

Timothy M. Keller
State Auditor



Sanjay Bhakta, CPA, CGFM, CFE, CGMA
Deputy State Auditor

State of New Mexico
OFFICE OF THE STATE AUDITOR

VIA EMAIL AND U.S. MAIL

February 16, 2017

John G. Franchini
Superintendent of Insurance
Office of Superintendent of Insurance
4th Floor,
1120 Paseo De Peralta
Santa Fe, NM 87501

Dear Mr. Franchini:

The Office of the State Auditor (OSA) has released the Fiscal Year 2016 (FY16) annual financial and compliance audit for the Office of the Superintendent of Insurance (OSI). OSA staff conducted this audit. The OSI and OSA agreed to conduct additional audit testing this year and to establish a clear path for future corrective action.

The report has a disclaimer of opinion, meaning that the auditors were unable to obtain sufficient appropriate audit evidence on which to base an opinion. It also means that the auditors concluded that the possible effects on the financial statements of undetected misstatements, if any, could be both material and pervasive. The specific reasons for the disclaimer of opinion are detailed in the Independent Auditor's Report.

The report contains 31 findings. Nine prior year findings were repeated in FY16, and 22 new findings relate to virtually all aspects of OSI financial operations. This audit report, together with the special audit of premium tax collection completed in 2016, depicts an agency with a deficient control environment. This is especially concerning because OSI is charged with several duties critical to the financial health of our State.

We wish to bring several matters to your attention. First, as the disclaimer of opinion indicates, many of the audit findings identify deficiencies in internal control severe enough that they likely result in unreliable and misleading financial reports. For example, the Insurance Code, NMSA 1978, § 59A-5-19(A), requires companies seeking a certificate of authority to transact insurance in New Mexico "to make a special deposit in trust for the benefit only of all its policyholders and creditors in this state... with or through the superintendent or in a commercial depository located in the state of New Mexico approved by the superintendent subject to rules and regulations issued by the superintendent." Applicable regulations require these deposits to be "held in the designated depository in the name of the 'superintendent of insurance of the state of New Mexico, custodian for (name) insurance company (general/special/other deposit account).'"

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NMAC 13.2.4.9. The FY16 audit determined that over \$470 million in general and special trust deposits did not meet this requirement, casting uncertainty on the ownership of these accounts. The audit identifies other deficiencies in OSI's internal controls that could result in cash receipts being lost or misappropriated, incorrect amounts being remitted to other agencies for public safety programs including fire prevention and law enforcement protection, and violations of multiple state laws and regulations.

Second, OSI has not made substantial progress in resolving prior year findings. The findings repeated from the Fiscal Year 2014 and 2015 audits include noncompliance with federal requirements for grant awards and lack of internal controls over payroll and vehicle usage. The findings are repeated because the audit did not indicate that management has effectively implemented the prior corrective action plans it developed in response to those findings. The agency's struggle to execute past corrective action plans naturally creates uncertainty about the likelihood of success in implementing current and future corrective action plans.

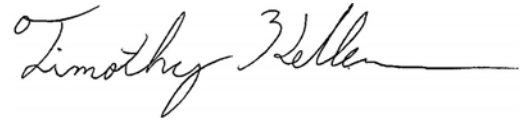
Third, there are substantial concerns related to the Patient Compensation Fund (PCF). The PCF is a statutorily established fund created to account for monies accumulated for payment of medical malpractice claims. The PCF provides excess coverage for medical malpractice claims, with the goal of reducing the costs of medical coverage by stabilizing the operating results of participating insurers. Note 6 in the audit report describes the PCF, and Finding 2016-0002 shows a deficit of over \$35 million in the PCF. At the end of FY16, one hospital and many other physicians and medical providers participated in the PCF. The law creating the PCF, NMSA 1978, § 41-5-25 requires an actuarial study of the PCF at least once every two years. In FY16, a third party conducted the required actuarial study, revealing a \$29.8 million shortfall in PCF funds at December 31, 2015, when reflecting reserves on a present value basis, using a 3.5% discount rate. The shortfall then increased between December 31, 2015, and June 30, 2016, and the financial statements reflect this increased amount. The audit identified that PCF surcharge (premium) rates had not increased since 2009 and that deficits existed and increased during the previous two fiscal years. Determining all the contributing causes of the shortfall was beyond the scope of the annual audit. However, regardless of the causes, the assets in the Fund may not be enough to cover existing claims. The OSA is considering whether a special audit of the PCF is necessary or appropriate.

A key component of an effective internal control framework is "control environment," which includes a commitment to ethical values, integrity and sound financial policies and procedures throughout the entire agency. In our work with OSI, we observed high turnover rates that included the departure of the Chief Financial Officer and Chief Procurement Officer, and low morale. It is critical that OSI leadership immediately establish an appropriate control environment designed to achieve compliance with applicable laws and regulations and effectively administer the Insurance Code. OSI's prompt action is required to safeguard public funds, ensure compliance with applicable laws and regulations, address identified shortfalls, and implement controls moving forward.

In response to the report's findings, we appreciate management's acknowledgement of the issues raised and OSI's cooperation during the audit process. In particular, OSI's desire to have an especially thorough and detailed review will no doubt benefit management's future plans and

actions. The OSA stands ready to assist in any way possible as OSI works to improve its processes.

Sincerely,

A handwritten signature in cursive script that reads "Timothy M. Keller". The signature is written in black ink and includes a long horizontal flourish extending to the right.

Timothy M. Keller
State Auditor

New Mexico
Office of Superintendent of Insurance



Annual Financial Statements and Schedules
With Independent Auditors' Report

For the Fiscal Year Ended
June 30, 2016

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
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June 30, 2016**

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**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
Official Roster
As of June 30, 2016**

Administrative Officials

| | |
|------------------------|------------------------------------|
| John G. Franchini | Superintendent of Insurance |
| Robert Doucette | Deputy Superintendent of Insurance |
| David P. Barton | General Counsel |
| Jolene M. Gonzales | Chief Administrative Officer |
| Bryan M. Maestas, CGFM | Chief Financial Officer |



State of New Mexico
OFFICE OF THE STATE AUDITOR

INDEPENDENT AUDITOR'S REPORT

John G. Franchini, Superintendent of Insurance
Office of Superintendent of Insurance
Santa Fe, New Mexico

Report on Financial Statements

We were engaged to audit the accompanying financial statements of the governmental activities, each major fund, the aggregate remaining fund information, and the budgetary comparisons for the general fund and major special revenue funds of the Office of Superintendent of Insurance (OSI) as of and for the year ended June 30, 2016, and the related notes to the financial statements, which collectively comprise the OSI's basic financial statements as listed in the table of contents. We were also engaged to audit the financial statements of each of OSI's nonmajor governmental funds, fiduciary funds and the budgetary comparisons for all nonmajor funds presented as supplementary information, as defined by the Government Accounting Standards Board, in the accompanying combining and individual fund financial statements as of and for the year ended June 30, 2016, as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free from material misstatement. Because of the matters described in the "Basis for Disclaimer of Opinions" paragraphs, however, we were not able to obtain sufficient appropriate audit evidence to provide a basis for audit opinions on the financial statements as identified above under "Report on Financial Statements".

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the

circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion.

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We were not able to obtain sufficient and appropriate audit evidence to provide a basis for our audit opinions.

Basis for Disclaimer of Opinions

We were unable to obtain sufficient audit evidence to conclude that the financial statements, as a whole, are free from material misstatement. We were unable to obtain sufficient appropriate audit evidence relating to the valuation and completeness of the other receivables of the *Insurance Suspense Fund (SHARE 11820)* agency fund because OSI management was unable to provide a receivable listing or aging schedule. Accounting principles generally accepted in the United States of America require that such supporting detail be maintained by management. The other receivables of the *Insurance Suspense Fund (SHARE 11820)* agency fund include premium taxes collected by OSI on behalf of the State General Fund and other state agencies. Additionally, we were also unable to obtain sufficient appropriate audit evidence relating to the valuation and completeness of the amounts reported as "due to" and "due from" the *Insurance Suspense Fund* and the Governmental Activities, as these amounts are associated with the other receivables of the *Insurance Suspense Fund*. The amount by which this departure would affect the other receivables of the *Insurance Suspense Fund* and the amounts reported as "due to" and "due from" the *Insurance Suspense Fund* and the Governmental Activities has not been determined.

We were unable to obtain sufficient appropriate audit evidence relating to the valuation of revenues of the Governmental Activities, a material portion of which are derived from the receipts of the *Insurance Suspense Fund (SHARE 11820)* agency fund. During our audit we identified numerous errors relating to the coding of receipts including fees, licenses, penalties, and taxes, in the IDEAL system. Additionally, OSI's premium tax return forms do not accommodate all the information required to correctly account for receipts. Accounting principles generally accepted in the United States of America require that such supporting detail be maintained by management. The amount by which this departure would affect the revenues of the Governmental Activities has not been determined.

We were unable to obtain sufficient appropriate audit evidence relating to the completeness of the transactions of the *Trust Funds with the Superintendent of Insurance Fund (SHARE 11870)* agency fund. OSI did not record any of the transactions relating to the amounts held in trust through the statewide accounting system SHARE, which is OSI's book of record. Accounting principles generally accepted in the United States of America require that all transactions be accounted for in the reporting entity's book of record. The amount by which this departure would affect the assets and liabilities of the *Trust Funds with the Superintendent of Insurance Fund* has not been determined.

Disclaimer of Opinions

Because of the significance of the matters described in the "Basis for Disclaimer of Opinions" paragraphs, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for audit opinions on the financial statements of OSI as of June 30, 2016. Accordingly, we do not express an opinion on these financial statements.

Emphasis of Matter

As discussed in Note 2, the financial statements of OSI are intended to present the financial position, and the 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 OSI. They do not purport to, and do not, present fairly the financial position of the entire State of New Mexico as of June 30, 2016, and the respective changes in its financial position, for the year then ended in conformity with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

Other Matters

Required Supplementary Information

Management has omitted *Management's Discussion and Analysis* that accounting principles generally accepted in the United States of America require to be presented to supplement the basic financial statements. Such missing information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. Our opinion on the basic financial statements is not affected by this missing information.

Other Information

Our audit was conducted for the purpose of forming opinions on OSI's financial statements, the combining and individual fund financial statements, and the budgetary comparisons. The agency funds combining schedules and combining schedule of changes in fiduciary assets and liabilities – all agency funds listed as other supplementary information are presented for purposes of additional analysis and are not a required part of the basic financial statements. The schedule of expenditures of federal awards is presented for purposes of additional analysis as required by *Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, and is also not a required part of the basic financial statements.

The schedule of expenditures of federal awards and additional schedules listed as “other supplemental information” are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America.

We were engaged for the purpose of forming an opinion on the basic financial statements as a whole. The schedule of expenditures of federal awards and additional schedules listed as “other supplemental information” in the table of contents are presented for the purposes of additional analysis and are not a required part of the financial statements. Because of the significance of the matters described in the “Basis for Disclaimer of Opinions” paragraphs, it is inappropriate to, and we do not, express an opinion on the schedule of expenditures of federal awards and additional schedules listed as “other supplemental information” in the table of contents.

The vendor schedule has not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we do not express an opinion or provide any assurance on it.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated December 1, 2016 on our consideration of the OSI's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering OSI's internal control over financial reporting and compliance.

Office of the State Auditor

Office of the State Auditor
Santa Fe, New Mexico
December 1, 2016

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF NET POSITION
June 30, 2016**

| | <u>Governmental Activities</u> |
|---------------------------------------|------------------------------------|
| ASSETS | |
| Current Assets: | |
| State General Fund Investment Pool | \$ 15,317,809 |
| Federal Grants Receivable | 256,723 |
| Due from Agency Fund | 697,723 |
| Other Receivables | 64,324 |
| Prepaid Expenses | 34,072 |
| Total Current Assets | 16,370,651 |
| Capital Assets: | |
| Capital Assets, Net of Depreciation | 377,963 |
| Total Capital Assets | 377,963 |
| Total Assets | 16,748,614 |
| LIABILITIES | |
| Current Liabilities: | |
| Accounts Payable and Accrued Expenses | \$ 549,667 |
| Payroll Benefits & Taxes Payable | 130,189 |
| Accrued Wage Payable | 105,760 |
| Compensated Absences | 293,451 |
| Due to State General Fund | 7,375,233 |
| Unearned Revenues | 225,672 |
| Total Current Liabilities | 8,679,972 |
| Non-current Liabilities: | |
| Total Non-current Liabilities | - |
| Total Liabilities | \$ 8,679,972 |
| NET POSITION | |
| Net Investment in Capital Assets | 377,963 |
| Restricted for Special Purposes | 7,690,679 |
| Total Net Position | \$ 8,068,642 |

The accompanying notes are an integral part of the financial statements.

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF ACTIVITIES
For the Year Ending June 30, 2016

| <u>Functions/Programs</u> | <u>Expenses</u> | <u>Program Revenue</u> | | <u>Net (Expense)</u> | |
|--|-----------------|------------------------|----------------------|-----------------------|--------------|
| | | <u>Charges for</u> | <u>Operating</u> | <u>Capital Grants</u> | |
| | | <u>Services</u> | <u>Grants and</u> | <u>and</u> | |
| | | | <u>Contributions</u> | <u>Contributions</u> | |
| | | | | <u>Governmental</u> | |
| | | | | <u>Activities</u> | |
| Governmental Activities: | | | | | |
| Insurance Regulation | \$ 9,782,289 | \$ 13,347,664 | \$ 1,587,684 | \$ - | \$ 5,153,059 |
| Total governmental activities | 9,782,289 | 13,347,664 | 1,587,684 | - | 5,153,059 |
| General Revenues: | | | | | |
| Taxes: | | | | | |
| Reversions to the State General Fund | | | | | (7,375,233) |
| Insurance Tax | | | | | 1,622,987 |
| Special Item-Transfer of Operations | | | | | |
| Transfers - Other Financing Uses | | | | | 665,100 |
| Total General Revenues and Special Items | | | | | (5,087,146) |
| Change in Net Position | | | | | \$ 65,913 |
| Net Position - beginning | | | | | 539,680 |
| Restatement - Note 21 | | | | | 7,463,049 |
| Net Position - ending | | | | | \$ 8,068,642 |

The accompanying notes are an integral part of the financial statements.

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
BALANCE SHEET
GOVERNMENTAL FUNDS
June 30, 2016

| | <u>General</u> <u>Operating Fund -</u> <u>11690</u> | <u>Insurance</u> <u>Operations</u> <u>Fund-11810</u> | <u>Other</u> <u>Governmental</u> <u>Funds</u> | <u>Total</u> <u>Governmental</u> <u>Funds</u> |
|--|---|--|---|---|
| ASSETS | | | | |
| State General Fund Investment Pool | \$ 2,953,484 | \$ 9,205,437 | \$ 2,933,214 | \$ 15,092,135 |
| Federal Grants Receivable | 256,723 | - | - | 256,723 |
| Due from Other Funds | - | 697,723 | - | 697,723 |
| Other Receivables | 64,324 | - | - | 64,324 |
| Prepaid Expenses | 34,072 | - | - | 34,072 |
| Total Assets | <u>\$ 3,308,603</u> | <u>\$ 9,903,160</u> | <u>\$ 2,933,214</u> | <u>\$ 16,144,977</u> |
| LIABILITIES AND FUND BALANCES | | | | |
| Liabilities: | | | | |
| Voucher Payable | \$ 549,666 | \$ - | \$ - | \$ 549,666 |
| Payroll Benefits & Taxes Payable | 130,188 | - | - | 130,188 |
| Accrued Wages Payable | 105,760 | - | - | 105,760 |
| Due to State General Fund | 281,173 | 7,094,060 | - | 7,375,233 |
| Total Liabilities | <u>1,066,787</u> | <u>7,094,060</u> | <u>-</u> | <u>8,160,847</u> |
| Fund Balances: | | | | |
| Nonspendable: | | | | |
| Inventory | | | | |
| Prepaid Expenses | 34,072 | - | - | 34,072 |
| Restricted: | | | | |
| Special Purposes | <u>2,207,744</u> | <u>2,809,100</u> | <u>2,933,213</u> | <u>7,950,057</u> |
| Total Fund Balances | <u>2,241,816</u> | <u>2,809,100</u> | <u>2,933,213</u> | <u>7,984,129</u> |
| Total Liabilities and Fund Balances | <u>\$ 3,308,603</u> | <u>\$ 9,903,160</u> | <u>\$ 2,933,213</u> | <u>\$ 16,144,976</u> |

The accompanying notes are an integral part of the financial statements.

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
RECONCILIATION OF THE BALANCE SHEET OF GOVERNMENTAL FUNDS TO THE
STATEMENT OF NET POSITION
June 30, 2016

| | | |
|---|----|--------------|
| Total fund balance, governmental funds | \$ | 7,984,129 |
| Amounts reported for governmental activities in the Statement of Net Position are different because: | | |
| Governmental Capital Assets | | 970,027 |
| Accumulated Depreciation | | (592,064) |
| | | 377,963 |
| Long-term liabilities are not due and payable in the current period and therefore are not reported in the government funds: | | |
| Compensated Absences | | (293,451) |
| Net Position of Governmental Activities in the Statement of Net Position | | \$ 8,068,641 |

The accompanying notes are an integral part of the financial statements.

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES
GOVERNMENTAL FUNDS
For the Year Ending June 30, 2016

| | <u>General</u> <u>Operating Fund -</u> <u>11690</u> | <u>Insurance</u> <u>Operations Fund-</u> <u>11810</u> | <u>Patient's</u> <u>Compensation</u> <u>Fund - 11850</u> | <u>Other</u> <u>Governmental</u> <u>Funds</u> | <u>Total</u> <u>Governmental</u> <u>Funds</u> |
|---|---|---|--|---|---|
| REVENUES | | | | | |
| Insurance Tax | \$ - | \$ - | - | \$ 1,528,883 | \$ 1,528,883 |
| Investment Earnings | - | - | - | - | - |
| Special Appropriation | 500,000 | - | - | - | 500,000 |
| Miscellaneous | 727 | - | - | - | 727 |
| Federal Revenue | 1,587,684 | - | - | - | 1,587,684 |
| Other Fees | - | 12,196,937 | - | 744,104 | 12,941,041 |
| Total Revenues | <u>2,088,411</u> | <u>12,196,937</u> | <u>-</u> | <u>2,272,987</u> | <u>16,558,335</u> |
| EXPENDITURES | | | | | |
| Current: | | | | | |
| Personnel Services & Employee Benefits | 7,091,599 | - | - | - | 7,091,599 |
| Contractual Services | 1,486,323 | - | - | - | 1,486,323 |
| Other | 1,060,687 | - | - | - | 1,060,687 |
| Capital Outlay: | 48,984 | - | - | - | 48,984 |
| Total Expenditures | <u>9,687,593</u> | <u>-</u> | <u>-</u> | <u>-</u> | <u>9,687,593</u> |
| Excess (Deficiency) of Revenues Over Expenditures | <u>(7,599,182)</u> | <u>12,196,937</u> | <u>-</u> | <u>2,272,987</u> | <u>6,870,742</u> |
| OTHER FINANCING SOURCES (USES) | | | | | |
| Operating Transfers In | 7,927,500 | - | - | - | 7,927,500 |
| Reversions to State General Fund | (281,173) | (7,094,060) | - | - | (7,375,233) |
| Operating Transfers Out | - | (5,618,200) | - | (1,644,200) | (7,262,400) |
| Total Other Financing Sources and Uses | <u>7,646,327</u> | <u>(12,712,260)</u> | <u>-</u> | <u>(1,644,200)</u> | <u>(6,710,133)</u> |
| Net Change in Fund Balances | <u>47,145</u> | <u>(515,323)</u> | <u>-</u> | <u>628,787</u> | <u>160,609</u> |
| Fund Balances - Beginning | <u>2,194,671</u> | <u>3,324,423</u> | <u>48,908,412</u> | <u>2,304,428</u> | <u>56,731,934</u> |
| Restatement - Note 21 | - | - | (48,908,412) | - | (48,908,412) |
| Fund Balance - Beginning as Restated | <u>2,194,671</u> | <u>3,324,423</u> | <u>-</u> | <u>2,304,428</u> | <u>7,823,522</u> |
| Fund Balances -Ending | <u>\$ 2,241,816</u> | <u>\$ 2,809,100</u> | <u>\$ -</u> | <u>\$ 2,933,215</u> | <u>\$ 7,984,131</u> |

The accompanying notes are an integral part of the financial statements.

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
RECONCILIATION OF THE STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN
FUND BALANCES TO THE STATEMENT OF ACTIVITIES
For the Year Ending June 30, 2016

| | | |
|---|----|---------|
| Net change in fund balances - total governmental funds: | \$ | 160,609 |
|---|----|---------|

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

| | | |
|--------------------------------|-----------------|---------------|
| Capital Outlay | 48,984 | |
| Depreciation Expense | <u>(98,866)</u> | |
| Change in capital assets | | (49,882) |
| | | |
| Change in Compensated Absences | | (44,814) |
| | | |
| Change in Net Position | <u>\$</u> | <u>65,913</u> |

The accompanying notes are an integral part of the financial statements.

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE -
BUDGET AND ACTUAL
GENERAL OPERATING FUND - 11690
For the Year Ending June 30, 2016

| | <u>Budgeted Amounts</u> | | <u>Actual Amounts</u> | <u>Variance with</u> |
|---|-------------------------|---------------------|------------------------|-----------------------|
| | <u>Original</u> | <u>Final</u> | <u>Budgetary Basis</u> | <u>Final Budget -</u> |
| | | | | <u>Positive</u> |
| | | | | <u>(Negative)</u> |
| REVENUES | | | | |
| Insurance Tax | \$ - | \$ - | \$ - | \$ - |
| Investment Earnings | - | - | - | - |
| Special Appropriation | - | - | 500,000 | 500,000 |
| Other State Funds | - | - | - | - |
| Miscellaneous | - | - | 727 | 727 |
| Federal Revenue | 2,456,700 | 2,458,500 | 1,587,684 | (870,816) |
| Total Revenues | <u>2,456,700</u> | <u>2,458,500</u> | <u>2,088,411</u> | <u>(370,089)</u> |
| EXPENDITURES | | | | |
| Personnel Services & Employee Benefits | 8,792,200 | 8,077,700 | 7,091,599 | 986,101 |
| Contractual Services | 1,366,400 | 2,480,200 | 1,486,323 | 993,877 |
| Other | 1,195,700 | 1,283,000 | 1,109,671 | 173,329 |
| Total Expenditures | <u>11,354,300</u> | <u>11,840,900</u> | <u>9,687,593</u> | <u>2,153,307</u> |
| Excess (Deficiency) of Revenues Over Expenditures | <u>(8,897,600)</u> | <u>(9,382,400)</u> | <u>(7,599,182)</u> | <u>1,783,218</u> |
| OTHER FINANCING SOURCES (USES) | | | | |
| Transfers In | 8,897,600 | 8,836,000 | 7,927,500 | 908,500 |
| Reversions to State General Fund | - | - | (281,173) | 281,173 |
| Cash Balance Re-Budgeted | - | - | - | - |
| Transfers Out | - | - | - | - |
| Total Other Financing Sources and Uses | <u>8,897,600</u> | <u>8,836,000</u> | <u>7,646,327</u> | <u>1,189,673</u> |
| Net Change in Fund Balances | - | (546,400) | 47,145 | (593,545) |
| Fund Balances - beginning | 2,194,671 | 2,194,671 | 2,194,671 | - |
| Fund Balances - ending | <u>\$ 2,194,671</u> | <u>\$ 1,648,271</u> | <u>\$ 2,241,816</u> | <u>\$ (593,545)</u> |

The accompanying notes are an integral part of the financial statements.

