

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

**STATE OF NEW MEXICO
OFFICE OF THE SECRETARY OF STATE**

June 30, 2008

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State of New Mexico
Office of The Secretary of State

OFFICIAL ROSTER

June 30, 2008

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

REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

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

We have audited the accompanying financial statements of governmental activities, each major fund, the budgetary comparisons for the general fund and the major special revenue fund, and the aggregate remaining fund information of the Office of The Secretary of the State (the Office), as of and for the year ended June 30, 2008, which collectively comprise the Office of The Secretary of the State's basic financial statements, as listed in the table of contents. We have also audited the financial statements of each of the Office of The Secretary of the State's nonmajor governmental funds presented as supplementary information in the accompanying combining and individual fund financial statements as of and for the year ended June 30, 2008, as listed in the table of contents. These financial statements are the responsibility of the Office of The Secretary of the State's management. Our responsibility is to express opinions on these financial statements based on our audit.

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

At June 30, 2008, the Office has certain unresolved matters in relation to an ongoing audit of the administration of payments under the Help America Vote Act (HAVA). The principal unresolved matter includes custody issues for voting machines purchased with HAVA funds. Additionally, the Office also has not received a final resolution letter of all HAVA audit issues including legislation passed by the State of New Mexico to remedy questioned costs of \$6,336,654 resulting from the audit.

The financial statements of the Office of The Secretary of the State of New Mexico, are intended to present the financial position and changes in financial position, of only that portion of the governmental activities, each major fund, and the aggregate remaining fund information of the State of New Mexico that is attributable to the transactions of the Office of The Secretary of the State. They do not purport to, and do not, present fairly the financial position of the State of New Mexico as of June 30, 2008, and the changes in financial position, for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In our opinion, except for the uncertainties of matters discussed in the third paragraph, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, each major fund, and the aggregate remaining fund information of the Office of The Secretary of the State, as of June 30, 2008, and the respective changes in financial position and the respective budgetary comparisons of the general fund and major special revenue fund for the year then ended in conformity with accounting principles generally accepted in the United States of America. In addition, in our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of each non-major governmental fund of the Office of The Secretary of the State as of June 30, 2008, and the respective changes in financial position for the year ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated May 15, 2009, on our consideration of the Office of The Secretary of the State's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, grants agreements, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Management's Discussion and Analysis on pages 6 through 11 is not a required part of the basic financial statements but is supplementary information required by accounting principles generally accepted in the United States of America. We have applied certain limited procedures, which consisted primarily of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.

Our audit was conducted for the purpose of forming opinions on the basic financial statements, and the combining and individual fund financial statements and budgetary comparisons. The fiduciary schedule of changes in assets and liabilities – agency funds, joint powers agreement, and special appropriation schedule are presented for purposes of additional analyses and are not a required part of the financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

Atkinson & Co., Ltd.

Albuquerque, New Mexico
May 15, 2009

**MANAGEMENT'S DISCUSSION AND ANALYSIS
(UNAUDITED)**

Year ended June 30, 2008

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, 2008.

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, 2008 fiscal year by \$16,715,455 (net assets) compared to \$20,048,961 at June 30, 2007. The decrease in net assets was primarily due to depreciation of voting equipment and transfers of voting machines to 10 separate counties. 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 U.S. Department of Health and Human Services for election assistance for individuals with disabilities.

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.

**MANAGEMENT'S DISCUSSION AND ANALYSIS
(UNAUDITED) – CONTINUED**

Year ended June 30, 2008

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 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.

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.

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 U.S. Department of Health and Human Services to help individuals with disabilities with the election process and this activity is accounted for in the HAVA fund.

**MANAGEMENT'S DISCUSSION AND ANALYSIS
(UNAUDITED) – CONTINUED**

Year ended June 30, 2008

Governmental Activities

Governmental activities decreased the Office of The Secretary of State's net assets by \$3,333,506 for 2008 compared to an increase of \$1,620,945 for 2007. Key elements of this change are as follows:

SECRETARY OF STATE

Statement of Net Assets

	<u>2008</u>	<u>2007</u>	<u>Change</u>
Current assets	\$ 8,322,303	\$ 7,096,159	\$ 1,226,144
Capital assets	<u>10,886,404</u>	<u>15,764,842</u>	<u>(4,878,438)</u>
Total assets	19,208,707	22,861,001	(3,652,294)
Current liabilities	2,469,766	2,729,392	(259,626)
Long-term liabilities	<u>23,486</u>	<u>82,648</u>	<u>(59,162)</u>
Total liabilities	<u>2,493,252</u>	<u>2,812,040</u>	<u>(318,788)</u>
Net assets	<u>\$ 16,715,455</u>	<u>\$ 20,048,961</u>	<u>\$ (3,333,506)</u>

Statement of Activities

	<u>2008</u>	<u>2007</u>	<u>Change</u>
Expenses:			
General government	\$ (11,371,746)	\$ (12,933,335)	\$ 1,561,589
Program revenue - Federal Grants	89,994	5,402,485	(5,312,491)
General revenues	9,682,499	9,348,603	333,896
Loss on disposal of capital assets	(1,571,687)	-	(1,571,687)
Reversions to the general fund	<u>(162,566)</u>	<u>(196,808)</u>	<u>34,242</u>
(Decrease) increase in net assets	(3,333,506)	1,620,945	(4,954,451)
Net assets - beginning	<u>20,048,961</u>	<u>18,428,016</u>	<u>1,620,945</u>
Net assets - ending	<u>\$ 16,715,455</u>	<u>\$ 20,048,961</u>	<u>\$ (3,333,506)</u>

**MANAGEMENT'S DISCUSSION AND ANALYSIS
(UNAUDITED) – CONTINUED**

Year ended June 30, 2008

Statement of Net Assets Change from Prior Year

Net assets decreased by \$3,333,506 from the prior year due to the following factors.

- Capital assets decreased by \$4,878,438 from the prior year primarily due to \$3,684,821 in depreciation recorded and a \$1,571,687 loss on disposals of capital assets. The decrease also includes the book value of voting machines transferred to 10 counties in September of 2007.
- The decrease in current liabilities of \$259,626 from the prior year was primarily attributed to a decrease in accounts payable in the current year.
- Investments in the state general fund investment pool and current assets increased by \$1,226,144 primarily due to amendments in the Voter Action Act which resulted in an additional \$1,200,000 dollar transfer to the public election fund in fiscal year 2008.

