FINANCIAL STATEMENTS AND REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTS

STATE OF NEW MEXICO
OFFICE OF THE SECRETARY OF STATE

June 30, 2007

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PRECISE. PERSONAL. PROACTIVE.

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State of New Mexico
Office of The Secretary of State

OFFICIAL ROSTER

June 30, 2007

Name	Title
Ms. Mary Herrera	Secretary of State
Mr. Don Francisco Trujillo II	Deputy Secretary of State
Ms. Dianne Brown	Chief Financial Officer

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REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

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

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

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

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

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

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

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

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

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

Atkinson & Co., Ltd.

Atkinson & Co., Ltd.

Albuquerque, New Mexico
July 31, 2008

MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED)

Year ended June 30, 2007

Management's discussion and analysis (MDA) of the Office of the Secretary of State is designed to assist the reader in focusing on significant issues, provide an overview of the Office's financial activity, and identify changes in the Office's financial position for the fiscal year ended June 30, 2007.

This discussion and analysis is designed to focus on current fiscal year activities.

FINANCIAL HIGHLIGHTS

The Office of the Secretary of State's assets exceeded liabilities at the close of the June 30, 2007 fiscal year by $20,048,961 (net assets) compared to $18,428,016 at June 30, 2006. The increase in net assets was primarily due to state general fund appropriations for costs associated with the 2008 general election and voting equipment held on behalf of county government. The Office of the Secretary of State receives its revenues from general fund appropriations and federal revenue from the Help America Vote Act (HAVA) and the Department of Health and Human Services for election assistance for individuals.

OVERVIEW OF THE FINANCIAL STATEMENTS

The discussion and analysis are intended to serve as an introduction to the Office of the Secretary of State's financial statements. The financial statements are comprised of three components: (1) government-wide financial statements, (2) fund financial statements, and (3) notes to the financial statements. This report also contains other non-major combining fund statements. The Office has two major funds, two non-major funds and an agency fund.

Government-wide Financial Statements:

The government-wide financial statements are designed to provide readers with a broad overview of the Office of the Secretary of State's finances in a manner similar to a private-sector business.

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

The statement of activities presents information showing how the Office of the Secretary of State's net assets changed during the recent fiscal year. All changes in net assets are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows.

Fund Financial Statements

A fund is a grouping of related accounts that is used to maintain control over resources that has been segregated for specific activities or objectives. The Office of the Secretary of State, like other state and local governments, uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. The Office of the Secretary of State has one general fund, the general appropriation fund (Fund 18000). All State services are reflected in the general appropriation fund.

The Office of the Secretary of State adopts an annual appropriated budget for its general fund, HAVA fund and public election fund. Budgetary comparison statements have been provided to demonstrate compliance with their budgets. The Office is in compliance with its budgetary requirements. (See pages 17, 18 and 19 of the report.)

Notes to the Financial Statements:

The notes provide additional information that is essential to fully understand the data provided in the government-wide and fund financial statements. (See pages 20-35 of the report.)

Federal Revenues

The Help America Vote Act (HAVA) was signed into law on October 29, 2002. It was enacted to assist states in the administration of Federal elections and to "establish minimum standards for states and units of local governments with the responsibility for the administration of Federal elections." The Act includes provisions for statewide voter files, voting systems that are accessible to the disabled and language minorities, provisional voting, voter education, and election official training. The Act requires each state to submit a plan that meets the requirements of the Act.

The Office also has a grant from the Department of Health and Human Services to help individuals with the election process and this activity is accounted for in the HAVA fund.

Governmental Activities:

Governmental activities increased the Office of the Secretary of State's net assets by $1,620,945 for 2007 compared to an increase of $16,454,943 for 2006. Key elements of this change are as follows:

SECRETARY OF STATE

Statement of Net Assets

	2007	2006 (Restated)	Change
Current assets	$ 7,096,159	$ 19,771,282	$ (12,675,123)
Capital assets	15,764,842	4,522,072	11,242,770
Total assets	22,861,001	24,293,354	(1,432,353)
Current liabilities	2,729,392	5,854,299	(3,124,907)
Long-term liabilities	82,648	11,039	71,609
Total liabilities	2,812,040	5,865,338	(3,053,298)
Net assets	$ 20,048,961	$ 18,428,016	$ 1,620,945

Statement of Activities

	2007	2006 (Restated)	Change
Expenses:			
General government	$ (12,933,335)	$ (10,005,114)	$ (2,928,221)
Program revenue - Federal Grants	5,402,485	8,949,223	(3,546,738)
General revenues	9,348,603	17,611,618	(8,263,015)
Reversions to the general fund	(196,808)	(100,784)	(96,024)
Increase (decrease) in net assets	1,620,945	16,454,943	(14,833,998)
Net assets - beginning	18,428,016	1,973,073	16,454,943
Net assets - ending	$ 20,048,961	$ 18,428,016	$ 1,620,945

Statement of Net Assets Change from Prior Year

Net Assets increased by $1,620,945 from the prior year due to the following factors.

- Capital Assets increased by $11,242,770 (after depreciation) from the prior year due to the Office's purchase of voting machines.
- The decrease in current liabilities of $3,124,907 from the prior year was primarily attributed to a decrease in deferred revenue resulting from the recognition of revenue in the current year. This decrease was partially offset by increases in accounts payable that was attributed to increases in expenses incurred for the voting registration management system.
- Cash and current assets decreased by $12,675,123 due to cash expenditures for the acquisition of voting machines. The Office disbursed $15,156,245 for voting machines in fiscal year 2007.

Statement of Activities Change from Prior Year

General revenues went down by $8,263,015 principally due to decreased appropriations in fiscal year 2007. In fiscal year 2006 general fund appropriations were $16,680,600 compared with $9,065,604 in 2007. $11,000,000 was appropriated for voting machines in the prior year.

Individual Funds Balances and Analysis

General Fund

Significant balances and changes from the prior year are reported below:

	2007	2006	Change
Cash	$ 4,748,644	$ 12,771,921	$ (8,023,277)
Accounts payable	972,736	365,209	607,527
Fund balance	2,743,051	12,393,050	(9,649,999)

Cash and fund balance decreased due to a decrease in state appropriations from the prior year. Accounts payable increased due to increased expenditure levels in an election year. The fund balance decreased to reflect the excess of expenditures over revenue for the year. Capital outlay of $11,109,910 to purchase voting machines was the principal expenditure responsible for the large excess of expenditures over revenue.

MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED) – CONTINUED

Year ended June 30, 2007

HAVA Fund

Significant balances and changes from the prior year are reported below:

	2007	2006	Change
Cash	$ 1,076,927	$ 5,852,951	$ (4,776,024)
Deferred revenue	-	5,193,715	(5,193,715)
Federal expenditures	6,364,155	8,949,223	(2,585,068)
Accounts payable	676,240	55,277	620,963
Fund balance	442,845	701,579	(258,734)

Cash decreased by $4,776,024 due to expenditures of federal funds for the HAVA program which decreased deferred revenue by $5,193,715. Accounts payable increased due to an increase in expenditure paid to vendors in an election year. Fund balance decreased primarily because of expenditures in excess of federal revenues ($795,338), interest earned $166,382 and state appropriations of $536,604. Federal expenditures exceeded revenue sources by $258,734.

