,900 | 949,900 | 1,091,112 | 141,212 |
| | <hr/> | <hr/> | <hr/> | <hr/> |
| Expenditures | | | | |
| Contractual services | 943,900 | 943,900 | 1,085,156 | (141,256) |
| Other | 6,000 | 6,000 | 5,956 | 44 |
| | <hr/> | <hr/> | <hr/> | <hr/> |
| Total expenditures | \$ 949,900 | 949,900 | 1,091,112 | (141,212) |
| | <hr/> | <hr/> | <hr/> | <hr/> |

See Notes to Financial Statements.

STATE OF NEW MEXICO
SENTENCING COMMISSION
NOTES TO FINANCIAL STATEMENTS
June 30, 2008

NOTE 1. ORGANIZATION AND OPERATIONS

The New Mexico Sentencing Commission (originally known as the Criminal and Juvenile Justice Coordinating Council) was created under Section 9-3-10 NMSA 1978 in 1994 and officially began its activities in September 1995. During the 2003 legislative session, House Bill 510 became law, changing the agency's name to New Mexico Sentencing Commission (Commission) and expanding its duties. Currently, the Commission is a state agency vouchering through the Department of Finance and Administration (DFA).

The legislature created the Commission to assess, monitor and report to the legislature on the impact of any enacted sentencing standards and guidelines on state and local correctional resources and programs and the need for further sentencing reform.

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The financial statements of the Commission have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP) as applied to governmental entities. The more significant of the Commission's accounting policies are described below:

A. Financial Reporting Entity

The chief executive of the Commission is the Executive Director, who is appointed by the majority of the Board of Directors. The Commission is a department of the executive branch and these financial statements include all funds and activities over which the Executive Director has oversight responsibility.

The Commission is included in the financial statements of the State of New Mexico. The Commission has no component units.

B. Basic Financial Statements

The basic financial statements include both government-wide (based on the Commission as a whole) and fund financial statements. Both the government-wide and fund financial statements (within the basic financial statements) categorize primary activities as either governmental or business type. The Commission 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 the full accrual, economic resource basis, which incorporates long-term assets and receivables as well as long-term debt and obligations. These statements include the financial activities of the overall government except for fiduciary funds (the Commission does not have any).

STATE OF NEW MEXICO
SENTENCING COMMISSION
NOTES TO FINANCIAL STATEMENTS
June 30, 2008

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES
(CONTINUED)

B. Basic Financial Statements (Continued)

The net cost by function is normally covered by general revenue. Since the Commission only has one program, it does not employ indirect cost allocation in the financial statements. Program revenues consist of grant revenues.

This government-wide focus is more on the sustainability of the Commission as an entity and the change in aggregate financial position resulting from the activities of the fiscal period.

As permitted by GASB Statement No. 20, the Commission has elected not to apply pronouncements of the Financial Accounting Standards Board (FASB) issued subsequent to November 30, 1989.

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 Commission'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 Commission, however, had no reconciling items for the year ended June 30, 2008. The Commission's major fund is its general fund.

The following fund types are used by the Commission:

GOVERNMENTAL FUND TYPES

All governmental fund types are accounted for on a spending or financial flow measurement focus. Only current assets and current liabilities are generally included on their balance sheets. 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 non-current liabilities. Since they do not affect net current assets, such long-term amounts are not recognized as governmental fund type expenditures or fund liabilities.

STATE OF NEW MEXICO
SENTENCING COMMISSION
NOTES TO FINANCIAL STATEMENTS
June 30, 2008

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES
(CONTINUED)**

B. Basic Financial Statements (Continued)

General Fund - The General Fund is the general operating fund of the Commission. It is used to account for all financial resources except those required to be accounted for in another fund (SHARE Fund #00347).

C. Basis of Accounting

The 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 applies. The Government-Wide Financial Statements are presented on an 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 are recognized when earned and expenditures are recognized when incurred.

All governmental funds utilize the modified accrual basis of accounting. Under this method, revenues and other governmental fund financial resource 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 from taxes are recorded when both earned and are considered available, that is received within 60 days of year-end. 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. Grant revenues are recorded when all eligibility requirements have been met, typically when the underlying expenditures have been incurred.

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. Expenditures charged to federal programs are recorded utilizing the cost principles described by the various funding sources.

D. Budgets and Budgetary Accounting

Legal compliance is monitored through the establishment of a budget and a 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

STATE OF NEW MEXICO
SENTENCING COMMISSION
NOTES TO FINANCIAL STATEMENTS
June 30, 2008

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES
(CONTINUED)**

D. Budgets and Budgetary Accounting (Continued)

upon approval from the Budget Division of the State of New Mexico Department of Finance and Commission within the limitations as specified in the General Appropriations Act. The budget amounts shown in the financial statements are the final authorized amounts as legally revised during the year.

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

1. No later than September 1, the Commission 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.
2. 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.
3. The Act is then signed into Law by the Governor of the State of New Mexico within the legally prescribed time limit, at which time the approved budget becomes a legally binding document.
4. Not later than May 1, the Commission 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 LFC.