Statement of Activities Change from Prior Year

General revenues were consistent with the prior year increasing by \$333,896. Federal grant revenues decreased by \$5,312,491 as federal funds advanced in prior years were expended in fiscal year 2007. General government expenditures decreased by \$1,564,977 due to decrease in expenditures related to maintenance, licenses, and software of the voting machines.

Individual Funds Balances and Analysis

General Fund

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

	<u>2008</u>	<u>2007</u>	<u>Change</u>
Investment in State General Fund Pool	\$ 5,603,876	\$ 4,748,644	\$ 855,232
Accounts payable	690,296	972,736	(282,440)
Fund balance	3,150,000	(3,916,785)	7,066,785

Cash and fund balance increased due to an increase in special appropriations for the general election and a voter registration management system upgrade. \$3,150,000 in special appropriations was received in June of 2008. Accounts payable decreased due to decrease in expenditures related to maintenance, licenses, and software of the voting machines.

**MANAGEMENT'S DISCUSSION AND ANALYSIS
(UNAUDITED) – CONTINUED**

Year ended June 30, 2008

Public Election Fund

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

	<u>2008</u>	<u>2007</u>	<u>Change</u>
Investment in State General			
Fund Pool	\$ 2,318,128	\$ 1,012,702	\$ 1,305,426
Fund balance	2,455,790	1,188,415	1,110,511

The public election fund increased its fund balance by \$1,110,511 primarily due to an amendment of the Voter Action Act which resulted in an additional \$1,200,000 in transfers to the public election fund in fiscal year 2008.

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 \$378,070 compared to \$452,407 for 2007. The fiscal year 2008 additions related to the statewide voter system hardware and software. Depreciation expense for the years ended June 30, 2008 and 2007 was \$3,684,821 and \$4,365,882, respectively.

Voting Machines

Included in capital assets is \$17,373,510 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.

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 2008 primary election held in June of 2008.

Public Election Fund - Final budgeted revenues and expenditures were equal to original budgeted revenues and expenditures.

**MANAGEMENT'S DISCUSSION AND ANALYSIS
(UNAUDITED) – CONTINUED**

Year ended June 30, 2008

Budget Analysis

General Fund - In fiscal year 2008 actual revenues were equal to final budgeted revenues and actual expenditures were lower than budgeted expenditures. The lower expenditures were primarily attributed to lower than anticipated cost for software and for maintenance of the voting machines.

Public Election Fund - In fiscal year 2008 actual revenues were equal to budgeted revenues and actual expenditures were very close to budgeted expenditures. Expenditures in the public election fund relate to monies distributed to certified candidates running for covered offices who request to receive financing pursuant to the Voter Action Act.

Currently Known Facts and Conditions

During fiscal year 2007, 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. 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 \$6,336,564. A final determination report from the Executive Director of the EAC was issued on August 12, 2008. The letter contained a listing of options to resolve the questioned cost. In a response letter dated November 14, 2008, the Office chose to resolve the questioned cost through the legislative process by amending the wording of previously issued legislation in order to broaden the scope of permissible use of an \$11,000,000 special appropriation that was expended in fiscal year 2007. On March 20, 2009, the legislature passed house bill 864 which amended Laws of 2006, Chapter 111, Section 67, to allow the appropriation to be expended for election related advertising, voter education cost, and reimbursement to San Juan County for cost incurred prior to the availability of HAVA funds. This action prevented the loss of \$6.3 million in general fund monies that would have to be paid to the federal government.

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, 2008

	<u>Governmental Activities</u>
ASSETS	
Current assets:	
Investments in state general fund pool	\$ 8,198,422
Due from Federal government	103,328
Accrued interest receivable	15,645
Prepaid expenses	<u>4,908</u>
Total current assets	8,322,303
Capital assets:	
Voting machines held for counties at year end	17,373,510
Computer equipment	942,443
Less: accumulated depreciation	<u>(7,429,549)</u>
Total capital assets, net of depreciation	<u>10,886,404</u>
Total assets	<u><u>\$ 19,208,707</u></u>
LIABILITIES	
Current liabilities:	
Advance from the Board of Finance (34100)	\$ 550,105
Payroll related liabilities	110,143
Accounts payable	764,196
Reversions - due to state general fund (35000)	951,376
Compensated absences, current portion	<u>93,946</u>
Total current liabilities	2,469,766
Long-term liability:	
Compensated absences - less current portion	<u>23,486</u>
Total liabilities	2,493,252
NET ASSETS	
Invested in capital assets	10,886,404
Restricted for 2008 general election	3,000,000
Restricted for public election fund	2,455,790
Restricted for HAVA program	310,762
Restricted for arbitration fund	29,931
Restricted for limited partnership software upgrade	150,000
Unrestricted deficit	<u>(117,432)</u>
Total net assets	<u>16,715,455</u>
Total liabilities and net assets	<u><u>\$ 19,208,707</u></u>

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, 2008

	<u>Governmental Activities</u>
EXPENSES	
Other	\$ 2,374,913
Contractual	2,870,264
Personal cost	2,441,748
Depreciation expense	<u>3,684,821</u>
Total expenses	11,371,746
Program revenues - federal grants	<u>89,994</u>
Net program expense	(11,281,752)
GENERAL REVENUES	
State general fund appropriations	8,289,696
Other financing sources	1,305,423
Interest income	<u>87,380</u>
Total general revenues	9,682,499
Loss on disposal of capital assets	(1,571,687)
Reversions to state general fund-FY08	<u>(162,566)</u>
Net general revenues	<u>7,948,246</u>
Changes in net assets	(3,333,506)
Net assets - beginning of year	<u>20,048,961</u>
Net assets - end of year	<u><u>\$ 16,715,455</u></u>