Public Election Fund

The public election fund increased its fund balance by $330,562 due to appropriations and interest revenue of $341,482 exceeding the expenditures of $10,920. For the prior year, fee revenue was $300,000 and there were $79,460 in expenditures. There were no significant expenditures from the fund in the current year and due to the absence of requiring public election activity.

Capital Assets

Excluding the voting machines, the Office of the Secretary of State's investment in capital assets consists of computer equipment and software to improve the election reporting process. The current year additions were $452,407 compared to $152,378 for 2006. $342,493 of the 2007 additions of related to the statewide voter system hardware and software. Depreciation expense for the years ended June 30, 2007 and 2006 was $4,365,882 and $569,529, respectively.

Voting Machines

Included in capital assets is $19,268,330 of voting machines purchased on behalf of 33 counties in the State of New Mexico in fiscal years 2006 and 2007. Ownership of these voting machines officially transferred in part to 10 counties in September of 2007. 23 counties have not accepted title to voting equipment.

MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED) – CONTINUED

Year ended June 30, 2007

Budgetary Highlights

General fund - Final budgeted revenues and expenditures were higher than original budgeted revenues and expenditures due to approved budget adjustment request for cost associated with the 2006 general election held in November of 2006.

Budget Analysis-General Fund

In fiscal year 2007 actual revenues were very close to budgeted revenues and actual expenditures were significantly lower than budgeted expenditure. The lower expenditures were primarily attributed to appropriations for the 2008 primary election being posted at the end of fiscal year 2007. Laws of 2007, Chapter 28 appropriated $2,500,000 for costs associated with the 2008 primary election; however, as of June 30, 2007 there was no expenditure activity associated with the appropriation.

Budgetary Highlights

HAVA fund – No federal funds were received by the Office during 2007 as funds had been received in prior years and recorded as deferred revenue. The original budget was adjusted to reflect the recognition that all federal funds had been received. Federal revenue of $5,402,485 was recognized in fiscal year 2007 due to expenditures incurred during the year that were associated with the HAVA program.

Currently Known Facts and Conditions

At the request of the current administration of the Office of Secretary of State, the Inspector General of the US Election Assistance Commission (EAC) conducted an audit of the administration of payments received under the Help America Vote Act (HAVA). The final report from this audit was issued May 27, 2008. The report has findings in connection with the program and questioned costs in excess of $6,000,000 and recommends action to remedy certain findings. Final resolution of these matters will depend on the responses from the Office of the Attorney General of the State of New Mexico, the State of New Mexico, and actions by the Executive Director of the EAC based on the recommendation of the audit team. The Office of the Secretary of State is committed to resolution of these matters.

Requests for Information

This financial report is designed to provide a general overview of the Office of the Secretary of State's finances for all those with an interest in the Office of the Secretary of State's finances. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to the Office of the Secretary of State, 325 Don Gaspar, Suite 300, Santa Fe, New Mexico 87503.

State of New Mexico
Office of The Secretary of State

STATEMENT OF NET ASSETS

June 30, 2007

	Governmental Activities
ASSETS	
Current assets:	
Investments, in state general fund pool	$ 6,866,182
Due from Federal government	13,334
Due from state general fund	160,000
Accrued interest receivable	52,086
Prepaid expenses	4,557
Total current assets	7,096,159
Capital assets:	
Voting machines held for counties at year end	19,268,330
Equipment, furniture, and statewide voter system	2,961,450
Less: accumulated depreciation	(6,464,938)
Total capital assets, net of deprecation	15,764,842
Total assets	$ 22,861,001
LIABILITIES	
Current liabilities:	
Advance from State of New Mexico	$ 60,000
Accrued payroll	40,598
Payroll related liabilities	105,944
Accounts payable	1,648,976
Due to state general fund	611,363
Reversions - due to state general fund (35000)	226,342
Compensated absences, current portion	36,169
Total current liabilities	2,729,392
Long-term liability:	
Compensated absences - less current portion	82,648
Total liabilities	2,812,040
NET ASSETS	
Invested in capital assets	15,764,842
Restricted for 2008 primary	2,500,000
Restricted for HAVA program	442,845
Restricted for public election fund	1,188,415
Unrestricted	152,859
Total net assets	20,048,961
Total liabilities and net assets	$ 22,861,001

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

State of New Mexico
Office of The Secretary of State

STATEMENT OF ACTIVITIES

Year ended June 30, 2007

	Governmental Activities
EXPENSES	
Other	$ 3,939,448
Contractual	2,512,018
Personal cost	2,115,987
Depreciation expense	4,365,882
Total expenses	12,933,335
Program revenues - federal grants	5,402,485
Net program expense	(7,530,850)
GENERAL REVENUES	
State general fund appropriations	9,065,604
Other financing sources	73,800
Fee income	-
Interest income	209,199
Total general revenues	9,348,603
Reversions to state general fund	(196,808)
Net general revenues	9,151,795
Changes in net assets	1,620,945
Net assets - June 30, 2006, as previously stated	14,133,790
Restatements	
Voting equipment not capitalized in prior period	4,112,085
Special appropriation not drawn in prior period	160,000
Adjustment to deferred revenue in prior period	(75,777)
Adjustment to accounts payable in prior period	97,918
Net assets - June 30, 2006, as restated	18,428,016
Net assets - June 30, 2007	$ 20,048,961

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

State of New Mexico
Office of The Secretary of State

BALANCE SHEET – GOVERNMENTAL FUNDS

June 30, 2007

	Major Funds				
	General Fund (SHARE 18000)	HAVA Fund (SHARE 90300)	Public Election Fund (SHARE 81200)	Other Governmental Funds	Total
ASSETS					
Investment in state general fund pool	$ 4,748,644	$ 1,076,927	$ 1,012,702	$ 27,909	$ 6,866,182
Due from Federal government	-	13,334	-	-	13,334
Due from state general fund (35000)	160,000	-	-	-	160,000
Due from general fund	-	-	156,864	607,666	764,530
Prepaid expenses	4,557	-	-	-	4,557
Accrued interest	-	28,824	22,546	716	52,086
Total assets	$ 4,913,201	$ 1,119,085	$ 1,192,112	$ 636,291	$ 7,860,689
LIABILITIES AND FUND BALANCES					
Advance from the board of finance (34100)	$ 60,000	$ -	$ -	$ -	$ 60,000
Accrued payroll	40,598	-	-	-	40,598
Accounts payable	972,736	676,240	-	-	1,648,976
Payroll taxes and benefits payable	105,944	-	-	-	105,944
Deferred revenue	-	-	-	-	-
Due to state general fund (35000)	-	-	3,697	607,666	611,363
Due to notary fund (79900)	607,666	-	-	-	607,666
Due to public election fund (81200)	156,864	-	-	-	156,864
Reversions payable - due to state	226,342	-	-	-	226,342
Total liabilities	2,170,150	676,240	3,697	607,666	3,457,753
Fund balances:					
Reserved for:					
Laws of 2007, 2008 primary election	2,500,000	-	-	-	2,500,000
HAVA program	-	442,845	-	-	442,845
Public election fund	-	-	1,188,415	-	1,188,415
Unreserved	243,051	-	-	28,625	271,676
	2,743,051	442,845	1,188,415	28,625	4,402,936
Total liabilities and fund balances	$ 4,913,201	$ 1,119,085	$ 1,192,112	$ 636,291	$ 7,860,689