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE -
BUDGET AND ACTUAL
INSURANCE OPERATIONS FUND - 11810
For the Year Ending June 30, 2016

| | <u>Budgeted Amounts</u> | | <u>Actual Amounts</u> | <u>Variance with</u> |
|---|-------------------------|---------------------|------------------------|-----------------------|
| | <u>Original</u> | <u>Final</u> | <u>Budgetary Basis</u> | <u>Final Budget -</u> |
| | | | | <u>Positive</u> |
| | | | | <u>(Negative)</u> |
| REVENUES | | | | |
| Insurance Tax | \$ - | \$ - | \$ - | \$ - |
| Investment Earnings | - | - | - | - |
| Special Appropriation | - | - | - | - |
| Intergovernmental | - | - | - | - |
| Miscellaneous | - | - | - | - |
| Federal Revenue | - | - | - | - |
| Other Fees | 5,618,200 | 5,618,200 | 12,196,937 | 6,578,737 |
| Total Revenues | <u>5,618,200</u> | <u>5,618,200</u> | <u>12,196,937</u> | <u>6,578,737</u> |
| EXPENDITURES | | | | |
| Personnel Services & Employee Benefits | - | - | - | - |
| Contractual Services | - | - | - | - |
| Other | - | - | - | - |
| Total Expenditures | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> |
| Excess (Deficiency) of Revenues Over Expenditures | <u>5,618,200</u> | <u>5,618,200</u> | <u>12,196,937</u> | <u>6,578,737</u> |
| OTHER FINANCING SOURCES (USES) | | | | |
| Transfers In | - | - | - | - |
| Reversions to State General Fund | - | - | (7,094,060) | 7,094,060 |
| Transfers Out | (5,618,200) | (5,618,200) | (5,618,200) | - |
| Total Other Financing Sources and Uses | <u>(5,618,200)</u> | <u>(5,618,200)</u> | <u>(12,712,260)</u> | <u>7,094,060</u> |
| Net Change in Fund Balances | - | - | (515,323) | 515,323 |
| Fund Balances - beginning | 3,324,423 | 3,324,423 | 3,324,423 | - |
| Fund Balances - ending | <u>\$ 3,324,423</u> | <u>\$ 3,324,423</u> | <u>\$ 2,809,100</u> | <u>\$ 515,323</u> |

The accompanying notes are an integral part of the financial statements.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF NET POSITION HELD IN TRUST FOR PATIENT'S COMPENSATION FUND
CLAIMS
JUNE 30, 2016**

ASSETS

| | | |
|------------------------------------|----|------------|
| State General Fund Investment Pool | \$ | 1,824,235 |
| Investments | | 31,503,800 |
| | | 31,503,800 |
| Total Assets | | 33,328,035 |

LIABILITIES

| | | |
|------------------------------------|--|------------|
| Claims Payables | | 1,910,917 |
| Vouchers Payable | | 62,958 |
| Payroll Benefits and Taxes Payable | | 1,205 |
| Accrued Wages Payable | | 1,128 |
| Other Liabilities | | 25 |
| PCF Long Term Claims/Liabilities | | 66,400,000 |
| Total Liabilities | | 68,376,233 |

| | | |
|---|-----------|---------------------|
| Net Liability Held in Trust for Claims | \$ | (35,048,198) |
|---|-----------|---------------------|

The accompanying notes are an integral part of the financial statements.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF CHANGES IN NET POSITION HELD IN TRUST FOR PATIENT'S COMPENSATION
FUND CLAIMS
FOR THE YEAR ENDED JUNE 30, 2016**

Additions to Net Position Attributed to:

| | | |
|-----------------------------|----|-------------------|
| | \$ | |
| Investment Earnings | | 1,167,188 |
| Plan Participant Surcharges | | 11,683,332 |
| Total Additions | | <u>12,850,520</u> |

Deductions from Net Position Attributed to:

| | |
|--|-------------------|
| Personnel Services and Employee Benefits | 7,507 |
| Contractual Services | 255,833 |
| Claims Paid | 27,567,773 |
| Claims Legally Authorized at June 30th | 1,910,917 |
| Actuarial Adjustment to estimated Claims | 10,028,539 |
| Other | 665,100 |
| Total Deductions | <u>40,435,669</u> |

Net Increase (Decrease) (27,585,149)

| | |
|---|-------------------------------|
| Net Position Held in Trust for Claims Beginning of Year | 48,908,412 |
| Restatement - Note 21 | (56,371,461) |
| Restated Net Position Held in Trust for Claims Beginning of Year | (7,463,049) |
| Net Position Held in Trust for Claims End of Year | <u><u>\$ (35,048,198)</u></u> |

The accompanying notes are an integral part of the financial statements.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF CHANGES IN NET POSITION HELD IN TRUST FOR PATIENT'S COMPENSATION
FUND CLAIMS
FOR THE YEAR ENDED JUNE 30, 2016**

The accompanying notes are an integral part of the financial statements.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF NET POSITION HELD IN TRUST FOR POLICY HOLDERS AND CREDITORS
JUNE 30, 2016**

ASSETS

| | | |
|---|----|---------------------------|
| Cash held Banks for Ancillary Receiverships | \$ | 1,607,556 |
| General and Special Deposits Held in Trust For Policy Holders and Creditors | | 477,114,800 |
| Total Assets | | <u><u>478,722,356</u></u> |

LIABILITIES

| | | |
|---|--|---------------------------|
| General and Special Deposits held in Trust For Policy Holders and Creditors | | 477,114,800 |
| Policy Holders and Creditors Payable | | - |
| Earnings Payable per 59A-10-7 NMSA 1978 | | - |
| Vouchers Payable | | - |
| Other Liabilities | | - |
| Total Liabilities | | <u><u>477,114,800</u></u> |

| | | |
|--|--|----------------------------|
| Net Position Held in Trust for Policy Holders and Creditors | | <u><u>\$ 1,607,556</u></u> |
|--|--|----------------------------|

The accompanying notes are an integral part of the financial statements.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF CHANGES IN NET POSITION HELD IN TRUST FOR POLICY HOLDERS AND CREDITORS
FOR THE YEAR ENDED JUNE 30, 2016**

Additions to Net Position Attributed to:

| | | |
|---|----|----------------|
| General and Special Deposits Received | \$ | - |
| Net Change in Ancillary Receivership Deposits | | 212,320 |
| Earnings from General and Special Deposits | | - |
| Total Additions | | <u>212,320</u> |

Deduction from Net Position Attributed to:

| | |
|--|----------|
| Contractual Services | - |
| Distributions to NM Property and Casualty Guaranty Association | - |
| Distributions Legally Authorized at June 30th | - |
| General and Special Deposit Refunded | - |
| Earnings Paid per 59A-10-7 NMSA 1978 | - |
| Other | - |
| Total Deductions | <u>-</u> |

Net Increase (Decrease) 212,320

Net Position Held in Trust for Policy Holders and Creditors Beginning of Year 1,395,236

Net Position Held in Trust for Policy Holders and Creditors End of Year \$ 1,607,556

The accompanying notes are an integral part of the financial statements.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF FIDUCIARY ASSETS AND LIABILITIES - AGENCY FUNDS
JUNE 30, 2016**

ASSETS

| | | |
|--|----|---------------------------------|
| Investments, State Treasurer Investment Pool | \$ | 10,203,067 |
| Other Receivables | | <u>73,815,203</u> |
| Total Assets | | <u><u>84,018,270</u></u> |

LIABILITIES

| | | |
|----------------------------------|-----------|---------------------------------|
| Due To Insurance Operations Fund | | 697,723 |
| Due To Other State Agencies | | 23,853,703 |
| Due To State General Fund | | 56,784,243 |
| State Dated Wts. | | 46,488 |
| Undistributed Receipts | | 2,273,851 |
| Other Liabilities | | <u>362,262</u> |
| Total Liabilities | \$ | <u><u>84,018,270</u></u> |

The accompanying notes are an integral part of the financial statements.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDING JUNE 30, 2016**

NOTE 1: HISTORY AND FUNCTION

The Office of Superintendent of Insurance (OSI) was created on July 1, 2013, pursuant to the passage of Constitutional Amendment 4 during the 2012 General Election and the subsequent enactment of House Bill 45 (Laws of 2013, Chapter 74) from the 1st Session of the 51st Legislature. These actions removed the insurance regulatory function from the Public Regulation Commission (where it was housed as the “Insurance Division”) and placed it in a newly-created adjunct state agency entitled the “Office of Superintendent of Insurance.” The enabling legislation also created an Insurance Nominating Committee to appoint the Superintendent of Insurance.

The mission of OSI is to provide consumers with convenient access to reliable insurance products which are underwritten by dependable and financially sound companies. The OSI strives to ensure that these companies have a proven history of fair and reasonable rates and are represented by trustworthy and qualified agents. The OSI is committed to consumer protection and to the deterrence and prosecution of insurance fraud.

The vision of OSI is to become one of the country's leading regulatory agencies with respect to overseeing the insurance industry in New Mexico and ensuring that New Mexico insurance consumers are treated fairly and honestly. In addition, OSI strives to be a leader with respect to the roll out of the Patient Protection and Affordable Care Act (PPACA), commonly called the Affordable Care Act (ACA) or "Obamacare" and ensuring New Mexicans have access to quality and affordable health insurance that maintains a level of minimum standards.

Administration

The Administration Unit includes the Superintendent of Insurance, the Deputy Superintendent of Insurance, General Counsel, Office of Superintendent of Insurance legal staff, the Chief Administrative Officer, the Chief Financial Officer, Budget and Finance units, Human Resources unit, Public Information, Information Technology, and Records, all of which provide administrative support to the Office of Superintendent of Insurance.

Company Licensing

The Company Licensing Bureau licenses insurance companies and other risk-bearing insurance entities. Pursuant to this, the bureau receives, reviews and renders determinations on applications from insurance companies that want to enter the New Mexico insurance market. The bureau oversees almost \$500 million of insurance company deposits held for the protection of New Mexico policyholders. The bureau also reviews and processes documentation submitted by insurance companies for acquisitions, re-domestications, mergers and name changes. The bureau is responsible for the collection of premium taxes and policy filings from surplus lines brokers.

Producer (Agent) Licensing

The Producer (Agent) Licensing Bureau licenses approximately 100,000 insurance professionals, as well as, non-risk-bearing insurance entities. This includes insurance agents, agencies, brokers, adjusters, third party administrators, consultants, bail bondsmen, solicitors and motor clubs, as well as limited license insurance vendors such as cell phone sales agents and travel agents. To protect consumers, the bureau determines the qualifications and eligibility of applicants; approves pre-licensing and continuing education courses; tracks continuing education credits; and processes license applications, renewals and the appointment of agents by insurance companies.

NOTE 1: HISTORY AND FUNCTION CONT.

Examinations

The Examinations Bureau reviews insurance company financial statements filed with the OSI. The bureau also conducts periodic financial examinations, as well as ad hoc specialized market conduct and target financial examinations of insurance companies and agents. The Chief Examiner coordinates an internal solvency review team, consisting of financial analysts, and examiners to review annual and quarterly financial statements filed by insurance companies domiciled in New Mexico and elsewhere and to plan examination activity.

Life & Health Product Filings

The Life & Health Product Filing Bureau reviews and renders determinations on the rates and coverage provisions filed by insurance companies for products pertaining to health, life, annuities, long-term care, Medicare supplement and credit life and disability filings. The bureau approves or disapproves such filings where required, based on their compliance with insurance statutes, regulations and bulletins and with OSI policies and procedures. As a member of the Interstate Insurance Compact, New Mexico participates in multi-state reviews of many life and annuity product filings.

Property/Casualty Product Filings

The Property/Casualty Product Filing Bureau reviews and renders determinations on the rates and coverage provisions filed by insurance companies for products pertaining to automobile, homeowners, workers' compensation, medical malpractice and other assorted products. The bureau approves or disapproves such filings where required, based on their compliance with insurance statutes, regulations and bulletins and with OSI policies and procedures.

Workers' Compensation

The Workers' Compensation Unit, a division of the Property and Casualty Product Filing Bureau, monitors the New Mexico Workers' Compensation Assigned Risk Pool, handles complaints by employers regarding their workers' compensation class code assignment and premiums, oversees the Safety Bonus Program and represents the OSI in other matters relating to Workers' Compensation.

Consumer Assistance

The Consumer Assistance Bureau receives, processes and resolves complaints and inquiries from consumers about insurance rates and claim-handling for all insurance products other than those involving managed health care. The bureau alerts the Investigations Bureau of situations where a complaint reveals a potential violation of insurance statutes and regulations by an insurance company or other insurance licensee.

Managed Health Care

The Managed Health Care Bureau administers and enforces New Mexico's Patient Protection Act and related regulations. The bureau handles complaints and inquiries from managed health care consumers and conducts outreach presentations throughout the state to inform consumers and health care providers of their rights under the Patient Protection Act. The bureau reviews external grievance appeals, proposes rule amendments and also takes appropriate enforcement actions where merited.

Investigations

The Investigations Bureau investigates concerns arising from consumer complaints and other sources to determine whether a licensed insurance company or agent has violated insurance statutes or regulations and takes appropriate enforcement actions where merited.

NOTE 1: HISTORY AND FUNCTION CONT.

Insurance Fraud

The Insurance Fraud Bureau investigates and prosecutes, through state district courts, insurance fraud committed by insurance policyholders and applicants, medical providers, third party claimants and other perpetrators of white-collar insurance fraud crimes. The bureau collaborates with state, local and federal law enforcement and regulatory agencies in these efforts.

Title Insurance

The Title Insurance Bureau regulates the title insurance industry through rate-making and rule-making hearings held every odd numbered year. The Bureau collects and analyzes the annual agent and underwriter statistical reports, and the agent audit procedures. The Bureau annually assesses the insurers based on annual budgeting and maintenance. Periodically the Bureau performs on-site title plant inspections, affiliations, appointments, bank reconciliations, no-pay no-service documentation, and premium calculations. The Bureau performs the investigation of marketing compliance within the regulations. The Bureau regulates more than 75 licensed title insurance agents and underwriters in New Mexico. The bureau investigates complaints, allegations of defalcations, marketing non-compliance, and other infractions by title agents and insurers. The Bureau coordinates with the Investigation and Fraud Bureaus for appropriate enforcement actions.

Financial Audit

The Financial Audit Bureau Section is responsible for processing and auditing premium tax filings for approximately 2,000 insurance companies that write policies in New Mexico. All insurers authorized to transact business in New Mexico and all property bondsmen, self-insurers, title companies and risk retention groups are subject to pay premium tax on a quarterly basis. Policy filing fees for life and health insurance companies are processed in this office. The due dates for life and health filing fees are governed by policy changes and new submissions. The fees are determined by the type of policy or submission. Policy filing fees for property and casualty insurance companies are also processed in this office. Property and casualty filing fees are due annually and are determined by premiums written in applicable lines of business. Revenue Audit is responsible for receipting Examination's annual statement filing fees and the Fraud Bureau's annual fraud assessment.

ACA (Affordable Care Act) Implementation

The OSI has received two grants under the Affordable Care Act to help OSI enhance its health insurance rate review process and to assist consumers with understanding their health care options. These grants have allowed OSI to hire additional staff and actuarial consultants and to develop www.nmhealthratereview.com, a website that provides consumers with information and feedback opportunities on health rate filings. OSI has received two other federal grants for the Consumer Assistance Program to inform New Mexicans about their health insurance needs, right and responsibilities and providing consumer assistance or ombudsman programs. In addition, OSI has entered into a Memorandum of Understanding (MOU) with the New Mexico Health Insurance Exchange (NMHIX), to implement the section of the NMHIX statute that requires OSI to provide any needed regulations to govern or assist the NMHIX in providing increased access to health insurance in New Mexico. In carrying out these duties the Bureau works closely with OSI leadership and all bureaus involved in health insurance; additionally it is tasked with developing numerous new initiatives within OSI related to health insurance reform.

Patient's Compensation Fund

While its primary function is the regulation of insurance, the OSI also administers the Patient's Compensation Fund (PCF), which is a medical malpractice insurance risk-assuming function mandated by the Medical Malpractice Act. The PCF is explained further in Note 6.

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The financial statements for the New Mexico Office of Superintendent of Insurance (OSI) (the Department or OSI) have been prepared in accordance 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 GASB periodically updates its codification of the existing Governmental Accounting and Financial Reporting Standards that along with subsequent GASB pronouncements (Statements and Interpretations), constitutes GAAP for governmental units. More significant of these accounting policies are described below.

The Department complies with GASB #54. In the governmental fund financial statements, fund balances are classified as non-spendable, restricted, or unrestricted (committed, assigned, or unassigned). Restricted represents those portions of fund balance where constraints placed on the resources are either externally imposed or imposed by law through constitutional provisions or enabling legislation. Committed fund balance represents amounts that can only be used for specific purposes pursuant to constraints imposed by formal action of the Legislative and Executive branches of the State. Assigned fund balance is constrained by the Legislature's and Executive Branch's intent to be used for specific purposes or in some cases by legislation.

The above statement did not have a significant impact on the financial statements of the Department.

A. FINANCIAL REPORTING ENTITY

The chief executive of the Department is the Superintendent of Insurance, who is appointed by the Insurance Nominating Committee. The current Superintendent was re-appointed by the Insurance Nominating Committee in March 2016, and this appointment runs through December 31, 2019. These financial statements include all funds, account groups and activities over which the Superintendent has oversight responsibility. The Superintendent has decision-making authority, the power to designate management, the responsibility to significantly influence operations and has primary accountability for fiscal matters.

A primary government is any state or general purpose local government consisting of all the organizations that make up its legal entity. All funds, organizations, institutions, agencies, departments, and offices that are not legally separate are, for financial reporting purposes, part of the primary government. The Office, therefore, is part of the primary government of the State of New Mexico and its financial data should be included with the financial data of the State. The Department is not included in any other governmental "reporting entity" as defined in Section 2100, *Codification of Governmental Accounting and Financial Reporting Standards*. Copies of the State of New Mexico's Comprehensive Annual Financial Report can be requested from the Department of Finance and Administration, Financial Control Division/State Controller, Bataan Memorial Building Room 320, Santa Fe, NM 87501.

In accordance with the criteria set forth in GASB # 39 and # 61 for determining component units, OSI does not have component units.

B. BASIC FINANCIAL STATEMENTS

The basic financial statements include both government-wide (based on OSI as a whole) and fund financial statements. The reporting model focus is on either OSI as a whole or major individual funds (within the fund financial statements). Both the government-wide and fund financial statements (within the basic financial statements) categorize primary activities as either governmental or business type activities. OSI is a single purpose government entity and has no business-type activities. In the government-wide Statement of Net Position, the governmental activities column are presented on a consolidated basis by column using the economic resources measurement focus and the accrual basis of accounting and incorporates long-term assets and receivables as well as long-term debt and obligations. Additionally internal activity has been eliminated at this level of presentation.

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES CONT.

The government-wide Statement of Activities reflects both the gross and net cost per functional category (education, labor, transportation, etc.), which are otherwise being supported by general government revenues. The Statement of Activities reduces gross expenses (including depreciation expense on capital assets) by related program revenues, operating and capital grants. The program revenues must be directly associated with the function which consists of grants and fees.

The net cost is normally covered by general revenues (taxes, intergovernmental revenues, interest income, etc.). Historically, the previous model did not summarize or present net cost by function or activity. The Department does not currently employ indirect cost allocation systems.

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

The fund financial statements are similar to the financial statements presented in the previous accounting model. Emphasis here is on the major funds of the governmental categories. Non-major funds (by category) or fund type are summarized into a single column. OSI's major funds are the General Fund and the Insurance Operations Fund.

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

OSI's fiduciary funds (agency/trust funds) are presented in the fund financial statements in total. Since by definition these assets are being held for the benefit of a third party and cannot be used to address activities or obligations of the government, these funds are not incorporated into the government-wide statements. Conversely other governmental resources cannot be used to address activities or obligations of the fiduciary funds.

C. BASIS OF PRESENTATION

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

OSI uses the following fund types:

Governmental Fund Types

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

are not recognized as governmental fund type expenditures or fund liabilities. The following is a description of the Governmental Funds of the Department.

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES CONT.

The **General Fund**, also known as the Insurance Operating Fund, is the general operating fund of the Department and considered a major fund. It is used to account for all financial resources except those required to be accounted for in another fund. This is a reverting fund, with the exception of amounts received from federal grants and other proceeds legally restricted. The General Fund is SHARE System fund 11690.

Special Revenue Funds: The Special Revenue Funds are used to account for the proceeds of specific revenue sources. (other than expendable trusts or major capital projects) that are legally restricted to expenditures for specified purposes. The Special Revenue non-major funds are SHARE System fund 11830, 11840, 11860, and 11880. State Statute governs how much, if any, amounts remaining in these funds revert to the State at year end.

Insurance Operations Fund: A major special revenue fund that consists of the money received by OSI that is part of the balance derived from the fees imposed pursuant to subsections A & E of 59A-6-1 NMSA 1978 other than the fees derived from property and vehicle insurance business. The legislature shall annually appropriate from the fund to OSI those amounts necessary for the division to carry out its responsibilities pursuant to the Insurance Code and other laws. Any balance in the fund at the end of a fiscal year greater than one-half of that fiscal year's appropriation shall revert to the general fund. The Insurance Operations Fund is SHARE System fund 11810.

Fiduciary Fund Types

Fiduciary funds are used to report assets held in trustee or agency capacity for others and therefore are not available to support OSI programs. The reporting focus is upon net assets and changes in net assets and employs accounting principles similar to proprietary funds.

Patients' Compensation Fund: A private purpose trust fund to account for funds accumulated for payments of claims for bodily injury or death due to malpractice by a health care provider insured under the Medical Malpractice Act. This fund was created by Section 41-5-1 through 42-528, NMSA 1978 "Medical Malpractice Act". The purpose of the act is to promote the health and welfare of the people of New Mexico by making available professional liability insurance for health care providers in New Mexico. The Patients' Compensation Fund is SHARE System fund 11850 and is referred to as the PCF.

Agency fund: This fund is used to account for assets held by the Department in the capacity of agent. The agency fund is SHARE System fund 11820 (Insurance Suspense Fund). The agency funds contained in the Insurance Suspense Fund include amounts due to the state general fund, amounts due to the state fire fund, amounts due to the law enforcement protection fund and amounts owed to OSI's own Insurance Operations Fund.

Assets Held in Trust for Policy Holders and Creditors: This is a private purpose trust fund to account for assets held in trust per 59A-5-18 and 59A-5-19 NMSA 1978. The insurance code requires companies wishing to transact business in New Mexico to deposit certain securities in trust for the benefit of policy holders and creditors. Insurance company rights during solvency are detailed in 59A-10-7 and include any earnings on these required deposits. When a delinquency occurs the securities are liquidated for policy holders and creditors according to 59A-41-18 NMSA 1978. The Assets Held in Trust for Policy Holders and Creditors fund is SHARE System fund 11870 and is referred to as the Trust Fund.

Non-Current Governmental Assets/Liabilities

GASB Statement #34 eliminated the presentation of Account Groups for fixed assets and long-term debt but provides for these records to be maintained and incorporates the information into the Governmental column in the government-wide Statement of Net Position.

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES CONT.

D. BASIS OF ACCOUNTING

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

The Government-wide Financial Statements and the Fiduciary Fund Financial Statements are presented on an accrual basis of accounting. The Governmental Funds in the Fund Financial Statements are presented on a modified accrual basis.

Accrual

Under the accrual method of accounting revenues are recognized when earned and expenses are recognized when incurred.

Modified Accrual

All governmental funds utilize the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues and other governmental fund resource increments are recognized in the accounting period in which they become susceptible to accrual – that is, when they become both measurable and available to finance expenditures of the current fiscal period; “available” means collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. The Department considers funds available if received within “60 days” after year-end. Expenditures are generally recognized under the modified accrual basis of accounting when the related liability is incurred.

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

Program revenues consist of federal grants. Charges for services consist primarily of fees charged to regulated entities.

Expenditures are recorded as liabilities when incurred. An exception to this general rule is that accumulated unpaid annual, compensatory and certain sick leave are accrued as current liabilities. Expenditures charged to federal programs are recorded utilizing the cost principle described by the various funding sources.