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, 2008

	Major Funds			Total
	General Fund (SHARE 18000)	Public Election Fund (SHARE 81200)	Other Governmental Funds	
ASSETS				
Investment in state general fund pool	\$ 5,603,876	\$ 2,318,128	\$ 276,418	\$ 8,198,422
Due from Federal government	-	-	103,328	103,328
Due from other funds (18000)	-	156,864	-	156,864
Accrued interest	-	13,187	2,458	15,645
Prepaid expenses	4,908	-	-	4,908
Total assets	\$ 5,608,784	\$ 2,488,179	\$ 382,204	\$ 8,479,167
LIABILITIES AND FUND BALANCES				
Liabilities				
Advance from the Board of Finance (34100)	\$ 550,105	\$ -	\$ -	\$ 550,105
Accounts payable	690,296	32,389	41,511	764,196
Due to other funds (81200)	156,864	-	-	156,864
Payroll related liabilities	110,143	-	-	110,143
Reversions payable - due to state	951,376	-	-	951,376
Total liabilities	2,458,784	32,389	41,511	2,532,684
Fund balances				
Reserved for:				
Laws of 2008, general election	3,000,000	-	-	3,000,000
Limited partnership software upgrade	150,000	-	-	150,000
HAVA program	-	-	310,762	310,762
Public election fund	-	2,455,790	-	2,455,790
Arbitration fund	-	-	29,931	29,931
Total fund balances	3,150,000	2,455,790	340,693	5,946,483
Total liabilities and fund balances	\$ 5,608,784	\$ 2,488,179	\$ 382,204	\$ 8,479,167

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, 2008

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

Total fund balance - total governmental funds	\$ 5,946,483
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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	17,373,510
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Computer, software and furniture	942,443
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Less: accumulated depreciation	<u>(7,429,549)</u>
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Net capital assets	10,886,404
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Compensated absences payable are long-term obligations and therefore not reported on the balance sheet of the governmental funds	<u>(117,432)</u>
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Net assets of governmental activities	<u><u>\$ 16,715,455</u></u>
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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, 2008

	Major Funds			Total Governmental Funds
	General Fund (SHARE 18000)	Public Election Fund (SHARE 81200)	Other Government Funds	
Revenues				
Federal revenues	\$ -	\$ -	\$ 89,994	\$ 89,994
Interest	-	65,157	22,223	87,380
Total revenues	-	65,157	112,217	177,374
Current expenditures				
Personal services	2,443,133	-	-	2,443,133
Contractual services	2,828,484	-	41,780	2,870,264
Other costs	2,401,564	303,205	48,214	2,752,983
Total current expenditures	7,673,181	303,205	89,994	8,066,380
Excess (deficiency) of revenues over expenditures	(7,673,181)	(238,048)	22,223	(7,889,006)
Other financing sources (uses)				
State general fund appropriations	7,989,696	300,000	-	8,289,696
Other financing sources-internal transfers	6,659,836	-	(6,659,836)	-
Other financing sources-internal transfers	153,000	-	(153,000)	-
Other financing sources	100,000	1,205,423	-	1,305,423
Other expenditures-reversion-FY08	(162,566)	-	-	(162,566)
Net other financing sources (uses)	14,739,966	1,505,423	(6,812,836)	9,432,553
Net change in fund balance	7,066,785	1,267,375	(6,790,613)	1,543,547
Fund balance, beginning of year as previously stated	2,743,051	1,188,415	471,470	4,402,936
Prior period adjustment	(6,659,836)	-	6,659,836	-
Fund balance, beginning of year as restated	(3,916,785)	1,188,415	7,131,306	4,402,936
Fund balance, end of year	\$ 3,150,000	\$ 2,455,790	\$ 340,693	\$ 5,946,483

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, 2008

Net change in fund balances - total governmental funds	\$ 1,543,547
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	378,070
Depreciation expense is recorded in the statement of activities but not recorded as a expenditure in the governmental funds	(3,684,821)
Loss on disposal of capital assets recorded on the statement of activities but not recorded in the governmental funds	(1,571,687)
Net decrease in compensated absences recorded in the statement of activities as a reduction in expense but not recorded in the governmental funds as a reduction in expenditures	<u>1,385</u>
Change in net assets of governmental activities	<u><u>\$ (3,333,506)</u></u>

The accompanying notes area 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, 2008

<u>General Fund (SHARE 18000)</u>	<u>Budget Original</u>	<u>Budget Final</u>	<u>Actual Amount Budgetary Basis</u>	<u>Variance Favorable (Unfavorable)</u>
Revenue				
General fund appropriations	\$ 7,741,900	\$ 7,989,696	\$ 7,989,696	\$ -
Board of Finance short-term loans	-	703,105	703,105	-
Other financing sources	100,000	100,000	100,000	-
Total revenue	7,841,900	8,792,801	8,792,801	-
Fund balance carry forward	243,051	243,051	243,051	-
Total revenues budgetary basis	<u>\$ 8,084,951</u>	<u>\$ 9,035,852</u>	9,035,852	<u>\$ -</u>
Less Board of Finance advances			(703,105)	
Plus accounting adjustments related to HAVA			6,812,836	
Less fund balance carry forward			(243,051)	
Less reversion FY08			<u>(162,566)</u>	
Total revenues per statement of revenues, expenditures and changes in fund balance			<u>\$ 14,739,966</u>	
Expenditures				
Personal service/employee	\$ 2,476,000	\$ 2,476,000	\$ 2,443,133	\$ 32,867
Contractual services	72,000	846,000	631,180	214,820
Other (general)	1,458,800	1,120,696	626,006	494,690
Other (2008 Primary)	3,000,000	3,550,105	3,548,242	1,863
Other (To enhance VREMS)	-	150,000	96,734	53,266
Other (2006 general election)	-	182,896	182,896	-
Total expenditures (single year)	<u>\$ 7,006,800</u>	<u>\$ 8,325,697</u>	7,528,191	<u>\$ 797,506</u>
Request to pay prior year bills included in accounts payable			<u>144,990</u>	
Total expenditures per statement of revenues expenditures and changes in fund balance			<u>\$ 7,673,181</u>	

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, 2008

<u>Public Election Fund (SHARE 81200)</u>	<u>Budget Original</u>	<u>Budget Final</u>	<u>Actual Amount Budgetary Basis</u>	<u>Variance Favorable (Unfavorable)</u>
Revenues				
Other financing sources	\$ 1,500,000	\$ 1,500,000	\$ 1,505,423	\$ 5,423
Interest	-	-	65,157	65,157
Total revenues	<u>\$ 1,500,000</u>	<u>\$ 1,500,000</u>	<u>\$ 1,570,580</u>	<u>\$ 70,580</u>
Expenditures				
Personal service/employee benefits	\$ -	\$ -	\$ -	\$ -
Contractual services	-	-	-	-
Other costs	304,000	304,000	303,205	795
Total expenditures (single year)	<u>\$ 304,000</u>	<u>\$ 304,000</u>	<u>\$ 303,205</u>	<u>\$ 795</u>

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, 2008

	<u>Agency Fund</u>
Assets	
Investment in state general fund pool	<u>\$ 52,091</u>
Liabilities	
Due to state general fund (85300)	<u>\$ 52,091</u>

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

NOTES TO FINANCIAL STATEMENTS

June 30, 2008

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, 2008.