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

State of New Mexico
Office of The Secretary of State

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

Year ended June 30, 2007

Amounts reported for governmental activities in the statement of net assets are different because:	
Total fund balance - total governmental funds	$ 4,402,936
Capital assets used in governmental activities are not financial resources and therefore are not reported in the funds. These assets consist of:	
Voting machines held on behalf of counties	19,268,330
Equipment, furniture and statewide voter system	2,961,450
Less: accumulated depreciation	(6,464,938)
Net capital assets	15,764,842
Compensated absences payable	(118,817)
Net assets of governmental activities	$ 20,048,961

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

State of New Mexico
Office of The Secretary of State

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

Year ended June 30, 2007

	Major Funds				
	General Fund (SHARE 18000)	HAVA Fund (SHARE 90300)	Public Election Fund (SHARE 81200)	Other Government Funds	Total Governmental Funds
Revenues					
Federal revenues	$ -	$ 5,402,485	$ -	$ -	$ 5,402,485
Interest	-	166,332	41,482	1,385	209,199
Total revenues	-	5,568,817	41,482	1,385	5,611,684
Current expenditures					
Personal services	2,070,948	-	-	-	2,070,948
Contractual services	703,551	1,808,467	-	-	2,512,018
Other costs	3,871,578	56,950	10,920	-	3,939,448
Total current expenditures	6,646,077	1,865,417	10,920	-	8,522,414
Other expenditures - capital outlay	11,109,914	4,498,738	-	-	15,608,652
Other expenditures - reversion	196,808	-	-	-	196,808
Total expenditures	17,952,799	6,364,155	10,920	-	24,327,874
Excess (deficiency) of revenues over expenditures	(17,952,799)	(795,338)	30,562	1,385	(18,716,190)
Other financing sources (uses)					
State general fund appropriations	8,229,000	536,604	300,000	-	9,065,604
Other financing sources	73,800	-	-	-	73,800
Net other financing sources (uses)	8,302,800	536,604	300,000	-	9,139,404
Net change in fund balance	(9,649,999)	(258,734)	330,562	1,385	(9,576,786)
Fund balance, beginning of year as previously stated	12,233,050	777,356	759,935	27,240	13,797,581
Restatements					
Special appropriation not drawn in 2006	160,000	-	-	-	160,000
Adjustment to deferred revenue	-	(75,777)	-	-	(75,777)
Adjustment to accounts payable	-	-	97,918	-	97,918
Fund balance, beginning of year as restated	12,393,050	701,579	857,853	27,240	13,979,722
Fund balance, end of year	$ 2,743,051	$ 442,845	$ 1,188,415	$ 28,625	$ 4,402,936

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

State of New Mexico
Office of The Secretary of State

RECONCILIATION OF THE CHANGE IN FUND BALANCES OF GOVERNMENTAL FUNDS TO THE STATEMENT OF ACTIVITIES

Year ended June 30, 2007

Net change in fund balances - total governmental funds	$ (9,576,786)
Amounts reported for governmental activities in the statement of activities are different because:	
Capital outlay additions are recorded as expenditures in the government funds but capitalized in the statement of net assets	15,608,652
Depreciation expense is recorded in the statement of activities but not recorded as an expenditure in the governmental funds	(4,365,882)
Net increase in compensated absences recorded in the statement of activities as a expense but not recorded in the governmental funds as an expenditure	(45,039)
Change in net assets of governmental activities	$ 1,620,945

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

State of New Mexico
Office of The Secretary of State

STATEMENT OF REVENUES AND EXPENDITURES (BUDGETARY BASIS)
MAJOR GOVERNMENTAL FUNDS – GENERAL FUND

Year ended June 30, 2007

General Fund (SHARE 18000)	Budget Original	Budget Final	Actual Amount Budgetary Basis	Variance Favorable (Unfavorable)
Revenue				
General funds	$ 3,238,500	$ 3,238,500	$ 3,238,500	$ -
Other financing sources	73,800	73,800	73,800	-
Special appropriations	2,920,500	4,930,500	4,990,500	60,000
Total revenue	6,232,800	8,242,800	8,302,800	60,000
Fund balance carry forward	12,233,050	12,233,050	12,233,050	-
	$ 18,465,850	$ 20,475,850	$ 20,535,850	$ 60,000
Expenditures				
Personal service/employee	$ 2,183,100	$ 2,114,600	$ 2,070,948	$ 43,652
Contractual services	562,100	822,100	703,551	118,549
Other (general)	2,197,600	2,266,100	2,121,578	144,522
Other (2008 primary election)	2,500,000	2,500,000	-	2,500,000
Other (2006 general election)	1,750,000	1,750,000	1,750,000	-
Capital outlay	11,000,000	11,000,000	11,000,000	-
Total expenditures (single year)	$ 20,192,800	$ 20,452,800	17,646,077	$ 2,806,723
Audit adjustment reclassifying expenses from "other" to "capital outlay"			109,914	
Reversion expense			196,808	
GAAP basis expenditures			$ 17,952,799	

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

State of New Mexico
Office of The Secretary of State

STATEMENT OF REVENUES AND EXPENDITURES (BUDGETARY BASIS)
MAJOR GOVERNMENTAL FUNDS – HAVA FUND

Year ended June 30, 2007

HAVA Fund (SHARE 90300)	Budget Original	Budget Final	Actual Amount Budgetary Basis	Variance Favorable (Unfavorable)
Revenue				
Federal funds	$ 2,100,000	$ 100,000	$ 208,770	$ 108,770
State appropriations	536,604	536,604	536,604	-
Other financing sources	279,000	279,000	-	(279,000)
Interest	87,253	87,253	166,332	79,079
Total revenue	3,002,857	1,002,857	911,706	(91,151)
Deferred revenue	5,193,715	5,193,715	5,193,715	-
Total fund balance carryforward	701,759	701,759	701,759	-
	$ 8,898,331	$ 6,898,331	$ 6,807,180	$ (91,151)
Expenditures				
Personal service/employee benefits	$ -	$ -	$ -	$ -
Contractual services	1,730,251	1,869,451	1,808,467	60,984
Other costs	4,700,008	4,560,808	4,555,688	5,120
Total expenditures (single year)	$ 6,430,259	$ 6,430,259	$ 6,364,155	$ 66,104

Budgetary basis expenditures are equal to GAAP basis expenditures.

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

State of New Mexico
Office of The Secretary of State

STATEMENT OF REVENUES AND EXPENDITURES (BUDGETARY BASIS)
MAJOR GOVERNMENTAL FUNDS – PUBLIC ELECTION FUND

Year ended June 30, 2007

Public Election Fund (SHARE 81200)	Budget Original	Budget Final	Actual Amount Budgetary Basis	Variance Favorable (Unfavorable)
Revenues				
General funds	$ 304,000	$ 304,000	$ 300,000	$ (4,000)
Total revenues	$ 304,000	$ 304,000	$ 300,000	$ (4,000)
Expenditures				
Personal service/employee benefits	$ -	$ -	$ -	$ -
Contractual services	-	-	-	-
Other costs	304,000	304,000	10,920	293,080
Total expenditures (single year)	$ 304,000	$ 304,000	$ 10,920	$ 293,080

Budgetary basis expenditures are equal to GAAP basis expenditures.