In applying the “susceptible to accrual” concept to intergovernmental revenues pursuant to GASB Statement #33, *Accounting and Financial Reporting for Nonexchange Transactions* the provider should recognize liabilities and expenses and the recipient should recognize receivables and revenues when the applicable eligibility requirements including time requirements, are met. Resources transmitted before the eligibility requirements are met, under most circumstances, should be reported as advances by the provider and deferred revenue by the recipient.

E. BUDGETS AND BUDGETARY ACCOUNTING

The New Mexico State Legislature makes annual appropriations to the Department, which lapse at fiscal year end. Legal compliance is monitored through the establishment of a budget (modified accrual basis) and a financial control system, which permits a budget to actual expenditure comparison. Expenditures may not legally exceed appropriations for each budget at the program appropriation unit level. Budgeted appropriation unit amounts may be amended upon approval from the Budget Division of the State of New Mexico Department of Finance and Administration within the limitation as specified in the General Appropriation Act. The budget amounts shown in the financial statements are the final authorized amounts as legally revised during the year.

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES CONT.

The budget is adopted on a 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 (Section 6-10-4 NMSA 1978) that must be paid out of next year's budget. A reconciliation of budgetary basis of GAAP basis will be necessary if any accounts payable at the end of the fiscal year are not paid by the statutory deadline. The Department has not included such reconciliation for fiscal year 2016 as all payables were paid by the statutory deadline. Each year the Legislature approves multiple year appropriations, which the State considers as continuing appropriations. The Legislature authorizes these appropriations for two to five years; however, it does not identify the authorized amount by fiscal year. Consequently, the appropriation is budgeted in its entirety the first year the Legislature authorizes it. The unexpended portion of the budget is carried forward as the next year's beginning budget balance until either the project period has expired or the appropriation has been fully expended. The budget presentations in these financial statements are consistent with this budgeting methodology.

The budgetary basis differs from the basis of accounting required by Generally Accepted Accounting Principles (GAAP). Significant differences between the budgetary basis and GAAP include the following:

1. The budget does not consider reversions to the State General Fund.
2. The budget includes encumbrances (obligations for unperformed contracts for goods or services). GAAP does not include encumbrances, for multi-year appropriations only.
3. The budget statements are presented on modified accrual basis.

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

1. No later than September 1, the Department submits to the Legislative Finance Committee (LFC), and the Budget Division of the Department of Finance and Administration (DFA), an appropriation request for the fiscal year commencing the following July 1. The appropriation request includes proposed expenditures and the means of financing them.
2. Budget hearings are scheduled before the New Mexico House Appropriations and Senate Finance Committees. The final outcome of those hearings is incorporated into the State's General Appropriation Act.
3. The Act is signed into Law by the Governor of the State of New Mexico within the legally prescribed time limit, at which time the approved budget becomes a legally binding document.
4. Not later than May 1, the Department submits to DFA an annual operating budget by appropriation unit and account code based upon the appropriation made by the Legislature. The Budget Division of DFA reviews and approves the operating budget, which becomes effective on July 1. All subsequent budget adjustments must be approved by the Director of the DFA-State Budget Division and LFC.
5. Formal budgetary integration is employed as a management control device during the fiscal year for the General and Special Revenue Funds. Agency funds are not budgeted as they have no expenditure activity.

F. ENCUMBRANCES

Encumbrances represent commitments related to unperformed contracts for goods and services. Encumbrance accounting, under which purchase orders, contracts, and other commitments for the expenditure of monies are recorded in order to reserve that portion of the applicable appropriation, is employed as an extension of formal budget integration in the governmental funds. All current year encumbrances lapsed at year-end. In cases where the appropriations do not lapse at year-end, the encumbrances outstanding are re-encumbered for the same amount outstanding at year-end and do not

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES CONT.

constitute expenditures or liabilities because the commitments will be honored during the subsequent year. The Department does have an appropriation, which is multiple year and does not lapse at year-end.

G. ASSETS, LIABILITIES AND FUND BALANCE

1. Cash and Cash Equivalents

The Department's interest in the pooled cash on deposit with the State Treasurer's Office (STO) and Ancillary Receivership Accounts on deposit with area banks is considered cash and cash equivalents. The Ancillary Receivership Accounts represent funds held in trust for the payment of claims for insurance companies, which are in receivership.

2. Investments

Investments in the Patient's Compensation Fund are held with the State Investment Council. The Investment Council operates in accordance with appropriate State law and regulations. Interest on investments is recorded as revenue in the year the interest is earned.

3. Receivables

OSI has amounts receivable from federal awards, memorandums of understanding, and a retired employee.

4. Federal Grants Receivable:

Various reimbursement procedures are used for federal awards received by the Department. Consequently, timing differences between expenditures and program reimbursements can exist at any time during the fiscal year. Receivable balances at fiscal year-end represent amounts expended during the fiscal year that are related to a federal grant, however the reimbursement for the expenditure was not received prior to the end of the fiscal year.

5. Inter-fund Receivables and Payables

Short-term amounts owed between funds are classified as "Due to/from Other Funds".

6. Prepaid Items

These amounts represent prepayment of postage, which has benefit to the OSI beyond the fiscal year, ending June 30, 2016. Prepaid items are expensed when consumed under the consumption method. Therefore, these items are allocated to the fiscal year in which they are used. A portion reported in nonspendable fund balance represents a prepaid item.

7. Capital Assets

Property, plant and equipment purchased or acquired at a value of \$5,000 or greater are capitalized per Section 12-6-10 NMSA 1978. Assets are carried at historical cost or estimated historical cost. Contributed assets are recorded at the fair market value as of the date received. Additions, improvements and other capital outlays that significantly extend the useful life of an asset are capitalized. Other costs incurred for repairs and maintenance are expensed as incurred.

Depreciation on all assets is provided on the straight-line basis over the following estimated useful lives with no salvage value. The Department utilized American Appraisal to determine the useful lives based on generally accepted useful lives for the different classes and types of assets.

Machinery and Equipment

Other Personal Property – 12 years

Computer Equipment (including software) – 3 to 10 years

Furniture, Fixtures, and Accessories – 6 to 20 years

Automotive – 8 years

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES CONT.

The Department utilizes a building that is owned by the Facilities Management Division of the State of New Mexico General Services Department. These assets and the related depreciation expense are not included in the accompanying financial statements. GASB Statement #34 requires the recording and depreciation of infrastructure assets. Infrastructure assets include roads, bridges, traffic signals, etc. The Department does not own any infrastructure assets.

8. Compensated Absences

Qualified employees are entitled to accumulate annual leave according to a graduated leave schedule of 80 to 160 hours per year, depending upon length of service and employees hire date. A maximum of thirty working days (240 hours) of accumulated annual leave may be carried forward into the beginning of the calendar year and any excess leave is lost.

When employees terminate, they are compensated for accumulated annual leave as of the date of termination, up to a maximum of 240 hours.

Qualified employees are entitled to accumulate sick leave at the rate of one day for each calendar month of service. There is no limit to the amount of sick leave that an employee may accumulate. Once per fiscal year in either January or July, employees may elect to be paid for 50% of accrued sick leave in excess of 600 up to 720 hours, but not to exceed 120 hours (net 60 hours can be paid). At retirement, employees can receive 50% payment up to 400 hours for the hours over 600 hours of accumulated sick leave. Therefore, only sick leave which has been accrued represents the hours earned at June 30, 2016, over 600 hours. Expenditures for accumulated sick pay for hours under 600 hours will be recognized as employees take such absences.

Compensatory time may be granted to individuals when overtime is needed.

The non-current portion (the amount estimated to be used in subsequent fiscal years) for Governmental Funds is maintained separately and represents a reconciling item between the fund and government-wide presentations.

9. Unearned Revenues:

The unearned revenues of \$ 225,672 are Title Insurance Maintenance Fund Assesments for FY 17 that were received by OSI prior to July 1, 2016.

10. Deferred Inflows/Outflows

In addition to assets, the statement of financial position will sometimes report a separate section for deferred outflows of resources. This separate financial statement element, deferred outflows of resources, represents a consumption net position that applies to a future period(s) and so will not be recognized as an outflows of resources (expense/expenditures) until then. The Department did not have any items that qualified for reporting in this category as of June 30, 2016.

In addition to liabilities the statement of financial position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, deferred inflows of resources, represents a consumption net position that applies to a future period(s) and so will not be recognized as an inflows of resources (revenue) until then. The Department did not have any items that qualified for reporting in this category as of June 30, 2016.

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES CONT.

11. Reservations of Fund Balance

The Department complies with GASB 54—Fund Balance Reporting and Governmental Fund Type Definitions. The pronouncement provides modifications to, and additional types of, fund balance classifications. This statement will enhance the usefulness of fund balance information to provide more consistency among the classifications and will establish reporting standards for all governments that report governmental funds. The definition of each classification is summarized below:

Non-Spendable Fund Balance

The nonspendable fund balance classification is the portion of fund balance that includes amounts that cannot be spent because they are either (a) not in spendable form or (b) legally or contractually required to be maintained intact. The “not in spendable form” criterion includes items that are not expected to be converted to cash, for example, inventories and prepaid amounts.

Restricted Fund Balance

The restricted fund balance classification is the portion of fund balance that reflects constraints placed on the use of resources (other than nonspendable items) that are either: (a) externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments; or (b) imposed by law through constitutional provisions or enabling legislation.

Committed Fund Balance

The committed fund balance classification is the portion of fund balance that can only be used for specific purposes pursuant to constraints imposed by formal action of the government's highest level of decision-making authority.

Assigned Fund Balance

The assigned fund balance classification is the portion of fund balance that are constrained by the government's *intent* to be used for specific purposes, but that are neither restricted nor committed.

Unassigned Fund Balance

The unassigned fund balance classification is the portion of fund balance that is residual classification for the general fund. This classification represents fund balance that has not been assigned to other funds and that has not been restricted, committed, or assigned to specific purposes within the general fund.

H. NET POSITION

The government-wide Fund Financial Statements utilize a net position presentation. Net position are categorized as investment in capital assets, restricted and unrestricted.

Net Investment in Capital Assets – is intended to reflect the portion of net assets which are associated with non-liquid, capital assets less outstanding capital asset related debt. The total net investment in capital assets is \$377,963.

Restricted Net Position – are liquid assets (generated from revenues and not bond proceeds), which have third-party constraints placed on their use either by (1) external groups such as creditors, grantors, contributors or laws or regulations of other governments or (2) law through constitutional provisions or enabling legislation limiting their use. OSI complies with GASB 46 "Net Assets Restricted by Enabling Legislation". The amount of net position restricted by enabling legislation is \$7,690,679

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES CONT.

Unrestricted Net Position (Deficit) – represent all other unrestricted liquid assets that do not meet the definition of “restricted net position” or “net invested in capital assets”. Unrestricted deficit results mainly from the recording of the compensation absences liability and litigation liability for which future appropriations will pay the liability. The amount of unrestricted net position is \$0.

I. USE OF ESTIMATES

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

NOTE 3: CASH AND INVESTMENTS

State law (Section 8-6-3 NMSA 1978) requires the Department’s cash be managed by the New Mexico State Treasurer’s Office (STO). At June 30, 2016 the Department had \$27,345,107 invested in the State General Fund Investment Pool. OSI believes the cash invested in the State General Fund Investment Pool is represented fairly and with no material misstatements due to the reconciliation done by OSI. The Department has established internal processes applying the State of New Mexico Manual of Model Accounting Practices (MAP). These processes are designated to implement necessary and mandatory controls to avert accounting errors and violations of state and federal laws and rules related to financial matters. In addition, the Department ensures that any disbursement of funds does not exceed the unencumbered funds at its disposal. Incorporating the State’s financial software system (SHARE) and monthly internal reporting and reconciliation throughout the fiscal year, OSI maintains optimum fiscal safeguards. This ensures that the cash balances in SHARE are correct to the extent that OSI has control (i.e. collection, depositing, reconciling, and documentation of outstanding items) of the cash, its receipts and transfers to the state general fund and other state agencies pursuant to state statute. Any discrepancies are researched immediately. Expenditure support is retained with all transactions. Due to these controls, the Department believes the value of its share of the SGFIP at June 30, 2016 materially approximates \$27,345,107, including agency funds. The following is a summary of the Department’s interest in the State Treasurer General Fund Investment Pool:

| Name of Depository | Account Name | SHARE System Fund No. | Type of Deposit | Interest Bearing | Bank/DFA Statement Balance at 06/30/16 | Reconciled Book Balance at 06/30/16 |
|-------------------------------|-------------------------------|-----------------------|-----------------|------------------|--|-------------------------------------|
| General Fund: | | | | | | |
| NM State Treasurer | Insurance Operating Fund | 11690 | State Treasury | No | \$ 2,953,484 | \$ 2,953,484 |
| Total General Fund | | | | | <u>2,953,484</u> | <u>2,953,484</u> |
| Special Revenue Funds: | | | | | | |
| NM State Treasurer | Insurance Operations Fund | 11810 | State Treasury | No | 9,205,437 | 9,205,437 |
| NM State Treasurer | Insurance Licensee Cont Educ | 11830 | State Treasury | No | 1,213,708 | 1,213,708 |
| NM State Treasurer | Insurance Examination Fund | 11840 | State Treasury | No | 1,387 | 1,387 |
| NM State Treasurer | Title Ins Maintenance Assess. | 11860 | State Treasury | No | 754,511 | 754,511 |
| NM State Treasurer | Insurance Fraud Fund | 11880 | State Treasury | No | 1,189,278 | 1,189,278 |
| Total Special Revenue Funds | | | | | <u>12,364,321</u> | <u>12,364,321</u> |
| Fiduciary Funds: | | | | | | |
| NM State Treasurer | Insurance Suspense Fund | 11820 | State Treasury | No | 10,203,067 | 10,203,067 |
| NM State Treasurer | Patients' Compensation Fund | 11850 | State Treasury | Yes | 1,824,235 | 1,824,235 |
| Total Agency Fund | | | | | <u>12,027,302</u> | <u>12,027,302</u> |
| Department Total | | | | | <u>\$ 27,345,107</u> | <u>\$ 27,345,107</u> |

NOTE 3: CASH AND INVESTMENTS, CONT.

Interest Rate Risk: The Department does not have an investment policy that limits investments maturities as a means of managing its exposure to fair value losses arising from increasing interest rates. The New Mexico State Treasurer's Office does have an investment policy that limits investments maturities to five years and less on allowable investments. This policy is means of managing exposure to fair value losses arising from increasing interest rates. This policy is reviewed and approved annually by the New Mexico State Board of Finance.

Credit Risk: The New Mexico State Treasurer's Office pool is not rated.

For additional GASB 40 disclosure regarding cash held by the New Mexico State Treasurer's Office, the reader should refer to separate audited financial statements prepared by the New Mexico Treasurer's Office for the fiscal year ended June 30, 2014 which will disclose the categories of risk involved.

Cash in Banks – Ancillary Receivership. The following is a listing of the Department's Ancillary Receivership cash balances on deposit at a local financial institution. The amounts are reported in the SHARE 11870 Trust fund. These balances are grouped by depository financial institutions as of June 30, 2014.

Century Bank of Santa Fe – Demand Deposit Accounts \$1,607,556

This amount is listed on the Fiduciary Statement of Net Position Held in Trust for Policy Holders and Creditors. There were no reconciling items for these bank accounts. Refer to Note 22 for further information related to the trust fund.

The OSI has entered into a custodial agreement with the above financial institution and the New Mexico State Treasurer. According to this agreement, the State Treasurer is responsible for approving all changes in the pledged collateral, monitoring the collateral requirements, and ensuring that all collateral meets the requirements of state law. As of June 30, 2016, the State Treasurer reported that the cash account was adequately collateralized in accordance with state statutes. Please refer to the separately issued financial statements of the State Treasurer's Office for additional information.

Pooled Investments. The OSI has entered into an agreement with the State Investment Council pursuant to Section 6-8-1.G, NMSA 1978 to participate in the investment pool. The Pool is not registered with the SEC and is managed by the State Investment Council. The investments are valued at fair market value based on quoted market prices at the valuation date. The reported value of the pooled shares is the same as the fair value of the pooled shares.

The value of the investments maintained at the State Investment Council External Pooled Investment Funds is as follows at June 30, 2016:

| | <u>Market Value</u> |
|-------------------------|----------------------|
| Core Bond Fund | \$ 24,161,666 |
| Large Cap Index | 3,402,756 |
| Non US Developed Index | 1,490,852 |
| Non US Emerging Markets | 1,062,503 |
| Mid/Small Cap | <u>1,386,023</u> |
| | <u>\$ 31,503,800</u> |

Concentration of Credit Risk: The OSI places no limit on the amount the OSI may invest in any one issuer. Please see the financial statements of the State Investment Council for a further discussion of the risks of the pooled investments. Their audit report may be obtained by contacting the State Investment Council at 41 Plaza La Prensa #A, Santa Fe, New Mexico 87507.

NOTE 4: DUE FROM AND DUE TO OTHER FUNDS

Due from and due to other funds represent inter-fund receivables and payables arising from interdepartmental transfers primarily due to statutory requirements for transferring funds collected by one fund and expended by another. These are routine transactions that occur monthly or annually. These amounts are eliminated on the government-wide financial statements. Agency funds are excluded from governmental funds and governmental-wide financial statements. All inter-fund balances are expected to be repaid in the next fiscal year.

Inter-fund Receivables

| <u>Fund Type</u> | <u>SHARE Fund Number</u> | <u>Due From Other Funds</u> | <u>Due From SHARE Fund Number</u> | <u>Amount</u> |
|------------------|----------------------------------|---------------------------------|---|---------------|
| Special Revenue | 11810 | \$ 697,723 | 11820 | \$ 697,723 |
| Totals | | \$ 697,723 | | \$ 697,723 |

Inter-fund Payables

| <u>Fund Type</u> | <u>SHARE Fund Number</u> | <u>Due to Other Funds</u> | <u>Due to SHARE Fund Number</u> | <u>Amount</u> |
|------------------|----------------------------------|-------------------------------|---|---------------|
| Agency Fund | 11820 | \$ 697,723 | 11810 | \$ 697,723 |
| Totals | | \$ 697,723 | | \$ 667,723 |

NOTE 5: CAPITAL ASSETS

The changes in capital assets for the year are as follows:

| | Beginning Balance 07/01/15 | Additions | Deletions | Ending Balance 06/30/16 |
|---|----------------------------------|-------------|------------|-------------------------------|
| Governmental-type Activities: | | | | |
| Computer Equipment | \$ 368,132 | \$ 48,984 | \$ - | \$ 417,116 |
| Furniture and Fixtures | 18,718 | - | (11,925) | 6,793 |
| Automotive | 546,118 | - | - | 546,118 |
| Total Capital Assets at Historical Cost | 932,968 | 48,984 | (11,925) | 970,027 |
| Less: Accumulated Depreciation | | | | |
| Computer Equipment | 146,976 | 59,367 | - | 206,343 |
| Furniture and Fixtures | 6,197 | 936 | (2,435) | 4,698 |
| Automotive | 351,950 | 29,073 | - | 381,023 |
| Total Accumulated Depreciation | 505,123 | 89,376 | (2,435) | 592,064 |
| Governmental Activities Capital Assets, Net | \$ 427,845 | \$ (40,392) | \$ (9,490) | \$ 377,963 |

NOTE 5: CAPITAL ASSETS CONT.

All Capital Assets listed above are being depreciated. The Office of Superintendent of Insurance does not have any Capital Assets that are not being depreciated, such as land.

Depreciation expense for the current year is \$86,941 for the governmental funds.

NOTE 6: PATIENTS' COMPENSATION FUND CLAIMS

The New Mexico Patients' Compensation Fund (PCF) serves a vital role in supporting the overall health of the medical professional liability insurance (MPLI) system in New Mexico. The PCF provides excess coverage that stabilizes the operating results of participating insurers and encourages competition which leads to greater availability and affordability of coverage. In New Mexico and other states, a competitive MPLI market tends to attract new physicians leading to greater access to care. The coverage provided by the PCF requires the use of an occurrence coverage form, preferred by healthcare providers, with limits that provide comprehensive coverage to ensure that injured patients receive appropriate compensation for their injuries. As a result, all stakeholders in the New Mexico healthcare system benefit in some way from a healthy PCF.

41-5-25(H) NMSA 1978 requires an independent actuarial study of the PCF not less than once every two years. The review examines several aspects of the PCF including analyses of indicated reserves for unpaid losses, appropriate assessment surcharges for upcoming policy periods, the impact of potential legislative changes and an examination of the competitive landscape for MPLI in New Mexico and surrounding areas.

The actuarial analysis was conducted by a third party on the Patient's Compensation Fund during fiscal year 2016. The results of this study are listed on the PCF's statement of net position for Patient's Compensation fund claims as long term claims payable. Per the independent actuarial analysis discounted claims existing at 12/31/2015 total \$66,400,000. This report may be obtained by writing to State of New Mexico Office of Superintendent of Insurance, PO Box 1689, Santa Fe, NM 87504-1689. It should be noted there are significant actuarial assumptions used in estimating potential liabilities, including the rate of return on investment and the number and cost of claims, among others. The differences in any of the assumptions and actual results may significantly change the potential liabilities. All claim liabilities are paid out of the Patients' Compensation Fund. The next statutorily required actuarial analysis of the PCF will occur in fiscal year 2018.

NOTE 7: SPECIAL APPROPRIATIONS

The following describes the status of special appropriations the Department received.

| Appropriation | Appropriation End Date | Current Year Revenue | Amount Appropriated | Current Year Expenditures | Project to Date Expenditures | Unexpended Portion |
|---|------------------------|----------------------|---------------------|---------------------------|------------------------------|--------------------|
| Laws of 2015, Chapter 101, Section 7 | 6/30/2017 | \$ - | \$ 1,250,000 | \$ 324,518 | \$ 740,732 | \$ 509,268 |
| Laws of 2015, Chapter 101, Section 5 | 6/30/2016 | \$ 100,000 | \$ 100,000 | \$ 98,000 | \$ 98,000 | \$ 2,000 |

Laws of 2015, Chapter 101, Section 7, Item 17 extended the appropriation to 6/30/17 originally established under Laws of 2013, Chapter 227, Section 7, item 13. The purpose of the appropriation is to migrate the insurance system and processes towards a paperless, web-based environment. The appropriation is from the assessments authorized by Section 59A-6-1-1, NMSA 1978 for an insurance division licensing and revenue accounting system. The appropriation was budgeted within the general operating fund 11690.

NOTE 7: SPECIAL APPROPRIATIONS (CONTINUED)

Laws of 2015, Chapter 101, Section 5, Item 27 extended the appropriation to 6/30/16 originally established under Laws of 2014, Chapter 63, Section 5, item 39. The purpose of the appropriation is to perform an audit of premium tax collections.

NOTE 8: CHANGES IN COMPENSATED ABSENCES

The changes in short-term liabilities for government type activities are as follows:

| Compensated Absences: | Balance | | | Balances Ending |
|-------------------------------------|-------------------|-------------------|---------------------|--------------------|
| | Beginning | Increases | Decreases | |
| Annual Leave | \$ 238,727 | \$ 327,432 | \$ (315,101) | \$ 251,058 |
| Compensatory Leave | 5,684 | 83,501 | (48,706) | 40,479 |
| Sick Leave | 4,226 | 1,888 | (4,200) | 1,914 |
| Total Short-Term Liabilities | \$ 248,637 | \$ 412,821 | \$ (368,007) | \$ 293,451 |

NOTE 9: DUE TO OTHER STATE AGENCIES – AGENCY FUND

The following are short-term amounts owed by the Insurance Suspense Agency Fund to other state agencies:

| <u>Fund Type</u> | <u>From</u> | <u>Amount</u> | <u>To</u> |
|-------------------|-------------------------|----------------------|----------------------|
| Agency Fund 11820 | Insurance Suspense Fund | \$ 56,784,243 | State General Fund |
| Agency Fund 11820 | Insurance Suspense Fund | 23,853,703 | Other State Agencies |
| Totals | | \$ 80,637,946 | |

NOTE 10: REVERSIONS

Unexpended and unencumbered cash balances of certain funds revert to the State General Fund at year-end. For certain funds, cash recoveries during the fiscal year from stale dated warrants and prior year reimbursements are also due to the State General Fund. Amounts due to the State General Fund for the year ending June 30, 2016 were paid in September 2016.