The budget is adopted on a modified accrual basis of accounting (General Appropriations Act, Laws of 2006, Chapter 109, Section 3, Subsection O and N) except for accounts payable accrued at the end of the fiscal year that do not get paid by the statutory deadline (Section 6-10-4 NMSA 1978) that must be paid out of the next year's budget. A reconciliation of budgetary basis to GAAP basis will be necessary if any accounts payable at the end of the fiscal year are not paid by the statutory deadline. The Commission has not included such reconciliation for fiscal year 2008 as all payable were paid by the statutory deadline.

Formal budgetary integration is employed as a management control device during the fiscal year for the General Fund.

STATE OF NEW MEXICO
SENTENCING COMMISSION
NOTES TO FINANCIAL STATEMENTS
June 30, 2008

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES
(CONTINUED)**

E. Reservations and Designations

Reservations of fund balance are created to either (1) satisfy legal covenants that require that a portion of the fund balance be segregated or (2) identify the portion of the fund balance that is not appropriated for future expenditures. Specific reservations of fund balance accounts are summarized below:

Unreserved - Designated for Subsequent Year Expenditures. The funds remaining at year-end, do not revert to the State General Fund. At the time the Sentencing Commission was first considered a state agency subject to the State's budgetary law, it had funds that do not revert at year end. These funds were originally obtained from private sources. This amount is carried forward from year to year and will be rebudgeted in the future.

F. Net Assets

The government-wide and business types Fund Financial Statements utilize a net asset presentation. Net Assets are categorized as investment in fixed assets (net of related debt), restricted and unrestricted.

Unrestricted Net Assets – represent unrestricted liquid assets.

G. 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.

STATE OF NEW MEXICO
 SENTENCING COMMISSION
 NOTES TO FINANCIAL STATEMENTS
 June 30, 2008

NOTE 3. (DUE TO) INTEREST IN THE STATE TREASURER INVESTMENT POOL

Cash is on deposit with the New Mexico State Treasurer. State law requires the Commission to keep its funds in the State Treasurer Investment Pool. For GASB 40 disclosure information related to this Investment Pool the reader should see the separate audit report for the State Treasurer. As of June 30, 2008, the Commission had a net deficit cash balance with the State Treasurer. This was due to grant proceeds that were deposited with UNM instead of the State Treasurer.

| Fund | SHARE Account Number | |
|--|-------------------------|--------------------------|
| Cash on deposit (due to) with State Treasurer | | |
| General Fund | 00347 | \$ <u>(8,040)</u> |
| Total June 30, 2008 | | \$ <u>(8,040)</u> |

NOTE 4. SPECIAL APPROPRIATION

Chapter 33, Laws of 2007, section 5, page 8 from the 2007 legislature included an appropriation in the amount of \$100,000 for a workload management study to be performed by the Commission. These funds were fully expended as of June 30, 2008.

Due to the agency being small, reverting and non-reverting funds are commingled. The agency tracks expenditures related to reverting and non-reverting funds separately. As of June 30, 2008, fund balance was made up of the following:

| | |
|-------------------------------------|------------------|
| Nonreverting funds from prior years | <u>\$ 21,105</u> |
|-------------------------------------|------------------|

NOTE 5. OPERATING LEASES

The Commission leases an automobile for traveling to board meeting in Santa Fe and around the State of New Mexico with a lease term of less than one year.

Lease expenditure for the automobile for the year ended June 30, 2008 was \$5,956.

STATE OF NEW MEXICO
 SENTENCING COMMISSION
 NOTES TO FINANCIAL STATEMENTS
 June 30, 2008

NOTE 6. CONTINGENT LIABILITIES

The Commission, as a State Agency defined in the New Mexico Tort Claims Act, is insured through the Risk Management Division of the State of New Mexico. Annual premiums are paid to the Office of Risk Management Division for coverage provided in the following areas:

1. Liability and civil rights protection for claims made by others against the State of New Mexico;
2. Coverage's to protect the State of New Mexico's property and assets; and
3. The Commission is not involved in pending legal matters as of June 30, 2008.

NOTE 7. MEMORANDUM OF UNDERSTANDING

For the fiscal year ended June 30, 2008, the Commission entered into a memorandum of understanding with the University of New Mexico (UNM). Under the agreement, UNM provides administrative and record keeping services along with office space and other support services. The cost of these services to the Commission should not exceed \$950,000.

NOTE 8. REVERSIONS

Unexpended and unencumbered cash balances of certain funds revert to the State General Fund at year end. Reversions due to State General Fund are comprised of the following at June 30, 2008:

General Fund (00354)

| | |
|---|----------------------|
| Budget year 2007 reversion | \$ 811 |
| Budget year 2008 reversion | <u>44</u> |
| Total reversions due to State General Fund | <u>\$ 855</u> |

NOTE 9. GRANT ACTIVITY

In 2008, the Commission received a grant in the amount of \$250,000 from the New Mexico Attorney General (NMAG). The Commission expended and earned revenue of \$141,256 under this grant during the 2008 fiscal year and had a receivable in the amount of \$91,018 at year end. The NMAG fund number for this activity is _____ and the Commission's fund number is 00347. This activity was not budgeted as required by state statute. The Commission plans to budget this activity in the future.