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

State of New Mexico
Office of The Secretary of State

STATEMENT OF FIDUCIARY ASSETS AND LIABILITIES – AGENCY FUND (79900)

Year ended June 30, 2007

	Agency Fund
Assets	
Due from general fund (18000)	$ 607,666
Liabilities	
Due to state general fund (85300)	$ 607,666

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

NOTES TO FINANCIAL STATEMENTS

June 30, 2007

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

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

1. Reporting Entity

In accordance with the constitution and laws of the State of New Mexico, the Secretary (the Office) shall supervise, administer, and furnish supplies for elections; publish the statistical Blue Book; act as depository for legislative records; supervise the publication of Session Laws; record and file all public official bonds, oaths, and executive names and trademarks; commission notaries public; serve as statutory agent for service of process for nonresident motorists and foreign corporations; publish the Election Code and State Constitution with amendments; file musical copyrights; handle trading stamp registrations; administer Uniform Commercial Code, etc.; file instruments for Public Utilities and Railroads; furnish and file forms relating to the Conflict of Interest Act; and administer the Lobbyist Registration Act.

The financial reporting entity as defined by GASB 14 consists of the primary government, organizations for which the primary government is financially accountable and other organizations whose exclusion from the financial reporting entity would cause the financial statements to be misleading.

A primary government is any state government or general-purpose local government and the organizations that make up its legal entity. The Office is not included in any other governmental "reporting entity" as defined by GASB. The Secretary is elected by the public and has decision making authority, the power to designate management, the ability to significantly influence operations, and primary accountability for fiscal matters.

Criteria for determining the entity for financial reporting purposes are whether the governing body exercises oversight responsibility. Oversight responsibility includes financial interdependency, selection of governing authority, designation of management, ability to significantly influence operations, and accountability for fiscal matters. The financial statements include all the fund and account groups of the Office over which the Secretary exercises operating control. The Office has no blended or discretely present component units during the year ended June 30, 2007.

The Secretary of State is a component unit of the State and these financial statements include all funds and activities over which the Secretary of State has oversight responsibility.

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

2. Government-Wide and Fund Financial Statements

Governmental Accounting Standards Board Statement No. 34 – For the fiscal year ended June 30, 2003, the Office follows GASB Statement No. 34, *Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments* (GASB 34) as amended by GASB Statement 37 and 38. This statement affects the manner in which the Office records transactions and presents financial information. State governments have traditionally used a financial reporting model substantially different from the one used to prepare private-sector financial reports. GASB 34 establishes a new reporting model, much like private-sector financial reports, for the annual financial reports of state governments. The new format was developed to make annual reports of state governments easier to understand and more useful to users of governmental financial information.

Management's Discussion and Analysis – GASB 34 requires the financial statements be accompanied by a narrative introduction and analytical overview of the Office's financial activities in the form of management's discussion and analysis (MD&A). This analysis is similar to the analysis provided in the annual reports of private-sector organizations.

Basic financial statements consist of the following:

- Government-wide financial statements,
- Fund financial statements, and
- Notes to the basic financial statements.

The government-wide financial statements (the statement of net assets and the statement of activities) report information of all the nonfiduciary activities of the Office, thus the agency fund is not included. The effect of material interfund activity has been removed from these government-wide statements.

The Statement of Activities demonstrates the degree to which the direct expenses of a function are offset by program revenues. Direct expenses are those that are clearly identifiable with a specific function. Program revenues include grants and contributions that are restricted to meeting the operational requirements of the Office. Taxes, if any, and other items not properly included among program revenues are reported instead of general revenues. The Office does not allocate general government expenses to other functions other than to administrative services.

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

2. Government-Wide and Fund Financial Statements – Continued

Net assets are restricted when constraints placed on them are either externally imposed or are imposed by constitutional provisions or enabling legislation. Resources created by enabling legislation are "legally enforceable", meaning that the government can be compelled by an external party such as citizens or public interest groups to use the resources for the purposes specified by the legislation. Internally imposed designations of resources are not presented as restricted net assets. When both restricted and unrestricted resources are available for use, generally it is the Office's policy to use restricted resources first, then unrestricted resources as they are needed. Investments in capital assets reflect the portion of net assets which are associated with non-liquid, capital assets.

Governmental funds are reported as major funds in the accompanying financial statements if they meet both of the following criteria.

- *Ten percent criterion.* An individual governmental fund reports at least 10 percent of any of the following: a) total governmental fund assets, b) total governmental fund liabilities, c) total governmental fund revenues, or d) total governmental fund expenditures.
- *Five percent criterion.* An individual governmental fund reports at least 5 percent of the total for both governmental and enterprise funds of any one of the items for which it met the 10 percent criterion.

The Office's three major governmental funds are the following:

General Fund (SHARE 18000) – The general fund is the general operating fund of the Office and is used to account for all financial resources except those required to be accounted for in another fund. It is accounted for using the modified accrual basis of accounting. Revenues are recognized when they become measurable and available as net current assets. Any unused funds revert to the state general fund.

Special Revenue Fund (SHARE 90300) – Help America to Vote Fund (HAVA) – The HAVA fund is the special revenue fund used to account for the Federal funds received relating to the Help America Vote Act of 2002. Federal funds received in advance are recorded as deferred revenue. Revenue is recorded when the expenditure is incurred, using the modified accrual basis of accounting. The HAVA fund also receives state funds pursuant to federal matching requirements. This is a non-reverting fund, restricted to specified purposes by the Help America Vote Act.

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

2. Government-Wide and Fund Financial Statements – Continued

Public Election Fund (SHARE 81200) – The public election fund is funded through state appropriations and was established by legislation of 1-19A-10 NMSA for the purposes of:

a. Financing the election campaign of certified candidates for covered offices;
b. Paying administrative and enforcement costs of the Voter Action Act (1-19A-1 to 1-19A-17 NMSA 1978); and
c. Carrying out all other specified provisions of the Voter Action Act.

This is a non-reverting fund. The fund receives certain fee income from inspection and supervision fees pursuant to 62-8-8 NMSA 1978, utility and carrier inspection fees pursuant to 63-7-20 NMSA 1978 and insurance premium tax pursuant to 59A-6-2 NMSA 1978. See 1-19A-10D NMSA 1978.

The Office's non-major special revenue governmental fund is as follows:

Arbitration Fund (SHARE 02500) – Chapter 112 Laws 1997 - An arbitration hearing shall be conducted by a single arbitrator selected within ten days by the person against whom the penalty has been imposed from a list of five arbitrators provided by the Secretary of State. Neither the Secretary of State nor a person subject to the Lobbyist Regulation Act, Campaign Reporting Act or Financial Disclosure Act may serve as an arbitrator. Arbitrators shall be considered to be independent contractors, not public officers or employees, and shall not be paid per diem or mileage. This is a non-reverting fund.