Current year reversions Due to the State General Fund as June 30, 2016:

| General Fund | SHARE | SHARE | Total |
|---|----------------------|----------------------|---------------------|
| | System Fund 11810 | System Fund 11690 | |
| Current Year: | | | |
| FY 15 Reversions | \$ 3,769,637 | \$ 281,173 | \$ 4,050,810 |
| Prior Year Reversions | 3,324,423 | - | \$ 3,324,423 |
| Total Reversions Due to the State General Fund | \$ 7,094,060 | \$ 281,173 | \$ 7,375,233 |

NOTE 11: OTHER FINANCING SOURCES AND USES

During the fiscal year, the Department transferred funds that were recorded as “Other Financing Sources/Uses”. The purpose of the transfers from the special revenue funds to the general fund were to comply with the allocated operating budget.

Other financing sources and uses consist of the following:

| | Transfers | |
|------------------------------------|---------------------|---------------------|
| | In | Out |
| Insurance Operating Fund | \$ 7,927,500 | \$ - |
| Insurance Operations Fund | - | 5,618,200 |
| Patients' Compensation Fund | - | 665,100 |
| Nonmajor governmental funds | | |
| Title Ins Maintenance Asses. Fund | - | 470,700 |
| Insurance Fraud Fund | - | 1,173,500 |
| Grand Total | <u>\$ 7,927,500</u> | <u>\$ 7,927,500</u> |

NOTE 12: OPERATING LEASE COMMITMENTS

The Department is obligated for the lease of mailing equipment, which is being accounted for as operating lease. Operating leases do not give rise to property rights or lease obligations; therefore, this lease agreement includes a cancellation clause and is contingent upon legislative appropriation.

Future minimum annual payments under the operating lease agreement for the mailing equipment are as follows:

| Year Ended June 30, | |
|------------------------------|---------------------|
| 2017 | \$ 191,770 |
| 2018 | 170,076 |
| 2019 | 169,660 |
| 2020 | 145,719 |
| 2021 | 128,505 |
| Subsequent Years | <u>257,969</u> |
| Total Minimum Lease Payments | <u>\$ 1,063,699</u> |

NOTE 13: RETIREMENT PLANS (STATE PERA)

Compliant with the requirements of Government Accounting Standards Board Statement No. 68, *Accounting and Financial Reporting for Pensions*, the State of New Mexico (the State) has implemented the standard for the fiscal year ending June 30, 2016.

The Office of Superintendent of Insurance, as part of the primary government of the State of New Mexico, is a contributing employer to a cost-sharing multiple employer defined benefit pension plan administered

NOTE 13: RETIREMENT PLANS (STATE PERA) (CONTINUED)

by the Public Employees Retirement Association (PERA). Overall, total pension liability exceeds Plan net position resulting in a Net pension liability. The State has determined the State's share of the net pension liability to be a liability of the State as a whole, rather than any agency or department of the State and will not be reported in the department or agency level financial statements of the State. All required disclosures will be presented in the Comprehensive Annual Financial Report (CAFR) of the State of New Mexico.

Information concerning the net pension liability, pension expense, and pension-related deferred inflows and outflows of resources of the primary government will be contained in the CAFR and will be available, when issued, from the Office of State Controller, Room 166, Bataan Memorial Building, 407 Galisteo Street, Santa Fe, New Mexico, 87501.

Plan Description: Substantially all of the Office's full-time employees participate in a public employee retirement system authorized under the Public Employees Retirement Act (Chapter 10, Article 11, NMSA 1978). The Public Employee's Retirement Association (PERA) is the administrator of the plan. The plan provides for retirement benefits, disability benefits, survivor benefits, and cost-of-living adjustments to plan members and beneficiaries. PERA issues a separate, publicly available financial report that includes financial statements and required supplementary information for the plan. That report may be obtained by writing to PERA, P.O. Box 2123, Santa Fe, NM 87504-2123. That report is also available on PERA's website at www.pera.state.nm.us.

Funding Policy: Plan members are required to contribute 8.92% of their gross salary. The Office is required to contribute 16.59% of the gross covered salary. The contribution requirements of the plan members and the Office are established in State statute under Chapter 10, Article 11, NMSA 1978. The requirements may be amended by act of the Legislature.

NOTE 14: POST-EMPLOYMENT BENEFITS – STATE RETIREE HEALTH CARE

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

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

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

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

NOTE 14: POST-EMPLOYMENT BENEFITS – STATE RETIREE HEALTH CARE CONT.
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 employer, employee and retiree contributions are required to be remitted to the RHCA on a monthly basis. The statutory requirements for the employer and employee contributions can be changed by the New Mexico State Legislature. Employers that choose to become participating employers after January 1, 1998, are required to make contributions to the RHCA fund in the amount determined to be appropriate by the board.

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. For employees that were members of an enhanced retirement plan (state police and adult correctional officer member coverage plan 1; municipal police member coverage plans 3, 4 or 5; municipal fire member coverage plan 3, 4 or 5; municipal detention officer member coverage plan 1; and members pursuant to the Judicial Retirement Act) during the fiscal year ended June 30, 2016, the statutes required each participating employer to contribute 2.5% of each participating employee's annual salary; and each participating employee was required to contribute 1.25% of their salary. For employees that were not members of an enhanced retirement plan during the fiscal year ended June 30, 2016, the statute required each participating employer to contribute 2.0% of each participating employee's annual salary; each participating employee was required to contribute 1.0% of their salary. In addition, pursuant to Section 10-7C-15(G) NMSA 1978, at the first session of the Legislature following July 1, 2013, the legislature shall review and adjust the distributions pursuant to Section 7-1-6.1 NMSA 1978 and the employer and employee contributions to the authority in order to ensure the actuarial soundness of the benefits provided under the Retiree Health Care Act. The Office of Superintendent of Insurance's contributions to the RHCA for the years ended June 30, 2016 and 2015 were \$97,168 and \$80,197, respectively, which equal the required contributions for each year.

NOTE 15: FUND BALANCE

Government Fund Balances - Restricted and Committed

The OSI's fund balances represent: (1) *Restricted Fund Balance*, which include balances that are legally restricted for specific purposes due to constraints that are externally imposed by creditors, grantors, contributors, or laws or regulations of other government or imposed by law through constitutional provisions or enabling legislation; (2) *Committed Fund Balance*, which include balances that can only be used for specific purposes pursuant to constraints imposed by formal action of the Legislative and Executive branches; (3) *Non-Spendable Fund Balance*, which includes amounts that cannot be spent because they are either (a) not in spendable form or (b) legally or contractually required to be maintained intact; (4) *Unassigned Fund Balance*, which includes a portion of fund balance that is residual classification for the general fund. This classification represents fund balance that has not been assigned to other funds and that has not been restricted, committed, or assigned to specific purposes within the general fund. Committed, assigned, or unassigned amounts are considered to have been spent when an expenditure is incurred for purposes for which amount in any of the unrestricted fund balance classification could be used.

NOTE 15: FUND BALANCE (CONTINUED)

The following is a summary of the Restricted Fund Balance amounts by fund type at June 30, 2016:

| | |
|---|---------------------|
| Governmental Funds | |
| Major Governmental Funds: | |
| General Operating Fund (11690) | \$ 2,207,744 |
| Insurance Operations Fund (11810) | 2,809,100 |
| Nonmajor Governmental Funds: | |
| Insurance Licensee Cont. Educ. Fund (11830) | 1,213,708 |
| Insurance Examinations Fund (11840) | 1,387 |
| Title Ins. Maintenance Assess Fund (11860) | 528,842 |
| Insurance Fraud Fund (11880) | <u>1,189,278</u> |
| | <u>\$ 7,950,059</u> |

The OSI has a portion of fund balance in the amount of \$34,072 that is Non-spendable. This amount consists of prepaid expenses.

NOTE 16: GENERAL FUND INVESTMENT POOL NOT RECONCILED

Compliant with statute 6-10-3 (NMSA 1978), and to optimize state cash management and investment practices, funds of various state agencies are deposited in the State General Fund Investment Pool (SGFIP). This pool is managed by the New Mexico State Treasurer's office (STO). Claims on the SGFIP are reported as financial assets by the various investing in the SGFIP.

As communicated last year, the Financial Control Division (FCD) in collaboration with the State Treasurer's Office, implemented a comprehensive reconciliation model that compared aggregated agency claims on the State General Fund Investment Pool and to the associated resources held by the State Treasurer's Office. This process now has been reviewed by the IPAs performing audits of the General Fund, the Department of Finance and Administration and the State of New Mexico's Comprehensive Annual Financial Report for fiscal year 2015. Each review of the process deemed it to be adequate and the findings related to Cash Reconciliation were significantly reduced or eliminated. Successfully addressing this issue allowed the Department to reinstate \$100M that had been reserved as a loss contingency. For FY 2016 the following assertions are provided,

1. The calculated difference between resources maintained by STO and the agency claims has remained stable and within a narrow and acceptable range « \$200k standard deviation over the last twelve months;
2. Resources are sufficient to cover claims and there is no need to adjust any specific business unit claim on the SGFIP
3. All claims will be honored at face value.

NOTE 17: NEW ACCOUNTING STANDARDS

In February 2015, the GASB issued Statement No. 72, *Fair Value Measurement and Application*, which is effective for financial statements for periods beginning after June 15, 2015. Earlier application is encouraged. The OSI has reviewed this standard and its impact on financial reporting. The OSI has investments belonging to the Patient's Compensation Fund. However the primary purpose of these investments are to pay claims, and not to earn income. Therefore, for the year ending June 30, 2016, these funds do not constitute investments for the purposes of GASB 72 measurement and application.

In June 2015, the GASB issued Statement No. 73, *Accounting and Financial Reporting for Pensions and Related Assets That Are Not within the Scope of GASB Statement 68, and Amendments to Certain Provisions of GASB Statements 67 and 68*. The provisions of this Statement are effective for financial statements for periods beginning after June 15, 2016. The OSI is still evaluating how this pronouncement will affect the agency.

In June 2015, the GASB issued Statement No. 74, *Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans*, which is effective for financial statements for fiscal years beginning after June 15, 2016. The OSI is still evaluating how this pronouncement will affect the agency.

In June 2015, the GASB issued Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*, which is effective for fiscal years beginning after June 15, 2017. The standard will be implemented during the fiscal year ended June 30, 2018. The OSI is still evaluating how this pronouncement will affect the agency.

GASB Statement No. 76 is *The Hierarchy of Generally Accepted Accounting Principles for State and Local Governments*. The objective of this Statement is to identify, in the context of the current governmental financial reporting environment, the hierarchy of generally accepted accounting principles (GAAP). This statement reduces the GAAP hierarchy to two categories of authoritative GAAP and address the use of authoritative and non-authoritative literature in the event that the accounting treatment for a transaction or other event is not specified within a source of authoritative GAAP. This statement will not have a material impact on the Office's financial statements.

In August 2015, GASB issued Statement No. 77, *Tax Abatement Disclosures*, which are effective for financial statements for periods beginning after December 15, 2015. Earlier application is encouraged. The OSI will implement this standard during the fiscal year ended June 30, 2017. The OSI is still evaluating how this pronouncement will affect the financial statements.

NOTE 18: RISK MANAGEMENT, LITIGATION AND CONTINGENT LIABILITIES

The OSI is exposed to various risks of losses related to torts; theft of, and damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. Section 15-7-2 NMSA 1978 requires the General Services Department, Risk Management Division (RMD) to be responsible for the acquisition and administration of all insurance purchased by the state. Since 1977, various state statutes have been created which allow RMD to insure, self-insure or use a combination of both. Any claims are processed through RMD.

OSI is party to various claims and lawsuits arising in the normal course of business for the Patient's Compensation Fund (PCF) and Ancillary Receiverships. The PCF financial statements include an actuarial estimate of claims existing at 12/31/2015. Amounts administered through ancillary receivership are paid from funds in custody of the Superintendent pursuant to the Insurance Code. OSI is a party to the Willis Asset Management Receivership litigation and anticipates settling outstanding claims in the amount of \$140,000 with proceeds from the defendant's liquidated assets. In the opinion of management these matters will not have a material effect on the financial statements.

NOTE 19: SUBSEQUENT EVENTS

Premium Taxes Owed to the State of New Mexico

On September 20, 2016 the State Auditor released the “Review of Procedures over Premium Tax Collection Processes” report. This report is the result of special engagement funded by Subsection 39 of Section 5 of Chapter 63 of Laws 2014 for the audit of premium tax collections. This engagement has been commonly referred to as the “premium tax audit”. The objectives of this engagement and specific procedures performed can be found at:

www.saonm.org/media/audits/440_Office_of_the_Superintendent_of_Insurance_Tax_Collection_Sept_2016.pdf

This report identified \$193,977,826 of under collected/underreported premium taxes. This amount is based on the recalculation of 26% of the premium tax collected between 2010 and 2015. This amount was not known to OSI at June 30th therefore this amount is not included as a receivable in the financial statements. Also, the exact amount of all the under collected/underreported premium tax is not known. There may be tax assessments, penalties, refunds or credits related to the original 26% sample that change this final amount. There may also be tax assessments, penalties, refund or credits related to the remaining premium tax population that are unknown at this time. OSI is in the process of reviewing all premium taxes and has not yet provided an estimate for a total amount. Any premium taxes owed as of June 30th as a result of this engagement would be included in agency funds as they are amounts collected on behalf of the state general fund and other state funds.

As of the report date a second premium tax audit is under consideration by all affected parties to determine the full extent of premium taxes owed to the State of New Mexico.

NOTE 20: MEMORANDUM OF UNDERSTANDING (MOU) DISCLOSURE

2016 Financial Audit – MOU between the OSI and the Office of the State Auditor (OSA) to perform the 2016 Financial and Compliance Audit.

- Responsible Party for Operations: OSI / OSA
- Time Period: August 11, 2016 – August 11, 2017
- Total Estimated Amount of Project and portion applicable to OSI: \$85,000
- Amount Agency Contributed in Fiscal Year 2016: \$-0-
- Audit Responsibility: OSI / OSA
- Revenue Reported: OSA
- Expenditure Reported: OSI

Representation for Collective Bargaining Issues – MOU between the OSI, Multiple Agencies and the State Personnel Office (SPO) to provide representation during collective bargaining negotiations.

- Responsible Party for Operations: OSI / SPO
- Time Period: September 22, 2014 – Indefinite
- Total Estimated Amount of Project and portion applicable to OSI: \$338.64
- Amount Agency Contributed in Fiscal Year 2016: \$338.64
- Audit Responsibility: OSI / SPO
- Revenue Reported: SPO
- Expenditure Reported: OSI

NOTE 20: MEMORANDUM OF UNDERSTANDING (MOU) DISCLOSURE CONT.

Human Resource Management – MOU between the OSI and the State Personnel Office (SPO) to provide human resource management services for fiscal year 2016.

- Responsible Party for Operations: OSI / SPO
- Time Period: July 1, 2015 – January 30, 2016
- Total Estimated Amount of Project and portion applicable to OSI: \$87,600
- Amount Agency Contributed in Fiscal Year 2015: \$51,100
- Audit Responsibility: OSI / SPO
- Revenue Reported: SPO
- Expenditure Reported: OSI

Implementation Assistance of the Affordable Care Act – MOU between the OSI and the New Mexico Health Insurance Exchange (NMHIX) to provide a mechanism to support regulatory and quasi-regulatory activities carried out by the OSI in support of the NMHIX and the New Mexico's implementation of the Affordable Care Act with funds received by the NMHIX.

- Responsible Party for Operations: OSI / NMIX
- Time Period: March 14, 2014 – December 31, 2019
- Total Estimated Amount of Project and portion applicable to OSI: \$2,445,000.00
- Amount Agency Contributed in Fiscal Year 2016: \$-0-
- Audit Responsibility: OSI / NMIX
- Revenue Reported: OSI
- Expenditure Reported: OSI

Geographic Information System Project – Collaboration between the OSI and the University of New Mexico (UNM) Earth Data Analysis Center (EDAC) to provide the planning and development of a Geographic Information System (GIS) prototype project.

- Responsible Party for Operations: OSI / UNM
- Time Period: January 20, 2015 – December 31, 2016
- Total Estimated Amount of Project and portion applicable to OSI: \$64,668
- Amount Agency Contributed in Fiscal Year 2016: \$-0-
- Audit Responsibility: OSI / UNM
- Revenue Reported: UNM
- Expenditure Reported: OSI

Background and Criminal Identification System – User agreement between the OSI and the Department of Public Safety (DPS) to obtain criminal history record information.

- Responsible Party for Operations: OSI / DPS
- Time Period: January 14, 2014 – November 5, 2016
- Total Estimated Amount of Project and portion applicable to OSI: \$-0-
- Amount Agency Contributed in Fiscal Year 2016: \$-0-
- Audit Responsibility: OSI / DPS
- Revenue Reported: Agreement only, no funds transferred
- Expenditure Reported: Agreement only, no funds transferred

Occupancy and Space Assignment – Agreement between the OSI and the General Services Department (GSD) to use the designated premises as office space for OSI's staff and contractors to carry out its statutory responsibilities.

- Responsible Party for Operations: OSI / GSD
- Time Period: November 13, 2013 – Indefinite
- Total Estimated Amount of Project and portion applicable to OSI: \$-0-
- Amount Agency Contributed in Fiscal Year 2016: \$-0-
- Audit Responsibility: OSI / GSD
- Revenue Reported: Agreement only, no funds transferred
- Expenditure Reported: Agreement only, no funds transferred

NOTE 21: NET POSITION RESTATEMENT

The OSI made a prior period adjustment in order to reclassify the Patient's Compensation Fund (PCF) from Governmental Funds to Fiduciary Funds. The prior period affected the financial statements as follows:

- The Patient's Compensation Fund Balance of \$48,908,412 was removed from the Statement of Revenues, Expenditures and Changes in Fund Balances of Governmental Funds. This amount is now shown as the beginning net position held in trust for claims on the Statement of Changes in Net Position Held in Trust for PCF claims.
- The Patient's Compensation Fund Claim Liabilities of \$56,371,461 were removed from the Government Wide Statement of Net Position. Instead, this amount is now deducted from the adjusted beginning net position held in trust for claims on the Statement of Changes in Net Position Held in Trust for PCF claims. The restated beginning net position held in trust for claims is now \$7,463,049.
- The restated beginning net position held in trust for PCF claims of \$7,463,049 was added back to the Government Wide Statement of Activities.

Historically, the assets and long term liability for the PCF were both reflected on the Government-Wide Statements. However, only the assets of the fund were presented on the Balance Sheet of Governmental Funds due to the nature of the estimated existing claims. Now, all activity for the PCF can be reviewed on the Statement of Net Position Held in Trust for PCF Claims, and on the Statement of Changes in Net Position Held in Trust for PCF claims.

NOTE 22: TRUST FUND FOR THE BENEFIT OF POLICY HOLDERS AND CREDITORS

59A-5-18 NMSA 1978 requires insurance companies transacting business in New Mexico to make deposits held in trust for the benefit of all policy holders and creditors. This deposit is the 'general deposit'. 59A-5-19 NMSA 1978 requires insurance companies transacting business in New Mexico to make deposits held in trust for the benefit only of all the policy holders and creditors in this state. This is the 'special deposit'. These general and special deposits, in addition to cash held for ancillary receiverships, are referred to as the "trust fund". The current custodian of the securities contained in the trust fund and of the ancillary receivership cash accounts is Century Bank of Santa Fe.

Deposits eligible for the trust fund include securities outlined in 59A-10-3 NMSA 1978, with further references to 59A-9-6 and 59A-9-8. The required amounts of the deposits are detailed in 59A-5-16. As long as insurers remain solvent OSI is acting in a fiduciary capacity. Insurer's rights during solvency are outlined in 59A-10-7 and include the right to all income generated by their deposits. 59A-41-18 NMSA 1978 governs the conduct of delinquency proceedings against insurers and provides for ancillary receivership.

SHARE fund 11870 has been established for the trust fund. During FY 2016 none of the transactions for the trust fund were processed through SHARE. The only items reflected on the trust fund fiduciary financial statements are the balances of the ancillary receivership bank accounts and general and special deposits as of June 30, 2016.

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
NON MAJOR GOVERNMENTAL FUNDS
June 30, 2016

INSURANCE EXAMINATION FUND (SHARE Fund 11840): To account for funds received from insurance companies and insurance agencies which have been financially audited and examined for financial solvency. Remuneration and expenses of salaried personnel of the Insurance Department serving in the examination shall be paid to the Superintendent pursuant to Section 59A-4-14 NMSA 1978 and all money in excess of \$20k remaining in the fund and unencumbered at fiscal year end reverts to the general fund.

INSURANCE LICENSEE CONTINUING EDUCATION FUND (SHARE Fund 11830): To account for funds received and expended for the purpose of administering the continuing education program pursuant to the provision of Section 59A-12-26 NMSA 1978. The fund is non-reverting.

TITLE INSURANCE MAINTENANCE FUND (SHARE Fund 11860): To account for fees relating to the New Mexico Title Insurance Law pursuant to 59A-30-1 through 59A-30-14 NMSA 1978. The maintenance fee is not greater than 1% of all title insurance premiums written in New Mexico. This rate is set annually and is set to produce the amount of funds necessary to pay all expenses of regulating the business of title insurance, including the compensation and expenses of salaried personnel and consultants employed by the office.