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.

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

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. The Office does not apply FASB pronouncements issued after November 30, 1989.

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

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. Unrestricted net assets consist of net assets that do not meet the definition of “restricted” or “invested in 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 two 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.

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.

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

2. Government-Wide and Fund Financial Statements – Continued

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 funds are 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.

Special Revenue Fund (SHARE 90300) – Help America Vote Act 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.

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.

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

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 all other eligibility requirements are met. 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:

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

4. Budgets and Budgetary Accounting – Continued

- 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.
- 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 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 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. The HAVA Fund has expended all funding at December 31, 2007.
- h. Appropriations lapse at the end of the fiscal year except for those amounts related to goods and services received by June 30th or are multi-year appropriations.
- 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.

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

5. Modified Accrual and Budgetary Basis of Accounting

Per the General Appropriation Act, Laws of 2007, Chapter 28, Section 3, item N, “For the purpose of administering the General Appropriation Act of 2007 and approving operating budgets, the state of New Mexico shall follow the modified accrual basis of accounting for governmental funds in accordance with the manual of model accounting practices issued by the department of finance and administration.” 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. Encumbrances related to single year appropriations lapse at year end. Appropriation periods are sometimes for periods in excess of twelve months (multiple-year appropriations). When multiple-year appropriation periods lapse, the authority for the budget also lapses and encumbrances can no longer be charged to that budget. For fiscal year 2008, there was \$144,990 of accounts payable paid past the statutory deadline. Reconciling items between GAAP and the budgetary basis for budgeted funds for the general fund and public election funds are presented on the face of the statements. There was no budget for the arbitration fund and HAVA fund for fiscal year 2008 due to a low volume of expected activity.

6. Capital Assets

Capital assets, which include computer equipment and voting machines, 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. Assets purchased before 2006 were capitalized if cost exceeded \$1,000. 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 computer equipment, and over five years for voting equipment held for counties.

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

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.

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

Governmental Accounting Standards Board (GASB) Statement No. 45, *Accounting and Financial Reporting by Employers for Post Employment Benefits other than Pensions*, was adopted by the Office for the year ended June 30, 2008.

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – CONTINUED

10. New Accounting Standards Affecting The Office – Continued

The Plan administered by the New Mexico Retiree Health Care Authority is a cost-sharing multiple employer plan as defined in GASB 45. Cost-sharing employers such as the Office, are required to recognize other post employment benefit expense on the accrual basis or modified accrual of accounting for their contractually required contributions. Contributions are set by legislation and are not based on actuarial calculation. The legislature periodically reviews the contribution rates pursuant to 10-7c-156 NMSA 1978. The effects of GASB 45 are not significantly different from the previous pay as you go requirement for monthly contributions. Required disclosures of GASB 45 are contained in this footnote and note G.

NOTE B – INVESTMENTS, STATE TREASURER

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, 2008 is as follows:

SHARE FUND NO.	Fund Description	Fair Value June 30, 2008
18000	General fund	\$ 5,603,876
81200	Public election fund	2,318,128
90300	HAVA fund	246,659
02500	Arbitration fund	29,759
Total interest in investment pool per governmental funds		\$ 8,198,422

The Office did not have any other investments during the year ended June 30, 2008. 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, 2008.

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

NOTE C – CAPITAL ASSETS

The following is the capital assets activity for the year ended June 30, 2008.

	Balance <u>June 30, 2007</u>	Additions	Deletions	Balance <u>June 30, 2008</u>
Computer equipment, software and furniture	\$ 2,961,450	\$ 378,070	\$ (2,397,077)	\$ 942,443
Voting equipment held for counties	<u>19,268,330</u>	<u>-</u>	<u>(1,894,820)</u>	<u>17,373,510</u>
Total capital asset	22,229,780	378,070	(4,291,897)	18,315,953
Less accumulated depreciation				
Computer equipment, software and furniture	(2,611,272)	(115,378)	2,246,505	(480,145)
Less accumulated depreciation				
Voting equipment held for counties	<u>(3,853,666)</u>	<u>(3,569,443)</u>	<u>473,705</u>	<u>(6,949,404)</u>
Total accumulated depreciation	<u>(6,464,938)</u>	<u>(3,684,821)</u>	<u>2,720,210</u>	<u>(7,429,549)</u>
Net capital assets	<u>\$ 15,764,842</u>	<u>\$ (3,306,751)</u>	<u>\$ (1,571,687)</u>	<u>\$ 10,886,404</u>

Depreciation expense was \$3,684,821 for fiscal year 2008. The voting equipment held on behalf of the counties was depreciated in fiscal year 2008 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. A thorough inventory of capital assets was performed by the Office during the year. Amounts not physically located or deemed impaired, including computer equipment, elements of the state voter system, and an expired software license were deleted from the records. An overall reduction of net book value of \$1,571,687 was recorded as a result of these adjustments.

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

NOTE D – CHANGES IN LONG-TERM OBLIGATION

The following is a summary of transactions for the compensated absences for the year ended June 30, 2008, which the general fund will pay for in future years.

	Balance June 30, 2007	Additions	Deletions	Balance June 30, 2008
Accumulated annual and sick leave	\$ 118,817	\$ 79,847	\$ (81,232)	\$ 117,432
	\$ 118,817	\$ 79,847	\$ (81,232)	\$ 117,432

The current portion of the compensated absences obligation is \$93,946.