The Office's fiduciary fund is as follows:

Fiduciary Fund Type (SHARE 79900) – (Notary Public and other fees, an agency fund) is used to report assets held for others and are not available to support Office activities. The agency fund is accounted for an accrual basis of accounting and is used to account for the collection of various fees that are remitted to state general fund.

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

Government-Wide Financial Statements – The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Grants and similar items are recognized as revenues as soon as all eligibility requirements imposed by the provider have been met.

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

3. Measurement Focus, Basis of Accounting and Financial Statement Presentation - Continued

Governmental Fund Financial Statements – The financial activities of the Office are recorded in individual funds, each of which is deemed to be a separate accounting entity. The Office uses fund accounting to report on its financial position and results of operations. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities. A fund is a separate accounting entity with a self-balancing set of accounts.

The measurement focus is on the flow of expendable financial resources, rather than on net income determination. The following are the governmental fund types used:

The Governmental fund types (general and special revenue) use a current financial resources measurement focus and are accounted for using the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues are recognized when susceptible to accrual (when they become both measurable and available). "Measurable" means the amount of the transaction can be determined. "Available" means collectible within the current period or soon enough thereafter (60 days at most) to be used to pay liabilities of the current period. Revenues, which are recognized when they become both measurable and available, include intergovernmental revenues and interest earnings. Expenditures are recorded when the related fund liability is incurred. Exceptions to this general rule include: accrued vacation and sick leave which are recorded when payable from current available financial resources.

Revenues derived from federal and state grants are recognized and recorded as receivables when the related expenditures are incurred and payment is received within 60 days. Amounts expended under federal and state grants for which payment is not expected to be received within 60 days are recorded as deferred revenue. Likewise, amounts received from federal and state grants which have not been expended are recorded as deferred revenue. Interest income is recorded when earned.

4. Budgets and Budgetary Accounting

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

a. Prior to September 1, the Office submits to State Budget – Financial Control Division, Department Finance and Administration (DFA), and the Legislative Finance Committee (LFC) an appropriation request for the fiscal year commencing the following July 1. The appropriation request includes proposed expenditures and the means of financing them.

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

4. Budgets and Budgetary Accounting - Continued

   b. Following their budget hearings with the Office, the DFA and the LFC prepare their own budget recommendations to the legislature.

   c. Budget hearings are then scheduled before the finance committees of the New Mexico House of Representatives and Senate. The final outcome of these hearings is incorporated into the general appropriations act.

   d. The Office then submits, on or before May 1, an annual operating budget request to the State Budget-Financial Control Division who reviews the request and subsequently approves the budget based upon the appropriation made by the legislature. The DFA approved operating budget becomes effective on July 1. All subsequent budget transfers and increases must be authorized by the Director of the State Budget – Financial Control Division.

   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. Legal budget control for expenditures and encumbrances is by category of line item.

   g. The non budgeted funds for the Office are the Arbitration and the Agency funds.

   h. Appropriations lapse at the end of the fiscal year except for those amounts related to goods and services received by June 30^{th}.

   i. 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.

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

5. Modified Accrual and Budgetary Basis of Accounting

The budget for the general fund and HAVA fund are adopted on modified accrual basis per the General Appropriation Act, Laws of 2006, 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. As part of this change, no outstanding single year encumbrances are reported at June 30, 2007. There were no reconciling items between GAAP and the budgetary basis for budgeted funds for fund 90300, the reconciling items for fund 18000 are presented on the face of the statement. (There was no budget for the arbitration fund for FY 2006-2007).

6. Capital Assets

Capital assets, which include equipment and software in the equipment category and furniture, which are reported in the governmental activities columns in the government-wide financial statements. Capital assets are defined by the State as assets which have a cost of $5,000 or more at the date of acquisition, pursuant to Section 12-6-10 NMSA 1978. Purchased and constructed capital assets are valued at historical cost or estimated historical cost. Donated capital assets are recorded at their fair market value at the date of donation. Capital assets acquired in the current year in the governmental funds are recorded as capital outlay expenditures in the governmental fund financial statements.

Capital assets of the Office are depreciated on the straight-line method over the estimated useful life of three years for equipment and furniture, voting equipment held for counties and statewide voter system hardware and software.

7. Accrued Compensated Absences

The Office accrues vacation and sick time liability in the government-wide financial statements. The governmental fund financial statements record the expenditure when the employees are paid or when compensated absences are expected to be liquidated with expendable available financial resources in the governmental funds. Vacation and sick leave earned and not taken is cumulative; however, sick pay up to 600 hours is forfeited upon termination of state service and vacation is limited to 240 hours. Sick leave accumulated in excess of 600 hours, not to exceed 120 hours, is payable semiannually to qualified employees at a rate equal to 50 percent of their hourly rate. Upon retirement, sick leave is limited to 400 hours accumulated in excess of 600 hours at the 50 percent hourly rate. Historically, all compensated absences have been paid out of the general fund.

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

8. 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 to 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.

9. Reservations and Designations of Fund Balances

Reservations of fund balance in the governmental fund statements are created to satisfy legal covenants that require that a portion of the fund balance be segregated or not available for expenditure. Specific reservations of fund balance accounts are summarized below:

Reserved for appropriations - Represents fund balance that is segregated for special appropriations that carry over to future years.

Unreserved - Designated for subsequent years' expenditures - represents that portion of fund balance that is segregated for obligations for which a contract has not been finalized.

10. New Accounting Standards Affecting The Office

The Government Accounting Standards Board has issued Statement No. 45, *Accounting and Financial Reporting by Employers for Post Employment Benefits Other Than Pensions*. Statement No. 45 requires accrual accounting for employers for retiree welfare benefits, principally health care. Effective dates for GASB 45 are phased in for periods beginning after December 15, 2006, 2007, and 2008 depending on size of entity at a specified date. The Office will be required to implement these standards for the year ending June 30, 2008. It is anticipated that NMED will report as a cost-sharing employer under the new standard and will be required to recognize OPEB expenditures for their contractually required contributions on the modified accrual basis and to make certain corresponding disclosures.

Governmental Accounting Standards Board (GASB) has issued Statement No. 42, *Accounting and Financial Reporting for Impairment of Capital Assets and for Insurance Recoveries* and GASB Statement No. 47, *Accounting for Termination Benefits*. These pronouncements are effective for the year ending June 30, 2007. There was no impact from these pronouncements of the Office. GASB Statement No. 46, *Net Assets Restricted by Legislation,* was adopted in the prior year.

NOTE B – CASH AND COLLATERAL

1. Investments, In State General Fund Pool

Investments of the office consist of its interest in the state general fund investment 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, 2007 is as follows:

SHARE FUND NO.	Fund Description	Fair Value June 30, 2007
18000	General fund	$ 4,748,644
90300	HAVA fund	1,076,927
81200	Public election fund	1,012,702
02500	Arbitration fund	27,909
Total interest in investment pool per governmental funds		$ 6,866,182

The Office did not have any other investments during the year ended June 30, 2007. For additional GASB 40 disclosures 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, 2007.

NOTE C – CAPITAL ASSETS

The following is the capital assets activity for the year ended June 30, 2007.