INSURANCE FRAUD FUND (SHARE Fund 11880): To account for fees collected under the provisions of the Insurance Fraud Act pursuant to 59A-16C-14 NMSA 1978. This fee is not less than \$200 and is not greater than 1/10th of 1% of all premiums on policies written in New Mexico. Direct written premiums for workers compensation are excluded from calculations for this fund. The fee for title insurers is determined per 59A-30-8 NMSA 1978. This fee is set annually to produce the amount of funds estimated as necessary to pay all expenses of carrying out the provisions of the Insurance Fraud Act. This is a continuing and non-reverting fund.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
COMBINING BALANCE SHEET
NONMAJOR GOVERNMENTAL FUNDS
June 30, 2016**

| | <u>Insurance Examination Fund-11840</u> | <u>Insurance Licensee Continuing Education -11830</u> | <u>Title Insurance Maintenance- 11860</u> | <u>Insurance Fraud - 11880</u> | <u>Total Governmental Funds</u> |
|--------------------------------------|---|---|---|------------------------------------|---|
| ASSETS | | | | | |
| State General Fund Investment Pool | \$ 1,387 | \$ 1,213,708 | \$ 528,841 | \$ 1,189,278 | \$ 2,933,214 |
| Investments | - | - | - | - | - |
| Federal Grants Receivable | - | - | - | - | - |
| Due from Other Funds | - | - | - | - | - |
| Due from Other State Agencies | - | - | - | - | - |
| Inventories | - | - | - | - | - |
| Prepaid Expenses | - | - | - | - | - |
| Total Assets | <u>\$ 1,387</u> | <u>\$ 1,213,708</u> | <u>\$ 528,841</u> | <u>\$ 1,189,278</u> | <u>\$ 2,933,214</u> |
| LIABILITIES AND FUND BALANCES | | | | | |
| Liabilities: | | | | | |
| Voucher Payable | \$ - | \$ - | \$ - | \$ - | \$ - |
| Payroll Benefits & Taxes Payable | - | - | - | - | - |
| Accrued Wages Payable | - | - | - | - | - |
| Due to Other Funds | - | - | - | - | - |
| Due to State General Fund | - | - | - | - | - |
| Other Liabilities | - | - | - | - | - |
| Due to Other State Agencies | - | - | - | - | - |
| Total Liabilities | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> |
| Fund balances: | | | | | |
| Nonspendable: | | | | | |
| Prepaid Expenses | - | - | - | - | - |
| Restricted for: | | | | | |
| Special Purposes | 1,387 | 1,213,708 | 528,841 | 1,189,278 | 2,933,214 |
| Total Fund Balances | <u>1,387</u> | <u>1,213,708</u> | <u>528,841</u> | <u>1,189,278</u> | <u>2,933,214</u> |
| Total Liabilities and Fund Balances | <u>\$ 1,387</u> | <u>\$ 1,213,708</u> | <u>\$ 528,841</u> | <u>\$ 1,189,278</u> | <u>\$ 2,933,214</u> |

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
COMBINING STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND
BALANCES
NONMAJOR GOVERNMENTAL FUNDS
For the Year Ending June 30, 2016

| | <u>Insurance Examination Fund-11840</u> | <u>Insurance Licensee Continuing Education -11830</u> | <u>Title Insurance Maintenance- 11860</u> | <u>Insurance Fraud - 11880</u> | <u>Total-Other Governmental Funds</u> |
|--|---|---|---|------------------------------------|---|
| REVENUES | | | | | |
| Insurance Tax | \$ - | \$ - | \$ - | \$ 1,528,883 | \$ 1,528,883 |
| Investment Earnings | - | - | - | - | - |
| Special Appropriation | - | - | - | - | - |
| Intergovernmental | - | - | - | - | - |
| Miscellaneous | - | - | - | - | - |
| Federal Revenue | - | - | - | - | - |
| Other Fees | - | 94,104 | 650,000 | - | 744,104 |
| Total Revenues | <u>-</u> | <u>94,104</u> | <u>650,000</u> | <u>1,528,883</u> | <u>2,272,987</u> |
| EXPENDITURES | | | | | |
| Personnel Services & Employee Benefits | - | - | - | - | - |
| Contractual Services | - | - | - | - | - |
| Other | - | - | - | - | - |
| Capital Outlay | - | - | - | - | - |
| Total Expenditures | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> |
| Excess (Deficiency) of Revenues Over Expenditu | <u>-</u> | <u>94,104</u> | <u>650,000</u> | <u>1,528,883</u> | <u>2,272,987</u> |
| OTHER FINANCING SOURCES (USES) | | | | | |
| Operating Transfers In | - | - | - | - | - |
| Operating Transfers Out | - | - | (470,700) | (1,173,500) | (1,644,200) |
| Total Other Financing Sources and Uses | <u>-</u> | <u>-</u> | <u>(470,700)</u> | <u>(1,173,500)</u> | <u>(1,644,200)</u> |
| Net Change in Fund Balances | <u>-</u> | <u>94,104</u> | <u>179,300</u> | <u>355,383</u> | <u>628,787</u> |
| Fund Balances - beginning | 1,387 | 1,119,604 | 349,542 | 833,895 | 2,304,428 |
| Fund Balances - ending | <u>\$ 1,387</u> | <u>\$ 1,213,708</u> | <u>\$ 528,842</u> | <u>\$ 1,189,278</u> | <u>\$ 2,933,215</u> |

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE -
BUDGET AND ACTUAL
INSURANCE EXAMINATION FUND - 11840
For the Year Ending June 30, 2016

| | <u>Budgeted Amounts</u> | | <u>Actual Amounts</u> | <u>Variance with</u> |
|---|-------------------------|--------------|------------------------|---|
| | <u>Original</u> | <u>Final</u> | <u>Budgetary Basis</u> | <u>Final Budget -</u> <u>Positive</u> <u>(Negative)</u> |
| REVENUES | | | | |
| Insurance Tax | \$ - | \$ - | \$ - | \$ - |
| Investment Earnings | - | - | - | - |
| Special Appropriation | - | - | - | - |
| Intergovernmental | - | - | - | - |
| Miscellaneous | - | - | - | - |
| Federal Revenue | - | - | - | - |
| Other Fees | - | - | - | - |
| Total Revenues | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> |
| EXPENDITURES | | | | |
| Personnel Services & Employee Benefits | - | - | - | - |
| Contractual Services | - | - | - | - |
| Other | - | - | - | - |
| Total Expenditures | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> |
| Excess (Deficiency) of Revenues Over Expenditures | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> |
| OTHER FINANCING SOURCES (USES) | | | | |
| Transfers In | - | - | - | - |
| Transfers Out | - | - | - | - |
| Total Other Financing Sources and Uses | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> |
| Net Change in Fund Balances | - | - | - | - |
| Fund Balances - beginning | <u>-</u> | <u>-</u> | <u>1,387</u> | <u>(1,387)</u> |
| Fund Balances - ending | <u>\$ -</u> | <u>\$ -</u> | <u>\$ 1,387</u> | <u>\$ (1,387)</u> |

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE -
BUDGET AND ACTUAL
INSURANCE LICENSEE CONTINUING EDU. FUND - 11830
For the Year Ending June 30, 2016

| | <u>Budgeted Amounts</u> | | <u>Actual Amounts</u> | <u>Variance with</u> |
|---|-------------------------|--------------|------------------------|---|
| | <u>Original</u> | <u>Final</u> | <u>Budgetary Basis</u> | <u>Final Budget -</u> <u>Positive</u> <u>(Negative)</u> |
| REVENUES | | | | |
| Insurance Tax | \$ - | \$ - | \$ - | \$ - |
| Investment Earnings | - | - | - | - |
| Special Appropriation | - | - | - | - |
| Intergovernmental | - | - | - | - |
| Miscellaneous | - | - | - | - |
| Federal Revenue | - | - | - | - |
| Other Fees | - | - | 94,104 | 94,104 |
| Total Revenues | <u>-</u> | <u>-</u> | <u>94,104</u> | <u>94,104</u> |
| EXPENDITURES | | | | |
| Personnel Services & Employee Benefits | - | - | - | - |
| Contractual Services | - | - | - | - |
| Other | - | - | - | - |
| Total Expenditures | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> |
| Excess (Deficiency) of Revenues Over Expenditures | <u>-</u> | <u>-</u> | <u>94,104</u> | <u>94,104</u> |
| OTHER FINANCING SOURCES (USES) | | | | |
| Transfers In | - | - | - | - |
| Transfers Out | - | - | - | - |
| Total Other Financing Sources and Uses | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> |
| Net Change in Fund Balances | - | - | 94,104 | (94,104) |
| Fund Balances - beginning | - | - | 1,119,604 | (1,119,604) |
| Fund Balances - ending | <u>\$ -</u> | <u>\$ -</u> | <u>\$ 1,213,708</u> | <u>\$ (1,213,708)</u> |

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE -
BUDGET AND ACTUAL
TITLE INSURANCE MAINTENANCE FUND - 11860
For the Year Ending June 30, 2016

| | <u>Budgeted Amounts</u> | | <u>Actual Amounts</u> | <u>Variance with</u> |
|---|-------------------------|------------------|------------------------|-----------------------|
| | <u>Original</u> | <u>Final</u> | <u>Budgetary Basis</u> | <u>Final Budget -</u> |
| | | | | <u>Positive</u> |
| | | | | <u>(Negative)</u> |
| REVENUES | | | | |
| Insurance Tax | \$ - | \$ - | \$ - | \$ - |
| Investment Earnings | - | - | - | - |
| Special Appropriation | - | - | - | - |
| Intergovernmental | - | - | - | - |
| Miscellaneous | - | - | - | - |
| Federal Revenue | - | - | - | - |
| Other Fees | 619,700 | 449,000 | 650,000 | 201,000 |
| Total Revenues | <u>619,700</u> | <u>449,000</u> | <u>650,000</u> | <u>201,000</u> |
| EXPENDITURES | | | | |
| Personnel Services & Employee Benefits | - | - | - | - |
| Contractual Services | - | - | - | - |
| Other | - | - | - | - |
| Total Expenditures | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> |
| Excess (Deficiency) of Revenues Over Expenditures | <u>619,700</u> | <u>449,000</u> | <u>650,000</u> | <u>201,000</u> |
| OTHER FINANCING SOURCES (USES) | | | | |
| Transfers In | - | - | - | - |
| Transfers Out | (619,700) | (449,000) | (470,700) | 21,700 |
| Total Other Financing Sources and Uses | <u>(619,700)</u> | <u>(449,000)</u> | <u>(470,700)</u> | <u>21,700</u> |
| Net Change in Fund Balances | - | - | 179,300 | (179,300) |
| Fund Balances - beginning | - | - | 349,542 | (349,542) |
| Fund Balances - ending | <u>\$ -</u> | <u>\$ -</u> | <u>\$ 528,842</u> | <u>\$ (528,842)</u> |

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE -
BUDGET AND ACTUAL
INSURANCE FRAUD FUND - 11880
For the Year Ending June 30, 2016

| | <u>Budgeted Amounts</u> | | <u>Actual Amounts</u> | <u>Variance with</u> |
|---|-------------------------|---------------------|------------------------|-----------------------|
| | <u>Original</u> | <u>Final</u> | <u>Budgetary Basis</u> | <u>Final Budget -</u> |
| | | | | <u>Positive</u> |
| | | | | <u>(Negative)</u> |
| REVENUES | | | | |
| Insurance Tax | \$ 1,473,500 | \$ 1,473,500 | \$ 1,528,883 | \$ 55,383 |
| Investment Earnings | - | - | - | - |
| Special Appropriation | - | - | - | - |
| Intergovernmental | - | - | - | - |
| Miscellaneous | - | - | - | - |
| Federal Revenue | - | - | - | - |
| Other Fees | - | - | - | - |
| Total Revenues | <u>1,473,500</u> | <u>1,473,500</u> | <u>1,528,883</u> | <u>55,383</u> |
| EXPENDITURES | | | | |
| Personnel Services & Employee Benefits | - | - | - | - |
| Contractual Services | - | - | - | - |
| Other | - | - | - | - |
| Total Expenditures | <u>-</u> | <u>-</u> | <u>-</u> | <u>-</u> |
| Excess (Deficiency) of Revenues Over Expenditures | <u>1,473,500</u> | <u>1,473,500</u> | <u>1,528,883</u> | <u>55,383</u> |
| OTHER FINANCING SOURCES (USES) | | | | |
| Transfers In | - | - | - | - |
| Transfers Out | (1,473,500) | (1,173,500) | (1,173,500) | - |
| Total Other Financing Sources and Uses | <u>(1,473,500)</u> | <u>(1,173,500)</u> | <u>(1,173,500)</u> | <u>-</u> |
| Net Change in Fund Balances | - | 300,000 | 355,383 | (55,383) |
| Fund Balances - beginning | 833,895 | 833,895 | 833,895 | - |
| Fund Balances - ending | <u>\$ 833,895</u> | <u>\$ 1,133,895</u> | <u>\$ 1,189,278</u> | <u>\$ (55,383)</u> |

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
AGENCY FUND – INSURANCE SUSPENSE FUND
June 30, 2016

The Insurance Suspense Fund #11820 is an agency fund where receipts are collected by, and in the custody of, the Office but are either actually owned by other entities, or pending credit to the Insurance Operations Fund. Per the Insurance Code all money received for fee, licenses, penalties and taxes, except for the amounts directed to the Law Enforcement Protection Fund (LEPF) per 29-13-3 NMSA 1978, are initially deposited into the Insurance Suspense Fund. All the fees that are ultimately credited to the OSI's own Insurance Operations Fund pass through this fund. The primary other entities the Office collects revenues for are the State General Fund, the State Fire fund and the Law Enforcement Protection Fund. Refunds owed back to insurers are also paid from this agency fund. Since the amounts reflected in this fund are the amounts that are actually held in an agency capacity for others OSI does not measure actual operations. Instead amounts in the Suspense are reflected as assets and liabilities.

Amounts in the Suspense Fund are distributed as follows:

Fire Protection Fund: Per 59A-6-5E(1) NMSA 1978, That part of the balance (of fees licenses, penalties and taxes) derived from property and vehicle insurance business.

Other States: Per 59A-6-5C NMSA 1978, Allocation of premiums collected pursuant to 59A-14-12 to other states.

Refunds: 59A-6-5B NMSA 1978, Refunds of amounts erroneously paid as fees, licenses, penalties and taxes.

Insurance Operations Fund: Per 59A-6-5D NMSA 1978, amounts owed to the Insurance Operations Fund are determined as follows:

Fees imposed by 59A-6-1 Subsection A&E, net of fees owed to LEPF
Less Fees derived from property and vehicle insurance business
Equals Amounts remitted to the Insurance Operations Fund

State General Fund: Per 59A-6-5E(3) NMSA 1978, Suspense fund balances remaining from all other insurance business are disbursed to the state general fund.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
STATEMENT OF CHANGES IN
FIDUCIARY ASSETS AND LIABILITIES - AGENCY FUNDS
JUNE 30, 2016**

| | Balance 7/1/2015 | Additions | (Deletions) | Balance 6/30/2016 |
|--|-----------------------------|--------------------------|--------------------------|------------------------------|
| ASSETS | | | | |
| Investments, State Treasurer Investment Pool | \$ 4,387,435.00 | \$ 244,012,149.53 | \$ 238,196,517.53 | \$10,203,067.00 |
| Other Receivables | 72,401,504 | 73,815,203 | 72,401,504 | 73,815,203 |
| Total Assets | <u>76,788,939</u> | <u>317,827,353</u> | <u>310,598,022</u> | <u>84,018,270</u> |
| LIABILITIES | | | | |
| Due To Insurance Operations Fund | 772,183 | 11,744,725 | 11,819,185 | 697,723 |
| Due To Other State Agencies | 23,152,201 | 99,469,573 | 98,768,071 | 23,853,703 |
| Due To State General Fund | 50,485,817 | 206,309,192 | 200,010,766 | 56,784,243 |
| State Dated Wts. | 0 | 46,488 | 0 | 46,488 |
| Undistributed Receipts | 2,273,851 | 0 | 0 | 2,273,851 |
| Other Liabilities | 104,887 | 257,375 | 0 | 362,262 |
| Total Liabilities | <u>\$76,788,939.00</u> | <u>\$ 317,827,352.53</u> | <u>\$ 310,598,021.53</u> | <u>\$84,018,270.00</u> |

STATE OF NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE
SCHEDULE OF VENDOR INFORMATION FOR PURCHASES EXCEEDING \$60,000

| <i>RFB#/RFP# (If applicable)</i> | <i>Type of Procurement</i> | <i>Vendor Name</i> | <i>Did Vendor Win Contract?</i> | <i>\$ Amount of Awarded Contract</i> | <i>\$ Amount of Amended Contract</i> | <i>Physical address of vendor (City, State)</i> | <i>Did the Vendor provide documentation of eligibility for in-state preference?</i> | <i>Did the Vendor provide documentation of eligibility for veterans' preference?</i> | <i>Brief Description of the Scope of Work</i> |
|----------------------------------|----------------------------|--------------------|---------------------------------|--------------------------------------|--------------------------------------|--|---|--|---|
| RFP 60-440-16-00047 | Competitive (RFP or RFB) | Century Bank | Winner | NO COST TO NM | | Bernadette M. Rodriguez, Vice-President and Trust Dept Manager 100 South Federal Place, SF, NM 87501 | Yes | No | Custodian to act as depository |

**Office of Superintendent of Insurance
Schedule of Expenditures of Federal Awards
For the Year Ending June 30, 2016**

| Federal Grantor / Pass-Through Grantor / Program or Cluster Title | Federal CFDA Number | Pass-Through Entity Identifying Number | Federal Expenditure s |
|--|------------------------------------|---|--------------------------------------|
| Department of Health and Human Services | | | |
| Direct Programs: | | | |
| Health Insurance Rate Review Cycle II | 93.511 | None | \$ 1,214,065 |
| Affordable Care Act Consumer Assistance Program | 93.519 | None | 74,933 |
| Total Department of Health and Human Services | | | <u>1,288,998</u> |
| | | | |
| Total Expenditures of Federal Awards | | | <u><u>\$ 1,288,998</u></u> |

**Office of Superintendent of Insurance
Schedule of Expenditures of Federal Awards
For the Year Ending June 30, 2016**

Note to the Schedule of Expenditures of Federal Awards

1. Basis of Presentation

The accompanying Schedule of Expenditures of Federal Awards (Schedule) includes the federal grant activity of Office of Superintendent of Insurance and is presented on the modified accrual basis of accounting. The information in this Schedule is presented in accordance with the requirements of Title 2 U.S. Code of Federal Regulations, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Therefore, some amounts presented in this schedule may differ from amounts, presented in, or used in the preparation of the financial statements.

2. Sub-recipients

The Office of Superintendent of Insurance did not provide any federal awards to subrecipients during the fiscal year.

3. Non Cash Federal Assistance

The Office of Superintendent of Insurance did not receive any non cash federal assistance.

4. Indirect Cost Rate

The Office of Superintendent of Insurance has elected not to use the 10 percent de minimus indirect cost rate allowed under Uniform Guidance.

5. Matching

Matching costs (Office of the Superintendent's share of certain program cost) are not included in the reported expenditures. The basis of accounting varies by federal program consistent with the underlying regulations pertaining to each program. The amounts reported as federal expenditures were obtained from the federal financial reports for the applicable program and periods. The amounts reported in these reports are prepared from records maintained for each program, which are reconciled with the Office's financial reporting system.

6. Insurance

No insurance is carried specifically to cover equipment purchased with federal funds. Any equipment purchased with federal funds has only a nominal value, and is covered by the Office of the Superintendent of Insurance casualty insurance policies.

7. Loan or Loan Guarantees

There were no loans or loan guarantees outstanding at year-end.

Reconciliation of Schedule of Expenditures of Federal Awards to Financial Statements:

| | |
|--|---------------------------|
| Total federal awards expended per Schedule of Expenditures of Federal Awards | \$ 1,288,998 |
| Total Expenditures funded by other sources | \$ 8,398,595 |
| Total Expenditures | <u><u>\$9,687,593</u></u> |

Timothy M. Keller
State Auditor



Sanjay Bhakta, CPA, CGFM, CFE, CGMA
Deputy State Auditor

State of New Mexico
OFFICE OF THE STATE AUDITOR

**INDEPENDENT AUDITOR'S 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. John G. Franchini, Superintendent of Insurance
Office of Superintendent of Insurance
Santa Fe, New Mexico

We were engaged to audit, in accordance with the 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, the financial statements of the governmental activities, each major fund, the aggregate remaining fund information, and the budgetary comparisons for the general fund and major special revenue funds, of the Office of Superintendent of Insurance (OSI), as of and for the year ended June 30, 2016, and the related notes to the financial statements, which collectively comprise OSI's basic financial statements, and the combining and individual funds and related budgetary comparisons of OSI presented as supplemental information, and have issued our report thereon dated December 1, 2016. Our report disclaims an opinion on such financial statements because we were unable to obtain sufficient audit evidence to conclude that the financial statements, as a whole, are free from material misstatement. Specifically, we were unable to obtain sufficient appropriate audit evidence relating to the valuation and completeness of the other receivables of the *Insurance Suspense Fund* (SHARE 11820) agency fund. We were also unable to obtain sufficient appropriate audit evidence relating to the valuation of revenues of the Governmental Activities, a material portion of which are derived from the receipts of the *Insurance Suspense Fund* (SHARE 11820) agency fund. We were further unable to obtain sufficient appropriate audit evidence relating to the completeness of the transactions of the *Trust Funds with the Superintendent of Insurance Fund* (SHARE 11870) agency fund because OSI did not record any of the transactions relating to the amounts held in trust through the statewide accounting system SHARE, which is OSI's book of record.

Internal Control over Financial Reporting

In connection with our engagement to audit the financial statements of OSI, we considered OSI's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of OSI's internal control. Accordingly, we do not express an opinion on the effectiveness of OSI's internal control.

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Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying schedule of findings and questioned costs, we identified certain deficiencies in internal control that we consider to be material weaknesses and significant deficiencies.

A deficiency in internal control 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 and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies described in the accompanying schedule of findings and questioned costs as items FS 2016-001, FS 2016-003, FS 2016-006, FS 2016-007, FS 2016-014, FS 2016-015, and FS 2016-021 to be material weaknesses.

A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiencies described in the accompanying schedule of findings and questioned costs as items FS 2014-001, FS 2015-001, FS 2016-002, FS 2016-005, FS 2016-008, FS 2016-010, FS 2016-011, FS 2016-012, FS 2016-013, FS 2016-018, FS 2016-020, FA 2015-003, FA 2015-004, FA 2015-005, and FA 2015-006 to be significant deficiencies.

Compliance and Other Matters

In connection with our engagement to audit the financial statements of OSI, 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 engagement, and accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under Government Auditing Standards and which are described in the accompanying schedule of findings and questioned costs as items FS 2014-002, FS 2014-004, FS 2015-002, FS 2016-004, FS 2016-008, FS 2016-009, FS 2016-016, FS 2016-017, FS 2016-019, and FS 2016-022. Additionally, if the scope of our work had been sufficient to enable us to express opinions on the basic financial statements, other instances of noncompliance or other matters may have been identified and reported herein.

OSI's Responses to Findings

OSI's responses to the findings identified in our engagement are described in the accompanying schedule of findings and questioned costs. OSI's responses were not subjected to the auditing procedures applied in the engagement to audit the financial statements and, accordingly, we express no opinion on them.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the result of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an engagement to perform an audit in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Office of the State Auditor

Office of the State Auditor
Santa Fe, New Mexico
December 1, 2016



State of New Mexico
OFFICE OF THE STATE AUDITOR

**INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE FOR EACH MAJOR
PROGRAM AND ON INTERNAL CONTROL OVER COMPLIANCE REQUIRED BY
THE UNIFORM GUIDANCE**

Mr. John G. Franchini, Superintendent of Insurance
Office of Superintendent of Insurance
Santa Fe, New Mexico

Report on Compliance for Each Major Federal Program

We were engaged to audit the Office of Superintendent of Insurance's (OSI) compliance with the types of compliance requirements described in the *OMB Compliance Supplement* that could have a direct and material effect on OSI's major federal program for the year ended June 30, 2016. OSI's major federal program is identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

Management's Responsibility

Management is responsible for compliance with the federal statutes, regulations, and the terms and condition of federal awards applicable to its federal programs.

Auditor's Responsibility

Our responsibility is to express an opinion on compliance for OSI's major federal program based on our audit of the types of compliance requirements referred to above. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirement of Title 2 U.S. *Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about OSI's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

Because of the matters described in the "Basis for Disclaimer of Opinions" paragraph, we were unable to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on compliance for OSI's major federal program.

Basis for Disclaimer of Opinion

We were unable to obtain sufficient appropriate audit evidence to conclude that OSI's financial statements, as a whole, are free from material misstatement. As a result, the scope of our audit was not sufficient to enable us to express an opinion on whether the schedule of expenditures of federal awards is fairly stated, in all material respects, in relation to the basic financial statements as a whole. Further, as described in

Finding 2016-006, we noted entity-wide deficiencies in OSI's internal controls. We were unable to obtain sufficient documentation to support OSI's compliance with the requirements of its major program nor were we able to satisfy ourselves as to OSI's compliance with these requirements by other auditing procedures.

Disclaimer of Opinion on the Major Federal Program

Because of the significance of the matters described in the "Basis for Disclaimer of Opinion" paragraph, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on compliance. Accordingly, we do not express an opinion on the OSI's compliance with the compliance requirements applicable to its major program.

Other Matters

The results of our auditing procedures disclosed instances of noncompliance, which are required to be reported in accordance with the Uniform Guidance and which are described in the accompanying schedule of findings and questioned costs as items FA2015-003, FA2015-004, and FA2015-006. Additionally, if the scope of our work had been sufficient to enable us to express an opinion on OSI's compliance with the compliance requirements applicable to its major program, other instances of noncompliance or other matters may have been identified and reported herein.

OSI's responses to the noncompliance findings identified in our audit are described in the accompanying schedule of findings and questioned costs. OSI's responses were not subjected to the auditing procedures applied in the audit of compliance and, accordingly, we express no opinion on the responses.

Report on Internal Control over Compliance

Management of OSI, is responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In connection with our engagement to audit OSI's compliance with the compliance requirements applicable to its major program, we considered OSI's internal control over compliance with the types of requirements that could have a direct and material effect on the major federal program to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for the major federal program and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of OSI's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, we identified certain deficiencies in internal control over compliance, as described in the accompanying schedule of findings and questioned costs as items FA2015-003, FA2015-004, FA2015-005, and FA 2015-

006 that we consider to be significant deficiencies. Additionally, if the scope of our work had been sufficient to enable us to express an opinion on OSI's compliance with the compliance requirements applicable to its major program, other instances of noncompliance or other matters may have been identified and reported herein.