NOTE E – ADVANCE LOANS 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 been repaid. There are no material outstanding legal matters at June 30, 2008.

In fiscal year 2008, the Office received an advance in the amount of \$153,000 to pay firmware and software maintenance fees related to the voting machines. The loan was repaid in June of 2008.

In fiscal year 2008, the Office received emergency loans in the amount of \$550,105 for cost associated with the general election held in November 2008. The loan is expected to be repaid in fiscal year 2009.

Balance June 30, 2007	Additions	Deletions	Balance June 30, 2008
\$ 60,000	\$ -	\$ (60,000)	\$ -
-	153,000	(153,000)	-
-	550,105	-	550,105
\$ 60,000	\$ 703,105	\$ (213,000)	\$ 550,105

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

NOTE F – SPECIAL APPROPRIATIONS

The Office was appropriated special appropriations in fiscal year 2008 pursuant to the Laws of 2008, 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 and \$182,896 was expended during fiscal year 2008.

The Office received special appropriations in fiscal year 2007 pursuant to the Laws of 2008 Chapter 28 in the amount of \$2,500,000 for cost associated with the 2008 primary election. Of this amount \$2,497,434 was expended in fiscal year 2008.

The Office received special appropriations in fiscal year 2008 pursuant to the Laws of 2008 Chapter 3 section 6 item 11 in the amount of \$500,000 for cost associated with the 2008 primary election. The Office expended the entire amount during fiscal year 2008.

The Office received special appropriations in fiscal year 2008 pursuant to the Laws of 2008 Chapter 3 section 5 item 43 in the amount of \$150,000 for cost associated with upgrading the voting registration management system (VREMS). The entire amount was expended in fiscal year 2008.

The Office received special appropriations in fiscal year 2008 pursuant to the Laws of 2008 Chapter 3 section 5 item 42 in the amount of \$3,000,000 for cost associated with the general election. There was no expenditure activity during fiscal year 2008. The entire amount is accounted for as a reservation of fund balance in the governmental funds balance sheet.

The Office received special appropriations in fiscal year 2008 pursuant to the Laws of 2008 Chapter 3 section 7 item 19 in the amount of \$150,000 for cost associated with enhancing the Office's limited partnership software. There was no expenditure activity during fiscal year 2008. The entire amount is accounted for as a reservation of fund balance in the governmental funds balance sheet.

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

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, 2008 there were 28 participants eligible to receive benefits. PERA issues a separate, publicly available financial report that includes financial statements and required supplementary information for the plan. That report may be obtained by writing to PERA, P.O. Box 2123, Santa Fe, New Mexico 87504-2123. The report is also available on PERA’s website @ www.pera.state.nm.us.

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, 2008, 2007 and 2006 were \$267,730, 219,776 and \$222,243, respectively, equal to the amount of the required contributions for each year.

2. Post Employment Benefits

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

Eligible retirees are: 1) retirees who make contributions to the fund for at least five years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the RHCA plan on the person’s behalf, unless that person retires before the employer’s RHCA effective date, in which event the time period required for employee and employer contributions shall become the period of time between the employer’s effective date and the date of retirement; 2) retirees defined by the Act who retired prior to July 1, 1990; 3) former legislators who served at least two years; and 4) former governing authority members who served at least four years.

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

NOTE G – RETIREMENT AND POST RETIREMENT BENEFITS – CONTINUED

2. Post Employment Benefits – Continued

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

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

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

Employers joining the program after January 1, 1998, are also required to make a surplus-amount contribution to the RHCA based on one of two formulas at agreed-upon intervals.

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

The Office's contributions to the RHCA for the year ended June 30, 2008, 2007, and 2006 were \$18,421, \$16,174, and \$17,121, respectively, equal to the required contributions.

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

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 \$165,954. No reversions were paid in fiscal year 2008. The balances due to the state general fund at June 30, 2008 consist of the following:

Reversion payable 2007	\$ 226,342
Add: Reversion expense 2008	162,566
Less: Adjustment to reversion expense for special appropriation not drawn	(160,000)
Add: Notary fees deposited in general fund (SHARE 18000) in fiscal year 2007	607,665
Add: Notary fees deposited in general fund (SHARE 18000) in fiscal year 2008	<u>114,803</u>
Reversion and due to state general fund payable 2008	<u><u>\$ 951,376</u></u>

Laws of 2006, Chapter 109, Sec 5

In fiscal year 2007, the Office was entitled to receive \$160,000 in special appropriations pursuant to Laws of 2006, Chapter 109, Sec 5 for the voter registration and election system; however, the amount was never requested nor received. Accounts Receivable pertaining to the special appropriation was recorded in fiscal year 2007. As of June 30, 2008 the time period allowed to spend the special appropriation expired. Accordingly reversion expense totaling \$160,000 is reported on the Statement of Revenues, Expenditures and Changes in Fund Balance and the Accounts Receivable totaling \$160,000 is no longer reported on the on Balance Sheet as of June 30, 2008.

Notary Fees

In fiscal years 2007 and 2008 notary fees were erroneously deposited into the general fund (SHARE 18000). The notary fees belong in fund (SHARE 799), an agency fund, and revert to the state general fund on a monthly basis. Accordingly the amount's deposited into the general fund (SHARE 18000) have been classified as owed to the state general fund.

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

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. Losses within the past three years have been within policy limits.

2. 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, 2008 was \$41,375. Future lease payments are as follows:

2009	\$	14,756
2010		3,644
2011		<u>3,644</u>
Total	\$	<u><u>22,044</u></u>

NOTE J – PRIOR PERIOD ADJUSTMENT

During fiscal year 2007, 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. 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 \$6,336,564. A final audit report from the Executive Director of the EAC was issued on August 12, 2008. The letter contained a listing of options to resolve the questioned cost. In a response letter dated November 14, 2008 the Office chose to resolve the questioned cost through the legislative process by requesting amendment of previously issued legislation to broaden the scope of permissible use of an \$11,000,000 special appropriation that was expended in fiscal year 2007. The intent of this amendment was to allow a portion of the \$11,000,000 State appropriation to be applied to voter education and related advertising cost previously paid for with HAVA funding.