	Balance June 30, 2006	Prior Period Adjustment	Adjusted Beginning Balance	Additions	Deletions	Balance June 30, 2007
Equipment and furniture	$ 862,384	$ -	$ 862,384	$ 109,914	$ -	$ 972,298
Voting equipment held for counties	-	4,112,085	4,112,085	15,156,245	-	19,268,330
Statewide voter system						
Software and hardware	1,646,659	-	1,646,659	342,493	-	1,989,152
Total capital asset	2,509,043	4,112,085	6,621,128	15,608,652	-	22,229,780
Less accumulated depreciation						
Equipment and furniture	(846,492)	-	(846,492)	(50,489)	-	(896,981)
Voting equipment held for counties	-	-	-	(3,853,666)	-	(3,853,666)
Software and hardware	(1,252,564)	-	(1,252,564)	(461,727)	-	(1,714,291)
Total accumulated depreciation	(2,099,056)	-	(2,099,056)	(4,365,882)	-	(6,464,938)
Net capital assets	$ 409,987	$ 4,112,085	$ 4,522,072	$ 11,242,770	$ -	$ 15,764,842

Depreciation expense was $4,365,882 for fiscal year 2007. The voting equipment held on behalf of the counties was depreciated in fiscal year 2007 as the equipment was used in operations during the general election. Title to the voting equipment held for counties officially transferred to the 10 counties as of September 2007. The remaining 23 counties have not accepted title to the voting equipment.

NOTE D – CHANGES IN LONG-TERM OBLIGATION

The following is a summary of transactions for the compensated absences for the year ended June 30, 2007, which the general fund will pay for in future years.

	Balance June 30, 2006	Additions	Deletions	Balance June 30, 2007
Accumulated annual and sick leave	$ 73,778	$ 81,208	$ (36,169)	$ 118,817

The current portion of the compensated absences obligation is $36,169.

NOTE E – ADVANCE LOAN FROM BOARD OF FINANCE

In fiscal year 2006, the Office received an advance in the amount of $60,000 to pay for litigation and settlement cost associated with three separate legal actions. As of June 30, 2007, the loan has not yet been repaid. There are no outstanding legal matters at June 30, 2007.

NOTE F – SPECIAL APPROPRIATIONS

The Office received special appropriations in fiscal year 2006 pursuant to the Laws of 2006, Chapter 109 in the amount of $2,691,400 for general election and state election reform purposes. Expenditures in the amount of $1,641,400 were incurred against this appropriation in fiscal year 2006. The remaining $1,050,000 was spent for general election cost in fiscal year 2007.

The Office received special appropriations in fiscal year 2006 pursuant to the Laws of 2006, Chapter 111 in the amount of $11,000,000 for voter projects, principally voter machine acquisitions. The Office expended the entire $11,000,000 and acquired the voting machines in fiscal year 2007.

The Office was appropriated special appropriations in fiscal year 2007 pursuant to the Laws of 2007, Chapter 28 in the amount of $3,150,000 subject to the department of finance and administration approval for cost associated with the 2006 general election. Of this amount, the Office was allotted and expended $2,967,104 during fiscal year 2007. Only $2,967,104 was drawn down so no reversion applies to the unexpended balance.

The Office received special appropriations in fiscal year 2007 pursuant to the Laws of 2007 Chapter 28 in the amount of $2,500,000 for cost associated with the 2008 primary election. There was no expenditure activity during fiscal year 2007.

The Office was appropriated general fund appropriations in the amount of $160,000 pursuant to the Laws of 2006, Chapter 109 for the voter registration and election system. $160,000 was expended in June 30, 2007.

NOTE G – RETIREMENT AND POST RETIREMENT BENEFITS

1. PERA Pension Plan

Plan Description – 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. As of June 30, 2007 there were 28 participants eligible to receive benefits. 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.

Funding Policy – Plan members are required to contribute 7.42% of their gross salary. The Office is required to contribute 16.59%. The contributions requirements of plan members and the Office were established under Chapter 10, Article 11 NMSA 1978. The requirements may be amended by acts of the legislature. The Office's contributions to PERA for the years ended June 30, 2007, 2006 and 2005 were $219,443, $222,243, and $214,501, respectively, equal to the amount of the required contributions for each year.

2. Post Employment Benefits

The Retiree Health Care Act (Act) (10-7-C-1 to 10-7C-16 NMSA 1978) provides comprehensive core group health insurance for persons who have retired from certain public service in New Mexico. The purpose is to provide eligible retirees, their spouses, dependents and surviving spouses and dependents with health insurance consisting of a plan, or optional plans, of benefits that can be purchased by funds flowing into the Retiree Health Care Fund and by co-payments of eligible retirees.

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

NOTE G – RETIREMENT AND POST RETIREMENT BENEFITS – CONTINUED

2. Post Employment Benefits - Continued

Eligible retirees are: (1) Retirees who make contributions to the fund for at least five years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the Retiree Health Care Act on the person's behalf, unless that person retires before the employer's NMRHCA 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; and former legislators who served at least two years.

Each participating employer makes contributions to the fund in the amount of 1.3 percent of each participating employees' annual salary. Each employee contributes to the fund employee contributions in an amount equal to .65 of one percent of the employee's salary. Each participating retiree pays a monthly premium for the medical plus basic life plan and an additional participation fee of five dollars ($5.00) if the eligible participant retired prior to the employer's NMRHCA effective date or is a former legislator. Participant may also enroll in optional plans of coverage.

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

Pursuant to GASB 43, a current legal determination has been made whereby the Retiree Healthcare Authority is considered a multiple employer cost sharing trust. Under this determination, the OPEB liability accrual information is disclosed on the Authority's books rather than at the participant or agency level. See note A10.

The Retiree Health Care Authority issues a separate, publicly available audited financial report that includes post employment benefit expenditures of premiums and claims paid, participant contributions (employer, employee and retiree) and net expenditures for the fiscal year. The report also includes the approximate number of retirees participating in the plan. That report may be obtained by writing to the Retiree Health Care Authority, 4308 Carlisle Blvd. NE, Suite 104, Albuquerque, NM 87107.

For the fiscal years ended June 30, 2007 and 2006, the Office remitted $16,174 and $17,121, respectively, in employer contributions to the Retiree Health Care Authority.

NOTE H – REVERSION AND DUE TO STATE GENERAL FUND

The current year reversion due to the state general fund from the Office's general fund is $196,808. No reversions were paid in fiscal year 2007. The balances due to the state general fund at June 30, 2007 consist of the following:

Reversion payable 2006	$	29,534
Add: Reversion expense 2007		196,808
Reversion payable 2007	$	226,342

NOTE I – COMMITMENTS AND CONTINGENCIES

1. Risk Management

The Office is exposed to various risks of loss for which the Office carries insurance (Auto; Employee Fidelity Bond; General Liability, Civil Rights, and Foreign Jurisdiction; Money and Securities; Property; and Workers' Compensation) with the State of New Mexico Risk Management Division.