OSI's responses to the internal control over compliance findings identified in our audit are described in the accompanying schedule of findings and questioned costs. OSI's responses were not subjected to the auditing procedures applied in the audit of compliance and, accordingly, we express no opinion on the responses.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

Office of the State Auditor
Santa Fe, New Mexico
December 1, 2016

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
June 30, 2016**

SECTION I: SUMMARY OF AUDIT RESULTS

Financial Statements:

- | | |
|---|------------|
| 1. Type of auditor's report issued | Disclaimer |
| | |
| 2. Internal Control over Financial Reporting | |
| a. Material Weakness Identified? | Yes |
| b. Significant Deficiencies not considered to be material weakness? | Yes |
| c. Noncompliance Material to the financial statements noted? | Yes |

Federal Programs:

- | | |
|--|------------|
| 1. Internal Control over major programs: | |
| a. Material Weakness Identified? | No |
| b. Significant Deficiencies not considered to be material weakness? | Yes |
| | |
| 2. Type of auditor's report issued on compliance for major program | Disclaimer |
| | |
| 3. Any audit findings disclosed that are required to be reported in accordance with 2 CFR 200.516(a) ? | Yes |

4. Identification of Major Programs:

| <u>Program Name</u> | <u>CFDA Number</u> |
|--|--------------------|
| Health Insurance Rate Review Cycle II | 93.511 |
| The threshold for distinguishing Types A & B programs: | \$300,000 |

- | | |
|--|----|
| 5. The Department was determined to be a low-risk auditee? | No |
|--|----|

SECTION II: FINANCIAL STATEMENT FINDINGS

2014-001 (REVISED AND AND REPEATED) CONTROLS OVER PAYROLL (SIGNIFICANT DEFICIENCY)

CONDITION

During our testwork pertaining to controls over payroll, we reviewed 46 payroll advices and 37 of these advices included either Sick Leave Taken, Annual Leave Taken, Comp Time Taken or Administrative Leave, for a total of 451.35 hours. We were not able to obtain any documentation showing any leave was approved by the appropriate supervisor. Per discussion with the OSI Human Resource Manager we found out that OSI does not have an official leave document in place.

It does not appear that the corrective action plan described in the FY15 management response to this finding has been implemented. Based on the testwork performed it does not appear that OSI has made any progress in resolving this prior year finding.

CRITERIA

Per Section 6-5-2.C NMSA 1978, “state agencies shall implement internal accounting controls designed to prevent accounting errors and violation of state and federal law and rules related to financial matters. In addition, state agencies shall implement controls to prevent the submission of processing documents to the [financial control] division that contain errors or that are for a purpose not authorized by law.”

Per Manual of Accounting Practices June 30, 2015, HR 4.1, “Employees must enter exception time into SHARE HCM module for each pay period by FCD’s stipulated deadline. State agency Managers/Timekeepers may enter exception time in lieu of employee entry.” Furthermore, per 6-5-2.B NMSA 1978, “state agencies shall comply with the model accounting practices established by the division, and the administrative head of each state agency shall ensure that the model accounting practices are followed.”

EFFECT

Employees could be paid for time they did not work or be compensated for leave that was not accrued.

CAUSE

Supervisors do not properly verify that leave and overtime are approved.

RECOMMENDATION

The OSI management should implement a formal control department wide, such as a leave request form to ensure all leave actually taken is reflected in SHARE and properly reviewed and approved by the employee’s supervisor in addition to the SHARE approval. Furthermore, the OSI should ensure overtime is not accrued for employees that do not have an authorized overtime request form.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

MANAGEMENT RESPONSE

OSI's policies and procedures as contained within the Employee Handbook are expected to be approved for implementation by the end of February. The OSI Human Resources Manager will keep leave requests and approvals in personnel files.

2014-002 – (REVISED AND REPEATED) PAYROLL DOCUMENTATION (FINDINGS THAT DO NOT RISE TO THE LEVEL OF SIGNIFICANT DEFICIENCY)

CONDITION

During our review of 24 employee personnel files, we noted one employee's file did not contain Form I-9, *Employment Eligibility Verification*.

It does not appear that the corrective action plan described in the FY15 management response to this finding has been implemented effectively. Based on the testwork performed, it appears that OSI has made no improvements towards mitigating the condition of the prior year's finding.

CRITERIA

The Immigration Reform and Control Act of 1986 (IRCA) requires employers to complete a Form I-9 to document verification of the identity and employment authorization of each new employee (both citizen and noncitizen) hired after November 6, 1986, to work in the United States. In addition, the employer is responsible for completing and retaining the Form I-9.

EFFECT

The OSI may have been in violation of IRCA in FY16.

CAUSE

The OSI overlooked this employee's file during their internal review of personnel files.

RECOMMENDATION

Management should ensure an updated I-9 is maintained for all employees.

MANAGEMENT RESPONSE

A full audit of all I-9 forms for current employees has been completed by OSI's Human Resources Manager to ensure that the OSI is now in compliance with the provisions of the Immigration Reform and Control Act of 1986. The OSI will continue to ensure that all current employees have an I-9 form on file and that they are kept in accordance with the requirements of the Immigration Reform and Control Act of 1986.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

2014-004 (REVISED AND REPEATED) TRAVEL AND PER DIEM-OTHER TRAVEL (FINDINGS THAT DO NOT RISE TO THE LEVEL OF SIGNFICANT DEFICIENCY)

CONDITION

The OSI is a member of the National Association of Insurance Commissioners (NAIC). OSI paid a membership fee of \$13,953 during fiscal year 2016 and NAIC made available \$25,480 of grant funds for fiscal year 2016 to defray the costs of tuition and related travel expenses to NAIC sponsored education and training programs. The travel reimbursements were submitted by OSI employees and payments were made from NAIC directly to the employee.

Two travel reimbursements out of five tested, totaling \$813, made by NAIC to OSI employees were not processed consistently with OSI's policy issued on September 14, 2014 (revised March 30, 2015) governing how all travel reimbursements should be processed regardless of the source of funds being used to reimburse employees. No documentation can be located for either NAIC reimbursement.

It appears that the corrective action plan described in the FY15 management response to this finding has been somewhat effective in ensuring that travel reimbursements are processed in accordance with the travel policy. OSI has continued to make progress with regards to adherence to the implemented travel policy relating to all employee travel regardless of source of funds. However, some employees still do not always comply.

CRITERIA

State agencies must follow Section 2.42.2.9 NMAC regarding the reimbursement of actual expenses in lieu of per diem rates as well as the policies and procedures developed by OSI policy #OSI FIN-01.

EFFECT

OSI may not be in compliance with travel related policy #OSI FIN-01. Failure of OSI employees to follow the policy and associated procedures could result in the NAIC grant funds not being utilized to their full potential. In addition, by circumventing the required pre-audit of the travel vouchers, it is possible for employees to receive funds they are not eligible to receive, and further, it is possible that employees could be reimbursed more than once for the same travel. Travel involving upper management is especially susceptible to management's override of controls as well as fraud, waste, and abuse.

CAUSE

Employees were not required to follow OSI's policies and procedures of policy #OSI FIN-01 and the Mileage and Per Diem Act due to management override of controls.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

RECOMMENDATION

OSI should ensure the Department's policies and procedures for travel reimbursements by all management and employees are being properly monitored and appropriate, timely approval is obtained when necessary.

MANAGEMENT RESPONSE

OSI agrees with the finding and recommendation, and all OSI personnel will continue to be accountable to established policies and procedures. OSI's policies and procedures as contained within the Employee Handbook are expected to be approved for implementation by the end of February. These policies also address accountability and protocols as applicable for this finding. The Chief Financial Officer will be responsible for monitoring all applicable procedures and reimbursements. This position is expected to be filled within 30 days.

2015-001 (REVISED AND REPEATED) CONTROLS OVER VEHICLE USAGE (SIGNIFICANT DEFICIENCY)

CONDITION

OSI did not provide any policies and procedures regarding the use of state vehicles and may not follow GSD Rules or IRS Regulations. Our testwork relating to controls over state vehicle usage included a sample of 7 vehicle logs. Discrepancies are listed below:

1. Vehicle #1: Our review of the log indicated the vehicle had not been used at all during the current or preceding fiscal years. It appears this vehicle may have been parked for two years.
2. Vehicle #2:
 - a. The vehicle log provided to audit staff was missing 9 months of travel time and the portion of the log available for auditor review was incomplete.
 - b. The vehicle was checked out Monday, June 23rd and returned on Friday the 27th for a total travel distance of 230 miles. The business purpose for travel was not documented and the vehicle use appears to be commuting.
 - c. The vehicle was checked out on Thursday, March 31st and returned Tuesday, May 31st for a total of 741 miles. The business purpose for travel was not documented and the vehicle use appears to be commuting.
 - d. This vehicle is one of 3 vehicles tested where the same employee used a different OSI vehicle for a total of 22 weeks.
3. Vehicle #3:
 - a. OSI did not provide the vehicle log requested. It is not known if this log exists.
 - b. According to information we obtained from OSI this vehicle is assigned to one of its investigators and the individual is using the vehicle as a commuter vehicle.
4. Vehicle #4:
 - a. OSI did not provide the vehicle log requested. It is not known if this log exists.
 - b. According to information we obtained from OSI, this vehicle is assigned to one of its investigators and the individual is using the vehicle as a commuter vehicle.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

5. Vehicle #5:
 - a. The vehicle was checked out Monday, November 2nd and returned Friday the 6th for a total distance of 399 miles. The business purpose for travel is not documented. The purpose for appears to be commuting.
 - b. The vehicle was checked out Monday, February 29th and returned Friday, March 4th for a total distance of 531 miles. The business purpose for travel was not documented and appears to be commuting.
 - c. The vehicle was checked out Monday, April 11th and returned on Friday the 15th for a total distance of 513 miles. The business purpose for travel was not documented and appears to be commuting.
 - d. This vehicle is one of 3 vehicles tested where the same employee used a different OSI vehicle for a total of 22 weeks.
6. Vehicle #6
 - a. The vehicle was checked out Monday, July 6th and returned Friday the 10th for a total distance of 417 miles. The business purpose for travel was not documented and appears to be commuting.
7. Vehicle #7
 - a. The vehicle was checked out Monday, August 24th and returned Friday the 28th for a total distance of 416 miles. The business purpose for travel was not documented and appears to be commuting.
 - b. The vehicle was checked out Monday, December 1st and returned Friday the 5th for a total distance of 342 miles. The business purpose for travel was not documented and appears to be commuting.
 - c. The vehicle was checked out Monday, January 2th and returned Friday, February 5th for a total distance of 534 miles. The business purpose for travel was not documented and appears to be commuting.
 - d. The vehicle was checked out Monday, June 28th and returned Friday, July 6th for a total distance of 400 miles. The business purpose for travel was not documented and appears to be commuting.
 - e. This vehicle is one of 3 vehicles tested where the same employee used a different OSI vehicle for a total of 22 weeks.

It does not appear that the corrective action plan described in the FY15 management response to this finding has been implemented. OSI does not appear to have made progress in ensuring that OSI vehicles are used in accordance with applicable rules and requirements.

CRITERIA

GSD Rule 1.5.3.20 defines commuting and authorization to commute. The rule states “a state agency must develop a written policy that allows authorized drivers to use state vehicles to commute between work and residence”. Only the agency cabinet secretary or director can approve the commuting policy. Rule 1.5.3.20D states “all agency cabinet secretaries or agency heads must acquire approval from the governor’s office”. Approvals need to be forwarded to the State Central Fleet Authority. In addition, lessee must comply with GSD rule 1.5.3 NMAC.

GSD Rule 1.5.3.11 lists required documents in state vehicles. GSD rule 1.5.3.11.H states that vehicle logs are required documents and states that “this log should have the date, employee name, beginning and

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

ending mileage, destination, purpose of trip, type of fuel purchased, number of gallons purchased, total fuel cost, other vehicle related purchase, and a place for the supervisor to make verifications". GSD Rule 1.5.3.29.B(8) states "a state agency that has custody of one or more state vehicles shall develop written inventory, administration, operational and replacement policies."

EFFECT

OSI may not be in compliance with GSD Rule 1.5.3.11, 1.5.3.20, 1.5.3., and 1.5.3.29.B(8). Potentially unauthorized usage of these vehicles may increase maintenance costs as well as fuel costs for OSI.

CAUSE

OSI's fleet coordinator has not been given authority over the entire fleet and OSI management routinely overrides controls related to vehicle usage. OSI does not have policies regarding the use of vehicles or policies regarding the authorization to commute. In addition, OSI is not following GSD rules related to vehicle usage.

RECOMMENDATION

OSI's fleet coordinator should be given control over the agency's entire fleet. OSI should establish its own policies and procedures for vehicles, including segregation of duties and training, to ensure that employees comply with the vehicle use policies and GSD policies. Approvals related to vehicles used for commuting should be retained by the fleet coordinator.

MANAGEMENT RESPONSE

OSI's policies and procedures as contained within the Employee Handbook are expected to be approved for implementation by the end of February. The Superintendent of Insurance has tasked the OSI Fleet Coordinator to review all vehicle records within the next 60 days to ensure the vehicles are being used only in compliance with GSD rules.

2015-002 (REVISED AND REPEATED) CHIEF PROCUREMENT OFFICER'S REPORTING REQUIREMENT (FINDING THAT DOES NOT RISE TO THE LEVEL OF SIGNIFICANT DEFICIENCY)

CONDITION

In reviewing OSI's compliance with Section 13-1-95.2 NMSA 1978, we noted that the agency did not have a Chief Procurement Officer for a portion of fiscal year 2016 as required. We noted that such Officer was hired in fiscal year 2016 but did not receive the required certification until January, 2016, over half way through fiscal year 2016.

It appears that the corrective action plan described in the FY15 management response to this finding has been implemented. OSI appears to have made progress in ensuring that OSI is in compliance with Section 13-1-95.2 NMSA 1978.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

CRITERIA

Per section 13-1-95.2 NMSA, "On or before January 1 of each year beginning in 2014, and every time a chief procurement officer is hired, each state agency and local public body shall provide to the state purchasing agent the name of the state agency's or local public body's chief procurement officer and information identifying the state agency's or local public body's central purchasing office, if applicable". In addition, "a chief procurement officer shall pass a recertification examination approved by the secretary of general services".

EFFECT

OSI may have not been in compliance with Section 13-1-95.2 NMSA 1978 for a portion of FY16.

CAUSE

OSI was in the process of hiring a chief procurement officer during FY16. The individual was not certified until January, 2016 because they were unable to take GSD's class and test until December because of GSD's schedule of classes. This led to the delay in the individual being certified.

RECOMMENDATION

OSI should ensure that the chief procurement officer or individual in charge of procurement is certified in accordance with Section 13-1-95.2 NMSA 1978 for the entire fiscal year.

MANAGEMENT RESPONSE

OSI was diligent in ensuring the newly created Chief Procurement Officer (CPO) was certified as soon as practical, but the timing was out of OSI's control. OSI will request to have the Chief Financial Officer (CFO) serve as a backup CPO, in the event the position is vacant for a period of time, and will ensure the CFO obtains the necessary certification within 90 days. The Chief Financial Officer position is expected to be hired within 30 days.

2016-001 CONTROLS OVER CASH RECEIPTS (MATERIAL WEAKNESS)

CONDITION

During our testwork pertaining to controls over cash receipts it was noted that when checks are received at OSI, they are not logged in and receipted. Based on this we are unable to properly determine if OSI met the 24 hour requirement for depositing cash receipts and we could not validate the total FY16 cash recorded as received at OSI, excluding ACH transactions. This affected over \$300,000,000 in deposits for the year. In addition, incoming mail processing is not performed under a dual control process. The envelope containing a payment is date stamped and then distributed to different bureaus, depending on the type of payment. The different bureaus do not sign acknowledging receipt of funds and they do not consistently retain the date stamped envelopes. Amounts are subsequently processed by bureaus and returned to finance for depositing. There is no process to reconcile what is received to what is deposited each day.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

CRITERIA

Section 6-10-3 NMSA 1978, “all public money in the custody or under the control of any state official or agency obtained or received by any official or agency from any source, except as in Section 6-10-54 NMSA 1978 provided, shall be paid into the state treasury. It is the duty of every official or person in charge of any state agency receiving any money in cash or by check, draft or otherwise for or on behalf of the state or any agency thereof from any source, except as in Section 6-10-54 NMSA 1978 provided, to forthwith and before the close of the next succeeding business day after the receipt of the money to deliver or remit it to the state treasurer.”

Section 6-5-2 NMSA 1978, “state agencies shall comply with the model accounting practices established by the [Financial Control] division and the administrative head of each agency shall ensure that the model accounting practices are followed.” Per MAPs FIN 2.3 all state agencies are required to perform the following with regards to cash receipts:

1. Count the cash received and verify the check or money order is completed properly;
2. Document the receipt of money using an appropriate log, including the date, amount, payer name, and the name of the receipting individual; and
3. Place the receipts in a secure location until deposited.

Section 6-5-2(C) NMSA 1978, “state agencies shall implement internal accounting controls designed to prevent accounting errors and violation of state and federal law and rules related to financial matters”.

EFFECT

Cash receipts could be lost or misappropriated. Deposits may not be made in a timely manner as required by state law.

CAUSE

OSI does not currently have its own policies and procedures regarding cash receipts and was not following MAPs requirements regarding cash receipts.

RECOMMENDATION

OSI should immediately implement the requirements listed in MAPs FIN 2.3. Additionally, OSI should implement internal policies and procedures to ensure receipts are properly logged, tracked, recorded and deposited timely.

MANAGEMENT RESPONSE

OSI will implement a new cash receipt process and will implement internal policies and procedures to ensure improperly completed receipts are rejected. Part of the cash receipt process will include a method for receipting all checks when the mail is first received by OSI before it is distributed to the various areas who process the checks. OSI does recognize that receipts could be deposited in a bank account not

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

belonging to OSI and that incorrectly completed receipts may be rejected by OSI's financial institution. To date, we are not aware of OSI's financial institution rejecting any checks that are deposited into OSI's accounts that are not made out to the Office of Superintendent of Insurance. With the implementation of the new State-Based-System after July 1, 2017, OSI expects these issues to be resolved as well. The Records & Docket Custodian will be responsible and will implement policy.

OSI does verify that checks and money orders are completed properly, notifies companies if payment is filled out incorrectly and occasionally returns the checks. However, depending upon the amount of the check and timing, it may be deposited. Going forward, OSI will return all incorrectly completed payments. Companies were notified via email and through OSI's website prior to OSI becoming a new agency who to make checks payable to and companies are continuously notified. Employee names should never be part of the payee of a check and in the future OSI will notify the companies sending the checks and return the checks. Once OSI implements the State-Based-System and OPTins after July 1, 2017, there will be few checks that are accepted by OSI as they will all be submitted through a third party process and OSI will receive the funds through electronic funds transfers. OSI will be diligent in ensuring all monies are receipted, completed properly and secured until deposits are made.

2016-002 PATIENT'S COMPENSATION FUND DEFICIT (SIGNIFICANT DEFICIENCY)

CONDITION

During our audit interviews regarding the Patient Compensation Fund (PCF) we were provided with the 2015 Actuarial Analysis of the New Mexico Patients Compensation Fund. This is a statutorily required biennial examination per 41-5-25(H) NMSA 1978. The report indicates a deficit as follows:

- “The current PCF fund balance of approximately \$36.573 million as of December 31, 2015, when compared to Pinnacle’s estimate of indicated nominal loss reserves of approximately \$73.339 million, suggest a Fund deficit position of \$36.766 million, or just over 100% of the current Fund Balance.”
- “Reflecting reserves on a present value basis, using a 3.5% discount rate, results in a Fund deficit of approximately \$29.8 million” as of December 31, 2015.

Per the audited financial statements for fiscal years 2014 and 2015 the Patient Compensation Fund deficit was \$5,496,377 and \$7,463,049 respectively. These amounts were calculated from the 2013 Actuarial Analysis.

CRITERIA

Section 41-5-25(B) NMSA 1978 states “to create the patient’s compensation fund, an annual surcharge shall be levied on all health care providers qualifying under paragraph (1) of subsection A of Section 41-5-5 NMSA 1978 in New Mexico. The surcharge shall be determined by the superintendent based on sound actuarial principles, using data from New Mexico experience if available...”

Section 41-5-25(F) NMSA 1978 provides for proration of payments in the event the fund is exhausted.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

EFFECT

The Patient's Compensation Fund deficit has been increasing annually and has increased significantly per the most recent actuarial review. The assets in the fund may not cover claims existing as of December 31, 2015. Rates to fund participants could increase significantly. Claims may have to be prorated, as provided for by statute.

CAUSE

Annual surcharges (rates) charged to the participants in the Patient's Compensation Fund have not been adjusted since 2009, contrary to sound actuarial principles. Additionally, more claims are now being settled at higher amounts. An \$11M settlement, paid in FY16, was paid to resolve multiple claims against one fund participant.

RECOMMENDATION

The surcharges (rates) charged to the fund's participants should follow sound actuarial principles as prescribed by 41-5-25(B) NMSA 1978. The statutorily required Actuarial Report expected surcharge levels are as follows:

- "Pinnacle's rate level indication suggests an increase of +18.1% on an expected value basis. If adjusted to a 90% level of statistical confidence an indicated increase of 46.8% results."
- "Deterioration in loss ratios in more recent years and increased reported claims frequency would also support some form of increase in assessments."

MANAGEMENT RESPONSE

OSI issued Bulletin 2016-008 on March 30, 2016 which increased annual surcharge rates on doctors and other practitioners by 8.7% effective October 1, 2016 and increases the surcharge rates again effective October 1, 2017 by another 8.7%, resulting in a combined increase of 18.2%. OSI will institute a practice of increasing surcharge rates annually or biennially, based on the recommendations of the biennial actuarial studies, in order to reduce or eliminate fund deficits in the future. OSI's Chief Property and Casualty Actuary is the responsible position.

2016-003 SUSPENSE FUND CODING - (MATERIAL WEAKNESS)

CONDITION

During our audit we traced amounts received from the supporting documentation through the IDEAL system to determine if the documentation and the New Mexico License information in contained in IDEAL supported the coding in the Insurance Suspense Fund. 19 batches were selected from 10 days of cash receipts for a total of 178 items. The following errors were identified:

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

- 10 of the 178 items sampled, totaling \$3,630, had amounts received *evenly split* between amounts remitted to the State Fire Fund and amounts remitted to the State General Fund, when in fact 2/3rd of the amounts should have been remitted to the State Fire Fund and 1/3rd should have been remitted to the State General Fund, with 10% set aside for the Law Enforcement Protection Fund.
- 1 of the 178 items sampled, totaling \$50,539 had the total amount coded to the State Fire Fund when in fact 2/3rd of the amount should have been owed to the State Fire Fund and 1/3rd of the amount should have been owed to the State General Fund, with 10% set aside for the Law Enforcement Protection Fund.
- 1 of the 178 items sampled, totaling \$13,855 was coded to the State General Fund, with 10% set aside for the Law Enforcement Protection Fund, when the entire amount should have been coded to the State Fire Fund.
- 1 of the 178 items sampled, totaling \$500, was coded to the State Fire Fund, when the entire amount should have been coded to the State General Fund, with 10% set aside for the Law Enforcement Protection Fund.
- 3 of the 178 items sampled, totaling \$210 were coded to the Insurance Operations Fund, when 10% should have been set aside for the Law Enforcement Protection Fund and 90% should have been coded to the Insurance Operations Fund.
- 28 out of 178 items sampled, totaling \$321,223 were coded to the State General Fund, with 10% set aside for the Law Enforcement Protection Fund. The amounts are self-reported and there is no way of determining if 10% should be set aside for the Law Enforcement Protection fund.

CRITERIA

59A-6-5 NMSA 1978, Distribution of division collections, describes how funds are required to be accounted for and distributed once they are received by OSI.

29-13-3 NMSA 1978 describes the types of insurance, the types of revenues, and the rate, used to calculate amounts owed to the Law Enforcement Protection fund.