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

NOTE J – PRIOR PERIOD ADJUSTMENT – CONTINUED

On March 20, 2009, the legislature passed house bill 864 which amended Laws of 2006, Chapter 111 section 67 to allow the appropriation to be expended for election related advertising, voter education cost, and reimbursements made for cost incurred prior to the availability of HAVA funds.

In addition, the EAC requested an accounting adjustment to reclassify expenditures posted through the HAVA fund (SHARE 90300) in prior years to the general fund (SHARE 18000). Accordingly a prior period adjustment in the amount of \$6,659,836 was recorded to increase the HAVA fund balance and decrease the general fund balance. This amount was composed of \$6,336,564 of questioned costs and \$323,182 of interest accrued on the questioned costs. The adjustment restored to HAVA previous amounts expended on advertising, voting education, and reimbursements to San Juan County in connection with HAVA. The reclassification of fund balances were offset through current year transfers between funds as of June 30, 2008 whereby HAVA funds were transferred to the general fund for reimbursement of voting machines previously purchased by the State of New Mexico. These actions prevent the loss of \$6.3 million in general fund monies that would have to be paid to the federal government.

The HAVA audit also specified other requirements for resolution principally voting machine custody issues for machines purchased with HAVA funds. Resolution of the voting machine custody issue and final close out of the HAVA audit is pending at June 30, 2008 and through the date of these financial statements.

NOTE K – NEW ACCOUNTING STANDARDS

The Government Accounting Standards Board has issued Statement No. 45, *Accounting and Financial Reporting by Employers for Post Employment Benefits (OPEB) 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, or 2008, depending on size of entity at a specified date. The Office of The Secretary of the State implemented these standards for the year ending June 30, 2008. The Office of The Secretary of the State reports as a cost-sharing employer under the new standard and recognizes OPEB expenditures for their contractually required contributions on the modified accrual basis and to make certain corresponding disclosures.

State of New Mexico
Office of The Secretary of State

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

NOTE L – TRANSFERS

<u>Transfers between funds</u>				
From Fund	Agency	To Fund	From (To) Transfer Amount	Purpose of the Transfer
90300	Secretary of State	18000	153,000	Accounting adjustment to reduce amounts owed the Board of Finance by the general fund (18000) for loan payments paid through the HAVA fund (90300)
90300	Secretary of State	18000	6,659,836	To offset prior period adjustments that resulted through resolution of the HAVA audit findings (see Note J)

<u>Transfers to other agencies</u>				
From Fund	Agency	To Fund	Transfer Amount	Purpose of the Transfer
90300	Board of Finance	20900	153,000	To repay Board of Finance Loan

<u>Transfers from other agencies</u>				
To Fund	Agency	From Fund	Transfer Amount	Purpose of the Transfer
18000	DFA	85300	8,289,696	State Appropriations
18000	DFA	85300	1,205,423	Voter Action Act
18000	CYFD	06700	100,000	To operate a safe and confidential substitute address program

NOTE M – INTERFUND BALANCE

	<u>Agency</u>	<u>Fund</u>	<u>Due to</u>	<u>Due from</u>
Governmental funds:				
General (SHARE 18000)	370	18000		\$ 156,864
Public election fund (SHARE 81200)	370	81200	\$ 156,864	

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. Payroll disbursements were incorrectly posted through the public election fund creating debit balances in the payroll taxes payable and other liabilities accounts. The public election fund was reimbursed for the payroll tax and benefit disbursements in fiscal year 2009.

NOTES TO FINANCIAL STATEMENTS-CONTINUED

June 30, 2008

NOTE N – SUBSEQUENT EVENTS

During fiscal year 2007, 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 \$6,336,564. A final determination report from the Executive Director of the EAC was issued on August 12, 2008. The letter contained a listing of options to resolve the questioned cost. In a response letter dated November 14, 2008 the Office chose to resolve the questioned cost through the legislative process by amending the wording of previously issued legislation in order to broaden the scope of permissible use of an \$11,000,000 special appropriation that was expended in fiscal year 2007. On March 20, 2009, the legislature passed house bill 864 which amended Laws of 2006, Chapter 111 section 67 to allow the appropriation to be expended for election related advertising, voter education cost, and reimbursement to San Juan County for cost incurred prior to the availability of HAVA funds. This action prevented the loss of 6.3 million in general fund monies that would have to be paid to the federal government.

Outstanding issues for HAVA include voting machine custody and property management issues and an overall final resolution letter for the audit. Legislation introduced to give ownership of voting machines to the Office of The Secretary of State and maintenance responsibilities for the machines to counties did not pass the legislature in 2009.

SUPPLEMENTARY INFORMATION

State of New Mexico
Office of The Secretary of the State

BALANCE SHEET
NON-MAJOR GOVERNMENTAL FUNDS – SPECIAL REVENUE FUNDS

June 30, 2008

	<u>HAVA</u> <u>(SHARE 90300)</u>	<u>Arbitration</u> <u>(SHARE 02500)</u>	<u>Total</u>
Assets			
Investments, State Treasurer	\$ 246,659	\$ 29,759	\$ 276,418
Due from federal award	103,328	-	103,328
Accrued interest	<u>2,286</u>	<u>172</u>	<u>2,458</u>
 Total assets	 <u>\$ 352,273</u>	 <u>\$ 29,931</u>	 <u>\$ 382,204</u>
 Liabilities and fund balance			
Accounts payable	\$ 41,511	\$ -	\$ 41,511
Fund balance	<u>310,762</u>	<u>29,931</u>	<u>340,693</u>
 Total liabilities and fund balances	 <u>\$ 352,273</u>	 <u>\$ 29,931</u>	 <u>\$ 382,204</u>

State of New Mexico
Office of The Secretary of the State

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

Year ended June 30, 2008

	HAVA (SHARE 90300)	Arbitration (SHARE 02500)	Total
Federal revenues	\$ 89,994	\$ -	\$ 89,994
Revenues - interest income	20,917	1,306	22,223
Total revenues	110,911	1,306	112,217
Expenditures	89,994	-	89,994
Excess revenues over expenditures	20,917	1,306	22,223
Other financing sources			
Internal transfer	(153,000)	-	(153,000)
Internal transfer	(6,659,836)	-	(6,659,836)
Net changes in fund balances	(6,791,919)	1,306	(6,790,613)
Fund balance, beginning of year	442,845	28,625	471,470
Prior period adjustment	6,659,836	-	6,659,836
Fund balance, end of year	<u>\$ 310,762</u>	<u>\$ 29,931</u>	<u>\$ 340,693</u>