**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***

Mr. Hector H. Balderas
New Mexico State Auditor
and
State of New Mexico
Sentencing Commission

We have audited the financial statements of the governmental activities, the major fund and the budgetary comparison of the New Mexico Sentencing Commission (Commission) as of and for the year ended June 30, 2008 and have issued our report thereon dated December 15, 2008. 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 Commission's internal control over financing 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 Commission's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Commission's internal control over financial reporting.

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

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 entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with accounting principles generally accepted in the United States of America such that there is

Mr. Hector H. Balderas
New Mexico State Auditor
and
State of New Mexico
Sentencing Commission

more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control. We consider the deficiency described as item 08-01 in the accompanying schedule of findings and responses to be a significant deficiency in internal control over financial reporting.

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 entity's internal control.

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

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Commission'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 an instance of noncompliance or other matters that is required to be reported under *Government Auditing Standards* and is included as item 8-01 in the accompanying schedule of findings and responses.

We also noted an additional matter that is required to be reported under *Government Auditing Standards*, January 2008 Revision paragraphs 5.14 and 5.16 and Section 12-6-5, NMSA 1978 that is described in the accompanying schedule of findings and responses as item 06-01.

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Sentencing Commission

The Commission's responses to the findings identified in our audit are described in the accompanying schedule of findings and responses. We did not audit the Commission's responses and, accordingly, we express no opinion on them.

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

Moss Adams LLP

Albuquerque, New Mexico
December 15, 2008

**STATE OF NEW MEXICO
SENTENCING COMMISSION
STATUS OF PRIOR YEAR AUDIT FINDINGS
June 30, 2008**

| | |
|---|----------------------|
| 06-01 Reversions | Updated and Repeated |
| 07-01 Cash Deposits | Resolved |
| 07-02 Reconciliation of Interest in the State Investment Pool | Resolved |

**STATE OF NEW MEXICO
SENTENCING COMMISSION
SCHEDULE OF FINDINGS AND RESPONSES
June 30, 2008**

06-01 REVERSIONS

CONDITION

During our audit we noted that the New Mexico Sentencing Commission's (Commission) prior year reversions of \$810 had not yet been reverted to the Department of Finance and Administration.

CRITERIA

The NMSA 1978, Sec. 6-5-10 A states all unreserved undesignated fund balances in reverting funds and accounts as reflected in the central financial reporting and accounting system as of June 30 shall revert by September 30 to the general fund. The NMAC Sec. 2.2.12 A.(6)(b) (Audit Rule 2007) states that failure to transfer reverting funds timely in compliance with the statute requires and audit finding.

EFFECT

The Commission is not in compliance with statutory requirements and its future funding could be impacted.

CAUSE

The Commission was previously under Contracts and Grants at the University of New Mexico, in the transition from their role under Contracts and Grants at UNM to being a State Agency they are still learning the required procedures.

RECOMMENDATION

We recommend that the NMSC implement procedures to transfer the reversions to the State General Fund in timely manner.

MANAGEMENT RESPONSE

Since the previous audit report, the NMSC has implemented procedures to transfer the reversions to the State General Fund in timely manner. For FY 08 the NMSC completed its reversion within the 45 days after the end of the fiscal year, as required.

**STATE OF NEW MEXICO
SENTENCING COMMISSION
SCHEDULE OF FINDINGS AND RESPONSES
June 30, 2008**

08-01 Grant Accounting

CONDITION

During our audit, we noted that the Commission received a grant during 2008. From this grant \$141,256 in revenues and related expenditures were accounted for directly by UNM. The activity was not recorded in the Commission's general ledger, nor was the activity budgeted.

CRITERIA

State Statutes require that expenditures be budgeted before they are expended and NMAC 2.2.2.10P requires a finding if budgets are exceeded. Sections 6-5-1 to 6 establish a central accounting system (SHARE) and under the requirements developed by the Department of Finance and Administration require that each state agency record transactions in SHARE.

EFFECT

Because the activity was not recorded in the Commission's general ledger, the financial reports were not accurate.

CAUSE

This was a new grant and the first time the Commission received grant funds since the implementation of SHARE

RECOMMENDATION

We recommend that the NMSC implement procedures to record all of its transactions in the SHARE

MANAGEMENT RESPONSE

For the remainder of FY09 and into the future, the NMSC will implement procedures to record all of its transactions in the SHARE.

**STATE OF NEW MEXICO
SENTENCING COMMISSION
EXIT CONFERENCE
June 30, 2008**

An exit conference was held on December 15, 2008 and attended by the following individuals:

New Mexico Sentencing Commission

Angie Vachio, Commission Member
Michael Hall, Executive Director
Tony Ortiz, Deputy Director
Ladonna Laran, Budget Analyst and CFO

Moss Adams LLP

Larry Carmony, Partner

The financial statements were prepared with the assistance of Moss Adams LLP from the books and records of the Commission.