EFFECT

The amounts remitted from the Insurance Suspense Fund to the State General Fund, the State Fire Fund, the Law Enforcement Protection Fund and the Insurance Operations Fund may be misstated.

CAUSE

The revenue codes used in the IDEAL system used to process payments do not tie to 59A-6-5 or 29-13-3 NMSA 1978. Additionally, forms used for premium tax returns do not differentiate between life and health insurance, therefore companies self-reporting do not differentiate amounts reported between these two types of insurance. Premium tax return data for life and health insurance must be distinctly identifiable to correctly allocate the distributions from the Insurance Suspense Fund to other funds.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

RECOMMENDATION

OSI should update the IDEAL system codes so they correctly tie to the appropriate statutes. Premium tax forms should be revised so that companies can report premium tax for life and health separately by lines of insurance, so that amounts due to the Law Enforcement Protection Fund can be correctly determined.

MANAGEMENT RESPONSE

Due to IDEAL's program limitations and high costs associated with reprogramming, OSI will continue to review current calculations and entry methodology for departments responsible for collection and distribution of revenue funds. OSI's Chief Staff Counsel will coordinate statute reviews and required distributions to ensure OSI is in compliance. OSI is actively working with the NAIC's State-Based-System (SBS) transition team, and has provided the relevant cash and budget codes to address issues such as those present in this finding. Upon implementation after July 1, 2017, SBS will utilize the cash and budget codes and distribute as per the applicable statutes. OSI is confident that with the implementation of SBS and the partner program OPTins, issues regarding proper distribution will resolve in an accurate and accountable manner as SBS will automatically record and transfer electronic payments received into the SHARE system; with a majority of transactions becoming electronic transactions rather than check payments, this will help reduce potential human error.

OSI's Chief Information Office and the IT team are also in the process of researching options for development of an interface between NAIC's systems and OPTins to address issues that SBS may not wholly solve independently such as assessment calculation and invoicing, an issue specific to New Mexico's statutes. OSI expects the interface and subsequent interface/SBS functionality testing to be completed no later than December 31, 2017.

2016-004 UNDOCUMENTED ADDITIONAL COMPENSATION (FINDINGS THAT DO NOT RISE TO THE LEVEL OF SIGNIFICANT DEFICIENCY)

CONDITION

During the audit we noted that 3 out of 24 OSI employees tested received additional compensation. Additional compensation time reporting codes NAD with no retirement, and, ADL with retirement, were used. This additional amount totaled \$2,419. There was no paperwork in the employees' files supporting this compensation. Time reporting codes ADL and NAD are only accessible by the central payroll bureau staff and certain Department of Public Safety staff. It was later determined that the additional pay was related to union contract back pay and a salary increase only given to an employee upon the completion of a late performance appraisal.

Additionally, we noted 1 of 24 employees tested received a pay increase of 10%, however there was no supporting documentation regarding this salary increase in the employee's personnel file.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

CRITERIA

Per Section 6-5-2(C) NMSA 1978, "State agencies shall implement internal accounting controls designed to prevent accounting errors and violation of state and federal law and rules related to financial matters. In addition, state agencies shall implement controls to prevent the submission of processing documents to the financial control division that contain errors or that are for a purpose not authorized by law."

CAUSE

The employee personnel files are incomplete.

EFFECT

Employees have been paid additional compensation that may not be documented and may not have been approved.

RECOMMENDATION

OSI should review the all employee files to verify completeness and verify that the salary documentation contained in the personnel files supports what the employee is actually paid.

MANAGEMENT RESPONSE

The current OSI Human Resources staff ensure that all documentation related to salary increases and any supporting documentation in regards to payroll compensation is placed in the employee's personnel file. The OSI will continue efforts to recapture any missing or incomplete information for the employee file by May 1, 2017.

2016-005 NON-COMPLIANCE WITH THE PROCUREMENT CODE (SIGNIFICANT DEFICIENCY)

CONDITION

Our audit included the review of 7 contracts for compliance with the State Procurement Code. We noted the following exceptions:

- One contract file contained correspondence from management directing the employee preparing the documentation to not "request three bids or quotes". The correspondence indicates that bids were unnecessary because the vendor was a known professional.
- OSI did not provide procurement documentation for one contract reviewed. After further inquiry regarding the vendor, OSI did not provide purchase orders or contracts for multiple procurements with this vendor. It appears that transactions involving this vendor are conducted outside of the state procurement system.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

CRITERIA

13-1 NMSA 1978 governs all types of procurements by state agencies and local public bodies and is referred to as the state procurement code. 13-1-29(C) NMSA 1978 states “the purposes of the procurement code are to provide for the fair and equitable treatment of all persons involved in public procurement, to maximize the purchasing value of public funds and to provide safeguards for maintaining a procurement system of quality and integrity”.

13-1-30(A) NMSA 1978 states “except as otherwise provided in the procurement code that code shall apply to every expenditure by state agency and local public bodies for the procurement of tangible personal property, services, and construction.”

EFFECT

OSI may not have provided fair and equitable treatment of all persons involved in public procurement, may not have maximized the purchasing value of public funds and may not have provided safeguards for maintaining a procurement system of quality and integrity.

OSI may also have exposed the State of New Mexico to legal liability by employing procurement practices that do not comply with State statutes.

CAUSE

Both items identified in the condition are attributed to instances of management override of controls regarding the procurement process.

RECOMMENDATION

OSI should review all existing contracts and verify pertinent documentation for validity and compliance with the State procurement code. OSI management should follow State statutes and policies and procedures for all future contracts.

MANAGEMENT RESPONSE

OSI agrees with the finding and recommendation to review all contracts and to verify pertinent documentation for validity and compliance with the procurement code. With the new chief procurement officer, this due diligence has been followed and will remain protocol. OSI's General Counsel will be responsible for ensuring compliance with the State procurement code.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

2016-006 ENTITY-WIDE CONTROL DEFICIENCY (MATERIAL WEAKNESS)

CONDITION

Our audit included a process to understand OSI's overall control environment. This process included in-depth interviews and observations of functions pertinent to financial reporting and controls over compliance. During this process we noted instances where the elements of the internal control framework prescribed by the Committee of Sponsoring Organizations (COSO) were non-existent or deficient. For example, although the risk assessment component of the COSO framework exists at OSI, it is not well documented and not well understood by various bureaus within the agency. Monitoring may be ineffective due to the "tone at the top" which appears to facilitate management override of controls and lack of accountability. Our audit identified the following areas of concern:

1. Process ownership is not defined. OSI does not have an organizational structure in place to ensure that duties, control, and monitoring are delegated to individuals at the appropriate level of the agency and that effective oversight exists. Examples include:

- No specific bureau is responsible for the patient's compensation fund. The duties associated with this fund are divided between legal, actuary staff, finance and a contract adjuster, with each area performing only their required tasks.
- The trust fund transactions are processed by the company licensing bureau but the financial reporting for the trust fund is the responsibility of the finance bureau. There appears to be a lack of oversight and accountability relating to the trust fund overall, because neither bureau owns the complete processes involved. This lack of oversight resulted in inaccurate, misstated accounting records which were provided to us for use in preparing the financial statements.
- No bureau oversees IDEAL at a system-wide level. Individual bureaus enter their own data. Issues affecting the entire system may not be identified and/or corrected.

2. OSI does not appear to have effective agency-wide policies and procedures. Most bureaus reported doing things the "way it has always been done." Further, clearly defined lines of authority and reporting for communication of pertinent information do not appear to be known to employees and some members of management. Examples include:

- Some employees appear to be able to approve transactions above their authority level.
- Management appears to have made decisions which directly caused misstatements of the financial statements. We noted specific errors relating to trust fund excess deposits and ancillary receivership transactions.
- Management appears to override existing controls and disregard established lines of authority.

3. Staff and management are aware of most statutes and regulations that directly affect their duties. However, staff and management are not always aware of how their processes impact other bureaus, or OSI as a whole.

4. Management and employees alike do not appear to perform their job functions in accordance with standard policies and procedures. We noted misunderstandings about accountability and the misperception that OSI does not have to follow the same rules as other state agencies. While OSI is an independent agency, it must still comply with professional conduct rules and regulations, the Procurement Code, and other statutes, rules and regulations such as those promulgated by the Legislature, the State Personnel Office, the Department of Finance and Administration and the General Services Department.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

CRITERIA

The COSO internal control framework is recognized as the leading guidance for designing, implementing and conducting internal control and assessing its effectiveness. In an “effective” internal control system, five components work to support the achievement of an entity's mission, strategies and objectives. These five elements are known as control environment, risk assessment, control activities, information, and communication and monitoring.

EFFECT

Without all five components of the COSO framework in place and operating effectively OSI may lack adequate internal controls necessary to safeguard assets and prevent or detect intentional or unintentional misstatements of accounting information. The absence of policies and procedures, and the absence of clearly defined methods for both horizontal and vertical communication within OSI, may prevent management and staff from effectively administering the Insurance Code.

CAUSE

Management and staff appear to be performing tasks according to historical practice without adequate knowledge of underlying legal requirements and other rules. OSI lacks policies and procedures effective at ensuring compliance with applicable statutes, rules and requirements. OSI's processes have not changed since OSI was a division of the Public Regulation Commission (PRC). It is unclear why management overrides established controls to continue historical practices.

RECOMMENDATION

OSI should implement policies and procedures that incorporate the five components of the COSO internal control framework. Specifically, process ownership, reporting lines, and clear channels of communication should be established for all management and employees. The Superintendent, responsible for OSI's organization and management, should provide oversight to ensure that members of the management team and others in positions of authority follow established internal controls and policies and procedures.

MANAGEMENT RESPONSE

OSI agrees that there are continuing opportunities to improve internal controls and communication within the Agency.

OSI will further study the COSO framework for application potential within the agency and designate the Deputy Superintendent as the responsible position for implementing improved policies and controls by June 30, 2017. Proactively, OSI has implemented improvements such as: modifying the Agency reporting structure; promulgating and improving department policies and procedures; and promulgating an updated personnel handbook.

OSI appreciates the recommendation of the auditor and will continue to implement policies and procedures to improve internal controls.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

2016-007 CONTROLS OVER INFORMATION TECHNOLOGY (MATERIAL WEAKNESS)

CONDITION

IDEAL is the system OSI uses to maintain all insurance agent information, all insurance company information and all the associated revenues and licenses related to the insurance business in New Mexico. During our audit we noted the following deficiencies relating to internal controls and safeguards over the IDEAL system:

- The OSI Information Technology Department does not have any written policies and/or procedures;
- The OSI Information Technology Department does not have any retention policies and/or procedures;
- The server and back-up server for the IDEAL system are located in the server room. The back-up tapes for IDEAL are also stored in the server room.
- The IDEAL system back-up tapes have never been tested to ensure that there is any information contained on the tapes.

CRITERIA

State of New Mexico Statewide Enterprise IT Security Guidelines S-GUIDE-002.003 (in accordance with 9-27-1 NMSA 1978 et. seq.) establishes Enterprise Security guidelines for the protection of Information Technology assets and resources including data and information. The policy establishes that protection must be provided for IT assets, resources, and data/information from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide integrity, confidentiality, availability, accountability, and assurance, and establishes that controls must be maintained over information systems, resources, and data/information sufficient to contain risk of loss or misuse of information.

EFFECT

If the Information Technology assets used by the IDEAL System are compromised in any way OSI may not be able to use the IDEAL System, and could lose all of the information contained in IDEAL. OSI staff may not be able to perform required tasks. The loss of productivity could be significant. It could be very costly and time consuming to re-create all the information contained in the IDEAL System. It might not be possible to re-create some historical data.

CAUSE

OSI is not properly safeguarding Information Technology assets, resources or data.

RECOMENDATION

OSI should implement policies and procedures for Information Technology in accordance with State of New Mexico Statewide Enterprise IT Security Guidelines S-GUIDE-002.003.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

MANAGEMENT RESPONSE:

OSI Currently uses the Public Regulation Commission's IT Policy to ensure protection of OSI assets and resources. The OSI's IT Policy is included as a part of the agency's Employee Handbook which is pending final review and distribution, and should be implemented by the end of February. Additionally, the retention schedule is under review with the State Records Center and Archive (SRCA) for approval. Once OSI receives final approval from SRCA, OSI will implement the Retention policies.

Regarding the location of OSI's back-up tapes, as of October 29, 2016, the tapes are kept off-site at the State Records Center, and OSI has also recently acquired secure space within the locker facility at Century Bank where tapes will be kept for safety. With regard to IDEAL back-up tape testing, the tapes will be tested by IT services monthly, including restoration testing within a test environment for quality assurance, with an activity log to be maintained by the Chief Information Officer.

2016-008 EXCESS DEPOSITS IN TRUST FUND (SIGNIFICANT DEFICIENCY AND OTHER NON-COMPLIANCE)

CONDITION

In our review of the insurance company's trust accounts we noted 7 out of 18 insurance companies had excess deposits in the trust account that exceeded \$100,000 excess limit per NMSA 59A-10-6. The total excess amount identified for these 7 accounts was \$6,455,000.

CRITERIA

59A-10-6 NMSA 1978 states that excess amounts maintained over the required general and special deposits required amounts cannot exceed \$100,000. This amount is permitted to absorb market fluctuations.

59A-10-9(A) (2) NMSA 1978 states general and special deposits be released "upon the insurer ceasing to transact business in this state, and all of the liabilities for which the deposit was security have been satisfied or terminated, or assumed by another insurer authorized to transact insurance in New Mexico".

EFFECT

The valuation stated on the trust fund, included in the financial statements, may be materially overstated and amounts may have to be refunded to insurance company depositors. Insurance companies may have a legal claim to excess amounts.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

CAUSE

A former manager over-rode controls by requiring any companies that merged to consolidate deposits of the acquired companies in violation of state laws. This process has been continued with current employees unfamiliar with the law related to excess deposits.

RECOMMENDATION

OSI should review all trust fund accounts with excess amounts greater than \$100,000 and make refunds as appropriate. Policies and procedures should refer to applicable statutes regarding amounts required for the general and special deposit.

MANAGEMENT RESPONSE:

Finding 2016-008 identifies excess deposits for 7 out of 18 companies reviewed. The auditor cites sections NMSA 59A-10-6 and 59A-10-9(A) (2) as authority for the findings.

- OSI recognizes that deposits in excess of \$100,000 have been held for a number of companies. In the vast majority of cases deposits in excess of \$100,000 have been held due to one of two conditions:
- There has been a merger resulting in increased volume of business being transacted by the insurer. Sections 59A-5-19 and 20 cited below, gives authority to the Superintendent to hold this excess security.

Final determination has not been made as to the satisfaction or assumption of all liabilities of the dissolved insurer.

OSI has recently put in place a process to accelerate the determination of required deposit. Previous practice automatically retained excess deposits of merged companies. OSI is currently reviewing all deposits to ensure the agency maintains deposits in an amount allowed by statute or as otherwise determined by the Superintendent per NMSA 1978 59A-5-19 and 20: The responsible position is the Compliance Division Director to ensure all deposits have been reviewed by June 30, 2017.

2016-009 EXTRAORDINARY DIVIDEND APPROVAL WITHOUT PROPER DELEGATION OF AUTHORITY (FINDINGS THAT DO NO RISE TO THE LEVEL OF SIGNIFICANT DEFICIENCY)

CONDITION

During the fiscal year 2016, two extraordinary dividends totaling \$78,510,416 for domestic insurers were approved by a Financial Analyst working for the Examinations Bureau at OSI. However, there is no

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

documentation showing that this responsibility was delegated to this individual, or that this individual had authority to approve these items.

CRITERIA

Section 59A-37-22B NMSA 1978 states No domestic insurer shall pay an extraordinary dividend or make any other extraordinary distribution to its shareholders until: (1) 30 days after the superintendent has received notice of the declaration thereof and has not within such period disapproved such payment; or (2) the superintendent shall have approved such payment within the 30 day period.

Section 59A-2-7A NMSA 1978 states the Superintendent may delegate to his deputy, assistant or examiner.

EFFECT

Extraordinary dividends may have been approved by an individual not having the proper authority to make such approvals and this approval may not be legally binding. This could lead to legal liability for OSI.

CAUSE

The Superintendent did not properly delegate to his deputy, assistant or examiner. In addition, OSI lacks policies and procedures regarding extraordinary dividend approval.

RECOMMENDATION

OSI should review all transactions requiring Superintendent approval and determine if approvals should actually be delegated. Official delegations of authority should only be made to the deputy, assistant, or examiner as provided for by statute and it should be properly documented. OSI should implement policies and procedures to provide clear guidance to all employees regarding statutory approval and delegation.

MANAGEMENT RESPONSE

Section 59A-2-7 provides that the Superintendent may delegate to his Deputy, assistant or examiner the exercise or discharge in the Superintendent's name of any power, duty or function, whether ministerial, discretionary or of whatever character, vested in or imposed upon or to be performed by the Superintendent.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

The Superintendent verbally delegated his approval and authority to the Financial Examiner that wrote the dividend approval letter. The Superintendent's verbal delegation of his approval and authority is legally binding. There exists no statute or regulation that dictates this authority must be granted in writing. We also disagree that there are no policies and procedures for approval of extraordinary dividends. The OSI uses New Mexico statutes, 59A-37-22, Dividends and Other Distributions and regulations, NMAC 13.2.2.16 – Statement F – Request for Approval of Extraordinary Dividends and Any Other Extraordinary Distribution to Shareholders and the procedures in the NAIC Financial Analyst Handbook. We recognize that without documentation it is difficult for the auditor to verify the authorization granted by the Superintendent. We will implement a process where the Superintendent will grant specific authorization to his examiners in writing. This process will be incorporated into our Standard Operating Procedures. We will also incorporate the spreadsheet we use for determining approval and denial of extraordinary dividends into our Standard Operating Procedures. This procedure shall provide clear guidance regarding statutory approval and delegation.

We contend there was no violation of the New Mexico statute, regulation or OSI guidance because it is proper for the Superintendent to verbally delegate to his examiner authority to approve an extraordinary dividend. We ask that this item be removed from the Audit because it contains no violation statute or regulation.

AUDITOR REBUTTAL

The individual signed the extraordinary dividend approval letter as Name, Financial Analyst. This individual did not sign the approval in the capacity of examiner.

2016-010 TRUST FUND VALUATION AND SECURITIES ELIGIBILITY ERRORS (SIGNIFICANT DEFICIENCY)

CONDITION

The pledged asset holding report par value total is provided to OSI by the custodian so that the year-end adjusting journal entries can be made to reflect the value at June 30th. Our review of the "Pledged Assets Holding" report from the Custodian bank identified the following errors:

- A CD that belonged to an insurance company in receivership matured on March 31, 2011 and according to the bank this CD account was closed;
- US Strips had a lower market value than the par value on the report, however par value was used to determine the total asset amount;
- Principal cash over \$250,000(FDIC limit) showed on the report at its full principal cash value per insurance company instead of the \$250,000 FDIC limit.

Neither OSI or the custodian bank was able to provide audit staff with official securities credit ratings required to test the eligibility of pledged securities as of June 30, 2016.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

CRITERIA

59A-9-6 and 59A-9-8 NMSA 1978 state the required minimum credit ratings acceptable for the securities held in trust as the general or special deposit, per Moody's Investment Services or Standard and Poors.

13.2.4.12 NMAC Valuation of Deposits states "All securities deposited pursuant to the New Mexico Insurance Code shall be valued at their fair market price as of the valuation date."

13.2.4.11.C NMAC Assets Eligible for Deposit states " certificates of deposit in solvent state and national banks or trust companies whose principle office is located in New Mexico, provided that no deposit shall include certificates of deposit aggregating more than \$100K under the valuation method described herein:"

EFFECT

The value of the custodian account (trust fund), may not be correct and this error may impact OSI's financial statements. Year-end adjusting journal entries for this account may contain incorrect amounts. Additionally, assets held as part of the general or special deposit as of June 30, 2016 may not meet the statutorily required minimum credit rating.

CAUSE

The report provided by the custodian does not provide the detail required by OSI to determine accurate amounts for financial reporting. The original contract with the custodian may not include requirements for accurate financial reporting.

Based on information provided to us related to credit ratings, the custodian bank is not a member of Moody's or Standard and Poors and therefore cannot officially use these ratings in their reporting to OSI. Instead the custodian looks up the ratings on a third party web-site and enters the ratings manually into a spreadsheet and sends the spreadsheet to OSI.

RECOMMENDATION

OSI should require the custodian to provide reports that permit OSI to follow the statutory requirements set forth in 59A-9-6 and 59A-9-8 NMSA 1978. Additionally the Custodian's report should be reviewed and validated to ensure the value is reported correctly. The contract with the custodian should be updated so that OSI can get the information required to present the account valuation accurately on the financial statements.

MANAGEMENT RESPONSE:

The CD in question has been located in Pennsylvania and currently outside counsel and OSI's General Counsel are pursuing this matter.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

US STRIPS by their nature are purchased at an amount lower than Par value; which is the market value. The market value of US STRIPS held by OSI must be at least equal to the amount of deposit required. OSI is investigating whether the US STRIPS are being carried at par value or market value (as they should) on its financial statements; necessary adjustments will be made. It is expected that US STRIPS will be phased out as an acceptable deposit within the coming year to avoid this problem and the problem of holding excess security that could arise from this type of security.

Principal cash is held for short periods during periods of transition. OSI has held conversations with the custodian bank and will continue to explore methods of ensuring that cash balances are protected.

OSI has assigned Staff Counsel to considering this finding and at the current arrangement between Safekeeping institution and Custodial Bank, and at the contract between Custodial Bank and OSI. A meeting with the State Treasurer is also being scheduled to ensure compliance with state laws. The responsible position is the Compliance Division Director with an expected completion date of June 30, 2017.

2016-011 IMPROPERLY COMPLETED CASH RECEIPTS (SIGNIFICANT DEFICIENCY)

CONDITION

During our audit we traced amounts received from the supporting documentation through the IDEAL system to the deposit to determine if amounts entered in IDEAL had supporting documentation and that these amounts were deposited. Two checks contained in this supporting documentation, totaling \$184,329, were made payable to the order of OSI and an employee.

CRITERIA

Section 6-5-2 NMSA 1978 states that “State agencies shall comply with the model accounting practices established by the Financial Control Division and the administrative head of each agency shall ensure that the model accounting practices are followed.” Per MAPS-FIN 2.3 all state agencies are required to perform the following with regards to cash receipts:

1. Count the cash received and verify the check or money order is completed properly;
2. Document the receipt of money using an appropriate log, including the date, amount, payer name, and the name of the receipting individual; and
3. Place the receipts in a secure location until deposited.

Per Section 6-5-2(C) NMSA 1978, “State agencies shall implement internal accounting controls designed to prevent accounting errors and violation of state and federal law and rules related to financial matters.

EFFECT

Incorrectly completed cash receipts could be deposited in a bank account not belonging to OSI. Conversely, an incorrectly completed receipt may be rejected by OSI’s financial institution.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

CAUSE

OSI is not verifying that checks or money orders received are completed properly. OSI does not currently have its own policies and procedures regarding cash receipts and was not following State requirements regarding cash receipts.

RECOMMENDATION

OSI should immediately implement the requirements listed in MAPS-FIN 2.3. Additionally, OSI should implement internal policies and procedures to ensure improperly completed receipts are rejected.

MANAGEMENT RESPONSE

OSI will implement a new cash receipt process and will implement internal policies and procedures to ensure improperly completed receipts are rejected. Part of the cash receipt process will include a method for receipting all checks when the mail is first received by OSI before it is distributed to the various areas who process the checks. OSI does recognize that receipts could be deposited in a bank account not belonging to OSI and that incorrectly completed receipts may be rejected by OSI's financial institution. To date, we are not aware of OSI's financial institution rejecting any checks that are deposited into OSI's accounts that are not made out to the Office of Superintendent of Insurance. With the implementation of the State Based System after July 1, 2017, OSI expected similar issues will be resolved. The OSI Records & Docket Custodian will be responsible, and will implement policy.