OTHER SUPPLEMENTARY INFORMATION

State of New Mexico
Office of The Secretary of the State

SCHEDULE OF JOINT POWERS AGREEMENTS

For the year ended June 30, 2008

Participant: Children Youth and Family Department

Party responsible: Office of The Secretary of State

Purpose: To develop and implement a confidential substitute address program

Dates of agreement: July 1, 2007 – June 30, 2008

Total estimated amount of project: \$100,000

Amount agency contributed during this fiscal year: \$100,000

Audit responsibility: Office of The Secretary of State

Fiscal agent: Office of The Secretary of State

Agency where revenues/expenditures are reported: Office of The Secretary of State

State of New Mexico
Office of The Secretary of the State

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

Year ended June 30, 2008

	<u>June 30, 2007</u>	<u>Additions</u>	<u>Reclassifications Deletions</u>	<u>June 30, 2008</u>
Assets - Due from general fund	\$ 607,666	\$ 687,404	\$ 1,242,979	\$ 52,091
Liabilities - Due to state general fund	\$ 607,666	\$ 687,404	\$ 1,242,979	\$ 52,091

\$722,502 was reclassified from agency fund 79900 to the general fund 18000 to align payables to the state general fund with notary fees deposited in the general fund.

State of New Mexico
Office of The Secretary of the State

SUPPLEMENTAL SCHEDULE OF SPECIAL APPROPRIATIONS

June 30, 2008

<u>Description</u>	<u>Authority</u>	<u>SHARE Fund</u>	<u>Total Original Appropriation</u>
Voting Registration Management System	Laws of 2006 Chapter 109 Sec 6 Item 30	18000	\$ 160,000
For 2006 general election	Laws of 2007 Chapter 28 Sec 6 Item 7	18000/90300	3,150,000
For 2008 primary election	Laws of 2007 Chapter 29 Sec 6 Item 29	18000	2,500,000
For 2008 primary election	Laws of 2008 Chapter 3 Sec 6 Item 11	18000	500,000
Voter Registration Management System upgrade	Laws of 2008 Chapter 3 Section 7 Item 19	18000	150,000
For 2008 general election	Laws of 2008 Chapter 3 Section 5 Item 42	18000	3,000,000
To enhance limited partnership software	Laws of 2008 Chapter 3 Section 5 Item 43	18000	150,000

<u>Appropriation Period</u>	<u>Prior Year Expenditures</u>	<u>Current Year Expenditures</u>	<u>Current Funds not Expended</u>	<u>Outstanding Encumbrances</u>	<u>Current Year Reversion Amount</u>	<u>Unencumbered Balances</u>
2006 - 2007	\$ -	\$ -	\$ 160,000	\$ -	\$ 160,000	\$ -
2007 - 2008	2,967,104	182,896	-	-	-	-
2007 - 2008	-	2,497,434	2,566	-	2,566	-
2007 - 2008	-	500,000	-	-	-	-
2008 - 2009	-	150,000	-	-	-	-
2008 - 2009	-	-	3,000,000	-	-	3,000,000
2008 - 2010	-	-	150,000	-	-	150,000

**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 have audited the basic financial statements of the governmental activities, each major fund, the budgetary comparisons for the general fund and the major special revenue fund, 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, 2008, which collectively comprise the Office's basic financial statements as listed in the table of contents, and have issued our report thereon dated May 15, 2009. We have also audited the financial statements of the Office's non-major governmental funds presented as supplementary information in the accompanying combining and individual fund financial statements as of and for the year ended June 30, 2008, as listed in the table of contents.

We have issued our report dated May 15, 2009 which has qualified because the Office has certain unresolved matters in relation to an ongoing audit of the administration of payments under the Help America Vote Act (HAVA). We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the State of New Mexico, Office of The 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 responses to be significant deficiencies in internal control over financial reporting. These items can be referenced as findings 08-01, 08-02, 07-03, and 07-14.

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 believe the significant deficiencies described above are not 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 no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain matters that is required to be reported under *Government Auditing Standards January 2008 Revision* paragraphs 5.14 and 5.16, and Section 12-6-5, NMSA 1978, which is described in the accompanying schedule of findings and responses as finding 07-17.

The Office's responses to the findings indentified in our audit are described in the accompanying schedule of findings and responses. 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.

Albuquerque, New Mexico
May 15, 2009

SCHEDULE OF FINDINGS AND RESPONSES

Year ended June 30, 2008

FINANCIAL STATEMENTS

Type of auditor's report issued: Qualified

Internal control over financial reporting:

Material weaknesses identified? No

Significant deficiencies identified not considered to be material weaknesses? Yes

Noncompliance material to financial statements noted? No

CURRENT YEAR FINDINGS

Findings in Accordance with 2.2.2. NMAC

08-01 Noncompliance with State Audit Deadlines

08-02 Reversions

PRIOR YEAR FINDINGS

Findings in Accordance with OMB Circular A-133

Prior Administration

07-01 Noncompliance with Help America Vote Act (HAVA) – State Matching Requirement – Resolved

07-02 Noncompliance with HAVA – Improper use of HAVA Funds – Resolved

07-03 Noncompliance with HAVA – Equipment Management – Repeated and Modified

07-04 Noncompliance with HAVA – Cost Incurred Prior to Period of Availability – Resolved

SCHEDULE OF FINDINGS AND RESPONSES – CONTINUED

Year ended June 30, 2008

PRIOR 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 – Resolved
- 07-06 Noncompliance with HAVA Act – Interest of \$147,799 Earned on HAVA Funds was Not Deposited Timely into the HAVA Fund (90300) – Resolved
- 07-07 Noncompliance with HAVA – Program Income – Resolved
- 07-08 Data Collection Form Not Submitted Timely – Resolved
- 07-09 Noncompliance with State Procurement Code – Resolved
- 07-15 Financial Statement Adjustments Not Previously Recorded – Resolved