2. Questioned Cost and Recommendations Uncertainty

The US Election Assistance Commission (EAC), Office of Inspector General conducted an audit on the administration of Help America Vote Act (HAVA) Funds by the Office of the Secretary of State for the periods prior to December 31, 2006. The audit was requested by Secretary of State, Mary Herrera. The final audit report, dated May 27, 2008 has been issued. The report identified 6 findings and corresponding questioned costs of $6,308,350 on two findings. Recommendations made by the EAC Inspector General, if adopted could result in a positive but much smaller requirement to the State in relation to the HAVA audit. The report recommended other remedial actions requiring in some cases cash injections to the HAVA fund to remedy certain matching requirements and for interest earning requirements of HAVA. Final resolution of these matters, including potential return of money to the United States Government or cash injections into the HAVA program and associated accounts will depend on the responses by the Office of the Secretary of State and the State of New Mexico to the final audit report, and the action taken by the Executive Director of the EAC, in response to findings and recommendations of his audit team. Due to this uncertainty, we were not able to satisfy ourselves about the propriety of certain HAVA account balances on the statement of net assets and balance sheet - governmental funds and the corresponding effects on the statement of activities and the statement of revenues, expenditures and changes in fund balances.

NOTE I – COMMITMENTS AND CONTINGENCIES – CONTINUED

3. Operating Leases

The Secretary of State leases certain equipment under operating leases. Leases are subject to future appropriations and as such are cancelable by the Secretary of State at the end of a fiscal year. Rental expense under operating leases for the year ended June 30, 2007 was $21,481. Future lease payments are as follows:

2008	$ 14,746
2009	3,644
2010	3,644
2011	3,341
Total	$ 25,375

NOTE J – PRIOR PERIOD ADJUSTMENTS

A prior period adjustment was made to reduce accounts payable in the prior year that was previously recorded in error for $97,918 for the public election fund.

A prior period adjustment was made in the amount of $4,112,085 in order to capitalize voting equipment held for counties in prior year. The amount was previously expensed in the prior year and not shown as a capital asset as it was represented that counties held voting equipment on the balance sheet as of June 30, 2006.

A prior period adjustment was made in the amount of $75,777 to increase deferred revenue. The increase was made in order for the balance to reflect the difference between federal money advanced and cumulative revenue recognized in prior years based on federal expenditures incurred in prior years.

A prior period adjustment was made in the amount of $160,000 due from the state general fund. The amount represents special appropriation revenue that should have been recorded as revenue in the prior year; however, the amount was never requested by the Office.

Prior period adjustment-voting equipment	$ 4,112,085
Prior period adjustment-special appropriation	160,000
Prior period adjustment-deferred revenue	(75,777)
Prior period adjustment-accounts payable	97,918
Total prior period adjustments	$ 4,294,226

NOTE K – INTERFUND PAYABLES/RECEIVABLES AND TRANSFERS

Interfund payables/receivables - Balances arose from incorrect postings during the year. See findings.

	Agency	Fund	Due to	Due from
Governmental funds:				
General (SHARE 18000)	370	18000	$ 764,530	$ -
Public election fund (SHARE 81200)	370	81200	-	156,864
Notary fund (SHARE 79000)	370	79000	-	607,666
			$ 764,530	$ 764,530

Transfers in were appropriations:	Agency	Fund	In	Out	Statement of Purpose
State general fund					
General fund appropriation - Laws 2006, ch 109	341	85300	$ 3,238,500	$ -	General fund appropriation
General fund appropriation - Comp. increase	341	85300	73,800	-	Compensation increases
Public election fund appropriation	341	85300	300,000	-	Monies received pursuant to the Voter Action Act
Special appropriation - Laws 2006, ch 109	341	85300	60,000	-	Litigation expenses
Special general/HAVA fund appropriation - Laws 2007, ch 28	341	85300	2,967,104	-	Cost associated with the 2006 general election
Special appropriation - Laws 2007, ch 28	341	85300	2,500,000	-	Cost associated with the 2008 primary
			$ 9,139,404	$ -	

NOTE L – SCOPE LIMITATION

We were unable to obtain a representation letter from the former Secretary of State and appropriate staff who held office for the first six months of the audit year. Generally accepted auditing standards require a representation letter be obtained from management signed by responsible management. Due to this limitation in scope and the uncertainty discussed in Note I 2, we are unable to render an opinion on the financial statements for the year ended June 30, 2007.

SUPPLEMENTARY INFORMATION

State of New Mexico
Office of The Secretary of State

BALANCE SHEET
NON-MAJOR GOVERNMENTAL FUND – SPECIAL REVENUE FUND

June 30, 2007

	Arbitration (SHARE 02500)
Assets	
Investments, State Treasurer	$ 27,909
Due from general fund	-
Accrued interest	716
Total assets	$ 28,625
Liabilities and Fund Balance	
Liabilities	$ -
Fund balance	28,625
Total liabilities and fund balances	$ 28,625

State of New Mexico
Office of The Secretary of State

STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE – NON-MAJOR GOVERNMENTAL FUND – SPECIAL REVENUE FUND

Year ended June 30, 2007

	Arbitration (SHARE 02500)
Revenues - interest income	$ 1,385
Fee income	-
Total revenues	1,385
Expenditures	-
Excess revenues over expenditures	1,385
Net changes in fund balances	1,385
Fund balance, beginning of year	27,240
Fund balance, end of year	$ 28,625

OTHER SUPPLEMENTARY INFORMATION

State of New Mexico
Office of The Secretary of State

SCHEDULE OF CHANGES IN ASSETS AND LIABILITIES – AGENCY FUND (79900)

Year ended June 30, 2007

	June 30, 2006	Additions	Deletions	June 30, 2007
Assets - Due from general fund	$ 69,355	$ 724,487	$ 186,176	$ 607,666
Liabilities - Due to state general fund	$ 69,355	$ 724,487	$ 186,176	$ 607,666

State of New Mexico
Office of The Secretary of State

SUPPLEMENTAL SCHEDULE OF SPECIAL APPROPRIATIONS

June 30, 2007

Authority	SHARE Fund	Total Original Appropriation	Appropriation Period
Laws of 2006 Chapter 109	18000	$ 2,691,400	2006 - 2007
Laws of 2006 Chapter 109	18000	160,000	2006 - 2007
Laws of 2006 Chapter 111	18000	11,000,000	2006 - 2007
Laws of 2007 Chapter 28 Sec 6 Item 7	18000/90300	3,150,000	2007 - 2008
Laws of 2007 Chapter 29 Sec 6 Item 29	18000	2,500,000	2007 - 2008

Prior Year Expenditures	Current Year Expenditures	Current Funds not Expended	Accounts Payable	Current Year Reversion Amount
$ 1,641,400	$ 1,050,000	$ -	$ -	$ -
-	160,000	-	-	-
-	11,000,000	-	-	-
-	2,967,104	182,896 *	-	-
-	-	2,500,000	-	-

* Funds not drawn, so not reverted.

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INDEPENDENT AUDITORS' 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 Balderas
New Mexico State Auditor
And
Ms. Mary Herrera
New Mexico Secretary of State
State of New Mexico

We were engaged to audit the basic financial statements of the governmental activities, each major fund, the budgetary comparisons for the general fund and other major special revenue funds, and the aggregate remaining fund information of the Office of the Secretary of State (the Office), as of and for the year ended June 30, 2007, which collectively comprise the Office's basic financial statements as listed in the table of contents, and have issued our report thereon dated July 31, 2008 which disclaimed an opinion on those financial statements. We were engaged to audit the financial statements of the Office's non-major governmental fund presented as supplementary information in the accompanying individual fund financial statements as of and for the year ended June 30, 2007, as listed in the table of contents and disclaimed an opinion on the supplementary information.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the State of New Mexico, Office of the Secretary of State'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.