Findings in Accordance with 2.2.2. NMAC

- 07-10 Noncompliance with New Mexico State Procurement Code – Resolved
- 07-11 Noncompliance with State Audit Deadlines – Resolved
- 07-12 Unencumbered Liabilities – Resolved
- 07-13 Irregular Overtime Pay – Resolved
- 07-14 Reversions – Repeated and Modified

Financial Statement Audit Findings Required by *Government Auditing Standards*

- 07-16 Financial Statements Not Prepared by Management – Resolved
- 07-17 Improper Posting of Notary Fees – Repeated and Modified
- 07-18 Capital Assets Listing Not Prepared/Reconciled Timely – Resolved
- 07-19 Payroll Disbursement Posted in Public Election Fund – Resolved
- 07-20 Computer Contract Noncompliance – Resolved

SCHEDULE OF FINDINGS AND RESPONSES – CONTINUED

Year ended June 30, 2008

CURRENT YEAR FINDINGS

08-01 Noncompliance with State Audit Deadlines – Significant Deficiency

Condition:

The Office's audit was not completed and delivered to the State Auditor by the audit due date of December 15, 2008. The report was received by the State Auditor on June 12, 2009.

Criteria:

2.2.2.9 (A) (4) NMAC required the audit report be delivered by December 15, 2008.

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.

Cause:

The prior year audit report was late due to circumstances of the audit. This affected the beginning of the current year audit. Additionally, legislation was passed in spring 2009, which directly remedied various findings and questioned costs resulting in resolution of many prior year compliance findings. An additional time period was needed to have this law become effective.

Recommendation:

The external auditor and the Office should work together to meet the deadline for fiscal year 2009.

Management's Response:

The State Auditor was informed that the due date of the audit would not be met. It was important to finalize the FY2007 audit prior to completing the FY2008 audit. The FY2007 audit was delayed due to the on-going federal Help America Vote Act (HAVA) audit, delays in obtaining year-end reports from supporting agencies and SHARE issues. The FY2007 audit was released by the State Auditor in February 2009. In addition, legislation was successfully passed during the 2009 legislative session, clearing up the majority of prior year findings specific to HAVA.

SCHEDULE OF FINDINGS AND RESPONSES – CONTINUED

Year ended June 30, 2008

CURRENT YEAR FINDINGS – CONTINUED

08-02 Reversions – Significant Deficiency

Condition:

Fiscal year 2007 reversion amounts of \$226,342 and fiscal year 2008 reversion amounts of \$165,954 were not paid to the state general fund by the statutory deadline of September 30, 2007 and September 30, 2008 respectively. The Office reverted only \$153,802 to the state general fund on September 30, 2008.

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.

Effect:

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

Cause:

The Office did not revert funds. Final audited figures were necessary to calculate the reversion. The Office calculated the reversion amount based on preliminary drafts of the fiscal year 2007 audit.

Recommendation:

The Office should revert the remaining unused, unencumbered funds totaling \$395,358 in accordance with Section 6-5-10, NMSA 1978.

Management's Response:

The finance staff completed the journal entries and entered them in SHARE for the FY2008 reversion and submitted the paperwork to the Financial Control Division of DFA on September 30, 2008 (the deadline). However, an incorrect amount was inadvertently reverted. Staff has been made aware of this issue and trained accordingly to avoid this problem in the future.

PRIOR YEAR FINDINGS

07-03 Noncompliance with HAVA – Equipment Management – CFDA 90.401 – Significant Deficiency

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.

SCHEDULE OF FINDINGS AND RESPONSES – CONTINUED

Year ended June 30, 2008

PRIOR YEAR FINDINGS – CONTINUED

07-03 Noncompliance with HAVA – Equipment Management – CFDA 90.401 – Significant Deficiency – Continued

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:

We agree with the aforementioned recommendation; however, because the prior administration did not follow state statute when the current voting machines were purchased in 2006, the state finds itself in a legal grey area that requires a legislative fix in statute. The statute that was not followed by the prior administration is NMSA 1978 § 1-9-8. Instead of following the lease purchase procedure through the New Mexico Board of Finance, they purchased the voting machines directly from the vendor. Earlier this year during the legislative session, the current administration worked closely with various state agencies and New Mexico County Clerks to establish a law clarifying that all voting machines would be property of the state and that the responsibility of the care and custody would lie with the county clerks. HB698 pertaining to all voting machines purchased in 2006 and HB838 dealing with any voting machines purchased after 2006 and future purchases, both failed legislative passage. Unfortunately, the issue remains unresolved and it is our intent to continue our strong effort in pursuing the legislation needed to resolve this issue. As a result, the current law remains unchanged and in effect.

SCHEDULE OF FINDINGS AND RESPONSES – CONTINUED

Year ended June 30, 2008

PRIOR YEAR FINDINGS – CONTINUED

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 \$165,954 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 finance staff completed the journal entries and entered them in SHARE for the FY2008 reversion and submitted the paperwork to the Financial Control Division of DFA on September 30, 2008 (the deadline). However, an incorrect amount was inadvertently reverted. Staff has been made aware of this issue and trained accordingly to avoid this problem in the future.

SCHEDULE OF FINDINGS AND RESPONSES – CONTINUED

Year ended June 30, 2008

PRIOR YEAR FINDINGS – CONTINUED

07-17 Improper Posting of Notary Fees

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. An additional \$114,803 of notary fees was erroneously deposited in the general operating fund (SHARE 18000) in fiscal year 2008.

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.

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.

Cause:

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

Recommendation:

We recommend the Office revert to the state general fund all notary fees recorded in general operating fund 18000.

Management's Response:

The current administration of the Office of The Secretary of State will work with the Department of Finance and Administration and the NM State Treasurer's Office to ensure compliance. Unfortunately, this process is a manual process and one subject to human error. The incorrect entries for FY2008 were at the beginning of the fiscal year before a more efficient protocol for posting deposits was established.

FINANCIAL STATEMENT PREPARATION AND EXIT CONFERENCE

Year ended June 30, 2008

Financial Statement Preparation

The financial statements were prepared by management with the assistance of 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 10, 2009, to discuss the audit. The following individuals were in attendance:

State of New Mexico - Office of The Secretary of State

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

Independent Auditor - Atkinson & Co., Ltd.

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