Our consideration of the 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 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. We consider the deficiencies described in the accompanying schedule of findings and questioned costs to be significant deficiencies in internal control over financial reporting. These items can be referenced as findings 07-01 through 07-06, 07-09, and 07-15 through 07-19.

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. However, we consider findings 07-01 through 07-06, 07-09, 07-15 and 07-18 of the significant deficiencies described above to be material weaknesses.

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 certain instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* and which are described in the accompanying schedule of findings and questioned costs as items 07-01 through 07-09, 07-15, 07-18 and 7-20.

We noted certain matters that are required to be reported under *Government Auditing Standards January 2007 Revision* paragraphs 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 findings 07-10 through 07-14 and 06-01.

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

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

Atkinson & Co., Ltd.

Atkinson & Co., Ltd.

Albuquerque, New Mexico
July 31, 2008

State of New Mexico
Office of The Secretary of State

SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

Year ended June 30, 2007

Federal Grantor/Pass-through Grantor/Program or Cluster Title	Federal CFDA Number	Federal Expenditures
Major Program		
Help America Vote Act	39.011	$ -
General Services Administration and U.S. Election Assistance Commission	90.401	5,193,715
Major Program		
Department of Health and Human Services		
Election Assistance for Individuals	93.617	208,770
Total Expenditures of Federal Awards		$ 5,402,485

State of New Mexico
Office of The Secretary of State

NOTES TO SUPPLEMENTAL SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

Year ended June 30, 2007

General

The accompanying Schedule of Expenditures of Federal Awards presents the activity of all federal financial assistance programs of the Office of the Secretary of State (Office).

Basis of Accounting

The accompanying Schedule of Expenditures of Federal Awards is presented using the modified accrual basis of accounting.

Federal grant revenues collected in advance of the period that they are intended to finance expenditures are recorded for as deferred revenues. No noncash assistance was received from federal sources during the current fiscal year.

Relationship to Governmental Fund Financial Statements

The amount of federal expenditures exceeds the amount of federal revenue recorded in the HAVA fund as the remaining federal funds advanced in fiscal year 2004 were exhausted in fiscal year 2007. The Office used interest income accumulated on HAVA funds and state matching fund to finance the incremental excess of HAVA program activities during fiscal year 2007. Interest earned on HAVA funds was recognized as revenue in both current and prior years.

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

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

<u>Compliance</u>

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

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

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

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

Internal Control Over Compliance

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

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

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

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

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

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

Atkinson & Co., Ltd.

Atkinson & Co., Ltd.

Albuquerque, New Mexico
July 31, 2008

State of New Mexico
Office of The Secretary of State

SCHEDULE OF FINDINGS AND QUESTIONED COSTS

Year ended June 30, 2007

FINANCIAL STATEMENTS

Type of auditor's report issued:	Disclaimer

Internal control over financial reporting:

Material weaknesses identified?	Yes
Significant deficiencies identified not considered to be material weaknesses?	Yes
Noncompliance material to financial statements noted?	Yes

MAJOR PROGRAMS

Significant deficiencies in internal control over major programs noted?	Yes	
Were any such conditions considered material weaknesses?	Yes	
Type of report issued on compliance for major programs?	Adverse –	39.011 90.401
	Unqualified –	93.617
Any audit findings required to be reported under 510(a) of Circular A-133?	Yes	

The programs tested as major are as follows:

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

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

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

CURRENT YEAR FINDINGS

Findings in Accordance with OMB Circular A-133

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

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

CURRENT YEAR FINDINGS – CONTINUED

Findings in Accordance with OMB Circular A-133 - Continued

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

Findings in Accordance with 2.2.2. NMAC
07-10 Noncompliance with New Mexico State Procurement Code - Significant Deficiency
07-11 Noncompliance with State Audit Deadlines - Significant Deficiency
07-12 Unencumbered Liabilities - Significant Deficiency
07-13 Irregular Overtime Pay - Significant Deficiency
07-14 Reversions - Significant Deficiency

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

PRIOR YEAR FINDINGS – 2.2.2. NMAC
06-01 Reversions - Significant Deficiency, Noncompliance - Unresolved - Repeated

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

FINDINGS IN ACCORDANCE WITH OMB CIRCULAR A-133

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

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

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

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

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

Questioned Costs:
None

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

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

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

Management's Response – Continued:

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

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

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

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

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

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

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

Questioned Costs:
$29,735

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

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

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

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

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

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

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

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

Questioned Costs:
None

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

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

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

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

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

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

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

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

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

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

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

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

Questioned Costs:
$36,540

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

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

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

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

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

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

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

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

Questioned Costs:
None

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

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

Z1010	HAVA General
Z2510	Section 251 Restricted
Z2610	Section 261 Disability

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

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

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

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

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

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

Questioned Costs:
None

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

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

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

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

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

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

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

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

Questioned Costs:
None

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Effect:
Noncompliance with contract and state procurement code.

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

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

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

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

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

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

FINDINGS IN ACCORDANCE WITH 2.2.2. NMAC

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

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

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

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

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

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

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

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

07-11 Noncompliance with State Audit Deadlines - Significant Deficiency

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

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

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

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

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

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

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

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

07-12 Unencumbered Liabilities - Significant Deficiency

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

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

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

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

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

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

07-13 Irregular Overtime Pay - Significant Deficiency

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

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

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

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

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

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

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

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

07-14 Reversions - Significant Deficiency

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

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

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

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

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

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

FINANCIAL STATEMENT AUDIT FINDINGS REQUIRED BY *GOVERNMENT AUDITING STANDARDS*

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

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

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

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

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

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

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

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

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

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

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

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

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

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

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

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

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

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

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

07-17 Improper Posting of Notary Fees - Significant Deficiency

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

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

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

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

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

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

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

07-18 Capital Assets Listing Not Prepared Timely/Not Reconciled to Physical Inventory Listing - Material Weakness

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

Criteria:
DFA model accounting practices state that agencies must reconcile the physical inventory results with the physical inventory list. Any adjustments that result from the inventory of capital assets should be recorded in the agency accounting records. These adjustments should be made immediately after the count is taken. (C-FRAS Policies and Procedures Manual, Chapter 14, Property Plant and Equipment, 3.4, D2).

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

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

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

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

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

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

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

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

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

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

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

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

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

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

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

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

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

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

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

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

SCHEDULE OF FINDINGS AND QUESTIONED COSTS – CONTINUED

Year ended June 30, 2007

PRIOR YEAR AUDIT FINDINGS – 2.2.2. NMAC

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

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

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

Cause:
The Office did not revert funds.

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

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

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

State of New Mexico
Office of The Secretary of State

FINANCIAL STATEMENT PREPARATION AND EXIT CONFERENCE

Year ended June 30, 2007

Financial Statement Preparation

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

Exit Conference

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

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

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

Independent Auditor - Atkinson & Co., Ltd.

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

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