OSI does verify that checks and money orders are completed properly, notifies companies if payment is filled out incorrectly and occasionally returns the checks. However, depending upon the amount of the check and timing, it may be deposited. Companies were notified via email and through OSI's website prior to OSI becoming a new agency who to make checks payable to and companies are continuously notified. Employee names should never be part of the payee of a check and in the future OSI will notify the companies sending the checks and return the checks. Once OSI implements the State Based System and OPTins, there will be few checks that are accepted by OSI as they will all be submitted through a third party process and OSI will receive the funds through electronic funds transfers. OSI will be diligent in ensuring all monies are receipted, completed properly and secured until deposits are made.

2016-012 PATIENT COMPENSATION FUND REVENUE DISCREPANCIES (SIGNIFICANT DEFICIENCY)

CONDITION

Our audit procedures included testing five Patient Compensation Fund (PCF) batches to determine surcharge (premium) revenue accuracy. We noted the following exceptions:

- 5 out of 5 batches tested contained some surcharges that did not tie to our recalculation of the surcharge owed, and, in these instances, we were not able to match the amount submitted with the amount listed on OSI's website.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

- 1 out of 5 batches tested included refunded surcharges in excess of surcharges actually paid.
- OSI does not reconcile PCF surcharge amounts received with any type of carrier documentation. Amounts received are deposited and assumed to be accurate.

CRITERA

The PCF is funded by surcharges (premiums) paid by plan participants. These surcharges are based on actuarial principles. Surcharges must be applied accurately and consistently among all plan participants. PCF billing and A/R aging information transfer to the financial statements. This information must be timely, complete and contain a correct valuation.

EFFECT

Some of the amounts paid by plan participants cannot be validated. OSI may be unable to determine if the revenue amounts are accurate, if plan participants owe additional surcharges or if any refunds issued are correct. Inaccurate revenue amounts may create financial statement misstatements.

CAUSE

OSI's organizational structure is designed around oversight of the insurance industry however the PCF is different, similar to operating an insurance company. The organizational structure provides no clear ownership of all the processes involved in the PCF. Attorney's, actuaries, adjustors, and finance all have different responsibilities related to the PCF. However, no one party is responsible to coordinate all the various processes or to ensure that critical processes are not overlooked. The critical process of billing has been delegated to independent insurance companies without OSI review.

RECOMMENDATION

The organizational structure should be updated to identify a position responsible for all of the tasks surrounding the PCF. This position should have the authority to direct all parties having a role in the PCF, and to coordinate all the processes and tasks. Surcharges received at OSI should be reviewed upon receipt to ensure participants are charged correct amounts, that invoices are created for incorrect remissions, and that financial statements contain accurate information.

MANAGEMENT RESPONSE:

Situations where we cannot determine the accuracy of surcharges include the following:

- The small number of doctors and others who are part-time practitioners, since we don't currently require carriers to submit a part-time indicator or the carrier's underlying % discount for part-time practitioners. While in most cases we can surmise part-time status and % discounts from the batches, we will nonetheless begin requiring this information.
- For business entities, we need to obtain the number and type of practitioners within the business entity. We will begin requiring this information as well.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

- For surcharge refunds, we often need to examine earlier submissions by the carriers in order to verify that we had previously received a full 12-month surcharge for such practitioners. We will add the requirement that carriers list the amount of 12-month surcharge that they have already remitted to us for the practitioner.

We have been examining all surcharges submitted during 2012 through 2015 from all carriers and have been in dialogue with some of those carriers regarding potential surcharge discrepancies arising from our surcharge examination. We are in the process of reviewing those carrier responses so that we can make a final determination on any additional surcharges owed and invoice the carriers accordingly.

While we have initiated a procedure to verify the accuracy of surcharge submissions as they arrive, we believe that we should issue invoices only when we find discrepancies. Also, we no longer allow accounts to remain unpaid since we don't provide coverage without the immediate submission of a check for those surcharges. Since aging of Accounts Receivable is not permitted, there is no need to track this.

The surcharge calculations performed by the carriers are currently being reviewed by the PCF Auditor for accuracy to ensure participants are charged correct amounts.

OSI had attempted to create a PCF Director position but it was disapproved by SPO because it had only one FTE under it rather than the two or more FTEs that SPO requires for managerial positions. We believe that one FTE under a PCF Director is adequate and that we cannot currently justify the need for an additional supervised FTE.

2016-013 BUDGETARY NON-COMPLIANCE (SIGNIFICANT DEFICIENCY)

CONDITION

OSI is required by statute to collect certain fees to pay for or at least offset the cost of operations. Our audit included review of fund-related statutes, process interviews with bureaus and a review of the approved budget. The following item was noted:

Agents are required to have continuing education and submit a listing of their continuing education annually to OSI. At the time the agent submits a record to OSI they must also remit a fee equal to \$1.00 per credit hour. OSI collects the fee and updates the IDEAL system with the information provided. The money collected is credited to the continuing education fund. These funds are not being used to administer a continuing education program. This money has not been budgeted for several years and the fund balance continues to increase.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

CRITERIA

Per 59A-12-26.1 NMSA 1978 all fees imposed by the provisions of 59A-12-26 NMSA 1978 shall be deposited in the insurance licensee continuing education fund and are appropriated for the purpose of administering the continuing education program.

CAUSE

The continuing education fund monies are not being budgeted because there is no continuing education program in place for OSI to administer.

EFFECT

Agents are charged a fee to submit a form and the fee received may not be used to administer a continuing education program pursuant to the Insurance Code.

RECOMMENDATION

We recommend OSI follow all applicable statutes related to budgetary compliance for the continuing education fund. All required amounts should be collected, however, fees that provide no purpose or are not in accordance with the insurance code should be discontinued.

MANAGEMENT RESPONSE

OSI appreciates the auditor's recommendation and the Compliance Division Director will review the applicable statutes and take action as necessary with regards to continuing education fund monies by June 30, 2017.

2016-014 TRUST FUND (SHARE 11870) TRANSACTIONS NOT INCLUDED IN STATEWIDE ACCOUNTING SYSTEM. (MATERIAL WEAKNESS)

CONDITION

Our audit included the review of the ancillary receivership bank accounts and the general and special deposit security accounts. These accounts are in trust for the benefit of policy holders and creditors (trust fund). SHARE fund 11870 has been established for the OSI trust fund. The total amount in the ancillary receivership accounts at June 30th is \$1,607,556. The total of general and special deposits is \$477,114,800. Our audit noted the following exceptions:

- Deposits, withdrawals, payments or earnings detailed in the trust account are not entered into SHARE;
- There is no other accounting system in place to record these transactions timely, completely and accurately;
- The transactions are not recorded in OSI's records;
- The financial statements cannot be properly prepared and reviewed by auditors.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

CRITERIA

2.20.6.87 NMAC prescribes application procedures and conditions of approval of authorization or exception. *“Each and every December 31, a state agency that wishes to issue warrants or exception from the requirement of prior submission of proposed vouchers, purchase orders, or contracts to the division for the following fiscal year (July 1 through June 30) shall apply for authorization or exception by submitting a written request to the secretary of the department explaining in detail the reasons why efficiency or economy will be better achieved by the state agency issuing warrants or waiving the prior submission requirements. As part of this annual request, the state agency shall include a detailed report outlining how it has complied during the past calendar year (January through December) with the following conditions and standards...”*

EFFECT

OSI may be issuing warrants without any authority to do so. SHARE fund 11870 does not contain any information regarding the transactions occurring in these accounts. Additionally, OSI does not have the accounting information from these transactions in a system that can be used to general accurate and timely financial statements. Due to the lack of records the financial statements only include the trust fund ancillary receivership account cash balances and the general and special deposit par values at June 30, 2016.

CAUSE

OSI staff has received Office of the Treasurer authorization for a state agency to open a deposit account pursuant to 6-1-13 NMSA 1978. OSI staff was unaware of the additional requirements pursuant to 2.20.6.87 NMAC, regarding issuing warrants and maintaining a separate accounting system to record all transactions.

RECOMMENDATION

OSI should comply with 2.20.6. NMAC.

MANAGEMENT RESPONSE

OSI has referred this finding to the Chief Staff Counsel and will review the applicable statutes and take action as necessary to define the steps needed to keep OSI in compliance, within the next 60 days.

2016-015: MANNER OF HOLDING GENERAL AND SPECIAL TRUST DEPOSITS (MATERIAL WEAKNESS AND MATERIAL NON-COMPLIANCE)

CONDITION

Our audit including reviewing the general and special trust deposits for compliance with statutes. These deposits, in the amount of \$477M, are held in trust to protect policy holders and creditors. Based on the information provided to us, we were not able to verify the custodian bank’s agreement with the safekeeping institution safeguarding OSI’s claims on securities in the event the custodian was unable to act on behalf of OSI. Audit staff was not provided with any pledged security report from the custodian proving that the

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

securities are pledged to OSI. Also, the statements generated by the custodian bank do not include OSI's name on the statements as owner or beneficiary of the account. Audit staff were not provided with any trust agreement. Instead the contract between OSI and the custodian bank states that the custodian will not release any securities without the Superintendent's or his designee's approval.

CRITERIA

59A-5-18 NMSA 1978 states "for a certificate of authority to transact insurance in this state the insurer shall make and thereafter maintain while so authorized a general deposit in trust for the benefit of all its policy holders and creditors..." 59A-5-19 NMSA 1978 states "to qualify for and continue to hold a certificate of authority to transact insurance in this state, the insurer shall also make a special deposit in trust for the benefit of all its policy holders and creditors in this state.

59A-10-2A Purpose of Deposit states Deposits made in the state pursuant to ... the Insurance code shall be held in trust for the respective purposes stated in those sections.

13.2.4.9 NMAC Manner of Holding Deposits states "All deposit accounts shall be held in the designated depository in the name of the "superintendent of insurance of the State of New Mexico, custodian for (name) insurance company

EFFECT

OSI's claims to these assets may not be legally enforceable. This could result in lack of protection for policy holders and creditors.

CAUSE

The safekeeping institution maintains the securities in the name of the custodian bank. The custodian bank shows all the accounts in the name of the insurance companies.

RECOMMENDATION

OSI should follow the statutory requirements set forth in 59A-10-2, 59A-5-18, 59A-5-19, NMSA 1978 and 13.2.4.9 NMAC and ensure that there is a valid and legally enforceable claim to these assets.

MANAGEMENT RESPONSE:

OSI Staff Counsel is currently working on this finding. We are looking at the agreements between the custodian bank and the safekeeping institution and between OSI and the custodial bank. Discussions are being scheduled with the State Treasurer as well. The responsible position is the Compliance Division Director and expected completion is June 30, 2017.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

2016-016: LACK OF WRITTEN POLICIES AND PROCEDURES FOR WORK FROM HOME (FINDINGS THAT DO NOT RISE TO THE LEVEL OF SIGNFICANT DEFICIENCY)

CONDITION

Our audit procedures disclosed one employee who has been working from home, on a part time basis, for approximately 2 years to allow them to complete a full day's work. Additionally this employee has developed a log to account for all activities performed from time worked at home. OSI has no written policies and procedures regarding working from home. There is no documentation in this employee's personnel file indicating approval or justification for working from home. This situation is on-going with no set time to review if continued work from home is justified.

CRITERIA

Per Section 6-5-2(C) NMSA 1978, "State agencies shall implement internal accounting controls designed to prevent accounting errors and violation of state and federal law and rules related to financial matters. In addition, state agencies shall implement controls to prevent the submission of processing documents to the financial control division that contain errors or that are for a purpose not authorized by law."

Written policies and procedures provide guidance to employees on expectations regarding working from home and also provide an official reporting mechanism to account for time worked. Additionally, written policies and procedures ensure fair, consistent and transparent treatment of all employees in similar circumstances.

EFFECT

OSI may lack an officially recognized reporting mechanism for this employee to report time worked at home and accountability could be compromised. The lack of official personnel file documentation puts this employee at risk of accusations relating to time reporting, leave accruals and PERA contributions. Additionally, the lack of any policies and procedures regarding working from home, and the appearance of a lack of accountability, may cause disruptive morale issues within the agency.

CAUSE

OSI does not have policies and procedures regarding working from home. This employee received verbal permission to work from home and nothing is documented.

RECOMMENDATION

OSI should develop agency wide policies regarding working from home to include required written approvals, an effective and consistent method to account for all activities performed while working at home and a time frame for review to determine if circumstances continue to warrant working from home. Appropriate documentation should be maintained in an affected employee's personnel file.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

MANAGEMENT RESPONSE

Although, the OSI does not have a telecommuting policy in place yet as the final personnel handbook is pending final review and distribution which is expected to be implemented by the end of February 2017. As policy, the agency does not allow for regular occurrence of work time off site, the Superintendent has the sole authority to allow employees to work off site. Any employee wishing to work off site must request direct permission from the Superintendent. The Superintendent reviews the circumstances for the request and makes a determination as to whether the request will be allowed.

2016-017: SUPERINTENDENT SALARY DOCUMENTATION (FINDINGS THAT DO NOT RISE TO THE LEVEL OF SIGNIFICANT DEFICIENCY)

CONDITION

Our audit included reviewing personnel files to determine if salaries received by employees were supported by appropriate documentation and comply with applicable statutes. Upon review, it was determined that the Superintendent's file contained no supporting documentation supporting the salary received. The only item included in the file relating to salary was a personnel action request form (PARF) from July, 2014, but there was no documentation to even support this PARF.

CRITERIA

Per 59A-2-2D NMSA 1978 "The superintendent's annual compensation shall be subject to legislative appropriation and established by the insurance nominating committee at the start of each term and annually thereafter. The superintendent's annual compensation shall be no lower than that of the lowest-compensated cabinet secretary and no higher than that of the highest-compensated cabinet secretary." The Insurance Nominating Committee approved the current superintendent for a 4 year term beginning January 1, 2016.

EFFECT

The Superintendent's salary may not have been approved by the Insurance Nominating Committee as required by law. Additionally if the Superintendent has been overpaid, amounts may be owed to OSI and PERA. Conversely, if the Superintendent has been underpaid, OSI may owe amounts to the Superintendent and PERA.

CAUSE

OSI did not review the Superintendent's personnel file for completeness and the file does not include any Insurance Nominating Committee approval or other determination of the Superintendent's salary.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

RECOMMENDATION

OSI should review the Superintendent's rate of pay to verify the compensation, approved annually per statute, by the Insurance Nominating Committee, is what is actually paid to the Superintendent. Additionally OSI should review the Superintendent's personnel file for completeness and verify the documentation contained in the personnel file supports what the employee is actually paid.

MANAGEMENT RESPONSE

The current OSI Human Resources staff ensure that all documentation related to salary increases and any supporting documentation in regards to payroll compensation is placed in the employee's personnel file, which includes the Superintendent. OSI will continue efforts to recapture any missing or incomplete information for the employee file by May 1, 2017.

2016-018 TRUST FUND ANCILLARY RECEIVERSHIP ASSETS (SIGNIFICANT DEFICIENCY)

CONDITION

OSI's ancillary receivership bank accounts contain the proceeds, disbursements and interest earned for delinquent insurers when the court has appointed the Superintendent as Receiver. Our audit procedures compared the ancillary receivership bank accounts with the pledged asset report provided by the custodian bank. One out of the six ancillary bank accounts reviewed did not contain all the cash and securities pledged listed on the pledge report. The securities report provided by the custodian lists an additional \$400k of securities and \$535k of cash. These are amounts that have either not been turned over to the Superintendent as Receiver, or they may be double counted.

CRITERIA

59A-41-18(A) NMSA 1978 states "whenever under the laws of this state a receiver is to be appointed in delinquency proceedings for an insurer domiciled in this state, the court shall appoint the superintendent as such receiver. The court shall direct the superintendent forthwith to take possession of the assets of the insurer and to administer the same under orders of the court."

EFFECT

The Superintendent may have not taken possession of the pledged assets as required by 59A-41-18(A) NMSA 1978, or the report provided by the custodian may not reflect correct valuations.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

CAUSE

OSI is not following the requirements of 59A-41-18 NMSA 1978 Conduct of delinquency proceedings against domestic insurers. Additionally, the ancillary receivership bank accounts are reconciled by the finance bureau and the pledged asset holding report is reviewed by the company licensing bureau, therefore possible “double counting” was not identified.

RECOMMENDATION

OSI should review all insurers in receivership and determine compliance with 59A-41-18 NMSA 1978.

MANAGEMENT RESPONSE

OSI will conduct a thorough review of all ancillary accounts to ensure compliance with 59A-41-18(A). The OSI Chief Financial Officer will complete this within 120 days of hire; hire is expected within 30 days. The timeline for completion is expected by May 30, 2017.

2016-019 WRIGHT EXPRESS FUEL CARD USAGE-(FINDINGS THAT DO NO RISE TO THE LEVEL OF SIGNFICIENT DEFICIENCY)

CONDITION

Of the 7 Wright Express (WEX) invoices tested with a total expense of \$2,132, we noted 12 transactions where premium gasoline were purchased at a total cost of \$314.

CRITERIA

1.5.4 NMAC prescribes requirements related the purchase of petroleum products with State of New Mexico credit cards. 1.5.4.12 NMAC relating to credit card coverage states that “State of New Mexico credit cards shall be used only for official business and only to furnish state-owned vehicles with: A. regular gasoline; B. unleaded gasoline; C. diesel fuel; D. lubrication; E. motor oil; F. car wash; and G. emergency purchases not exceeding \$100.00 in total.”

EFFECT

OSI may not be in compliance with the requirements of the New Mexico Administrative Code regarding fuel card usage. Noncompliance with the requirements of the New Mexico Administrative Code may heighten the potential for fraud or misappropriation of public funds.

CAUSE

The OSI does not have policies and procedures to ensure employees are following the New Mexico Administrative Code.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

RECOMMENDATION

The Department should ensure that employees are trained to use fuel cards in accordance with the requirements of the New Mexico Administrative Code.

MANAGEMENT RESPONSE

OSI's policies and procedures are in final review and are expected to be implemented by the end of February 2017. The Fleet Coordinator will ensure employees and managers are trained on fuel card use policies.

2016-020 ACCOUNTS PAYABLE (SIGNIFICANT DEFICIENCY)

CONDITION

During our search for unrecorded liabilities, we noted two invoices related to the patient's compensation fund in the amount of \$1,910,917 that were not properly recorded in the accounts payable balance at year-end. After adjustments proposed during the audit, the amounts are properly reflected in the financial statements.

CRITERIA

6.5.2 (C) NMSA 1978 states "... state agencies shall implement internal accounting controls designed to prevent accounting errors and violation of state and federal laws and rules related to financial matters..."

EFFECT

When sufficient controls over the preparation of financial statements and related disclosures are not designed, implemented and operating effectively, an entity's ability to prevent or detect a misstatement in its financial statements may be limited.

CAUSE

The process ownership for the Patient's Compensation Fund (PCF) may not be well defined. OSI's legal counsel tracks the legally approved settlements, but does not prepare year end claims payable listings for the financial statements. OSI's finance department does not have access to pending claims, but does pay claims once they are instructed to do so.

RECOMMENDATION

We recommend that all members of Management associated with PCF claims carefully review all invoices before approving them for payment and ensure that they are properly accrued, if necessary.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

MANGEMENT RESPONSE:

OSI will address this issue with all pertinent personnel before February 15, 2017. OSI's new Chief Financial Officer (CFO) will be tasked with developing procedures within 120 days of hire, to ensure that all invoices are reviewed and properly accrued; the CFO is expected to be hired within 30 days, with task completion expected by May 30, 2017.

2016-021 SUSPENSE FUND ACCOUNTS RECEIVABLE MANAGEMENT (MATERIAL WEAKNESS)

CONDITION

During our audit we requested accounts receivable agings for OSI's different revenue sources and it was conveyed to us that, aside from federal awards, OSI did not have accounts receivable information/aging's for any of the various types of revenues processed. Instead audit staff was provided with amounts collected. Per further inquiry we learned most funds collected in June, July or August were routinely booked as accounts receivable at June 30th, regardless of whether the revenue was genuinely from the fiscal year ending June 30th, or actually from the next fiscal year. OSI states collections of \$73,815,203 are the accounts receivable as of June 30th, however we were not provided proper supporting documentation for the balances so we were unable to determine if the amount was materially correct.

CRITERIA

Section 6-5-2 NMSA 1978 states that "State agencies shall comply with the model accounting practices established by the Financial Control Division and the administrative head of each agency shall ensure that the model accounting practices are followed." MAPS-FIN 11.1 requires all state agencies to actively manage accounts receivable and keep detailed accounts receivable ledgers.

EFFECT

The accounts receivable amounts listed on the financial statements may be materially misstated. The potential misstatement has not been determined. Additionally revenues may be recorded in the wrong fiscal year. In addition, the Governor, the State Legislature and others relying on accurate data to plan future year expenditures for New Mexico may not have accurate information on which to base decisions.

CAUSE

OSI does not have its own policies and procedures regarding accounts receivable and they were not properly following State requirements for accounts receivable. Additionally, OSI does not have any mechanism to track amounts owed, or even to know the total population of entities owing amounts. When a payment is received the information is entered into the IDEAL system and a batch report is created so the amount deposited can be tracked. This amount received is not tied to an amount owed, such as a bill or other invoice.

SECTION II: FINANCIAL STATEMENT FINDINGS (CONTINUED)

RECOMMENDATION

OSI should immediately develop policies and procedures regarding accounts receivable and follow State requirements. Additionally, OSI should work with the IDEAL System to develop a proper receivable listing and/or consider upgrading the system to have the system properly produce a receivable report.

MANAGEMENT RESPONSE

OSI's new Chief Financial Officer (CFO) will be tasked with developing procedures within 120 days of hire regarding accounts receivable and Fin Map requirements. OSI will research options to upgrade our system to properly produce receivable reports. The hire of OSI's new CFO is expected within 30 days, with completion expected by June 30, 2017.

2016-022: UNAUTHORIZED RELEASE OF INFORMATION TO THE PUBLIC (FINDINGS THAT DO NOT RISE TO THE LEVEL OF SIGNIFICANT DEFICIENCY)

CONDITION

OSI provided responses to the draft audit findings that the auditor is required to review and include in the audit report. The responses received from OSI included two finding responses containing response information from OSI and response information from an outside party, and one finding containing no actual response information from OSI, but instead referred the reader to the response from the outside party.

CRITERIA

Per New Mexico Audit Rule 2.2.2.10 (J) (3) NMAC "Agency Personnel and the agency's IPA shall not release information to the public relating to the audit until the audit report is released by the office, and has become a public record." The only exception to this relates to the oversight duties of the Department of Finance and Administration pursuant to 2.2.2.12(A) (16) NMAC.

EFFECT

The confidentiality related to the draft audit findings reviewed by the outside party may have been compromised.

CAUSE

OSI staff and management preparing responses to the findings did not know they were violating confidentiality rules by having an outside party either assist or actually prepare responses.

RECOMMENDATION

OSI should follow all the requirements of the audit rule pertaining to confidentiality. Additionally, for this situation, OSI should discuss the confidentiality rules with this outside party to ensure that there are no further compromises to the contents of the report until it is a public record.

MANAGEMENT RESPONSE

OSI is now aware of the confidentiality issue, the intent was solely to obtain further clarification to assist in OSI's responses. Additionally, OSI's policies and procedures as contained within the Employee Handbook are in final review with approval and implementation expected by the end of February 2017.

SECTION III: FEDERAL AWARD FINDINGS:

FA2015-003 (REVISED AND REPEATED) LACK OF INTERNAL CONTROLS OVER REPORTING (SIGNIFICANT DEFICIENCY, OTHER NON-COMPLIANCE)

Federal program information:

Funding Department: Department of Health and Human Services

Title: Grants to Support States in Health Insurance Rate Review- Cycle II & Cycle III

CFDA Number: 93.511

Award Year: 2014

Questioned Costs: None

CONDITION

During our testwork over Federal Awards we noted the Programmatic Reports are submitted to the U.S. Department of Health and Human Services without proper documentation of review and are not submitted by the required due date.

It does not appear that the corrective action plan described in the FY15 management response to this finding has been implemented effectively. OSI does not appear to have made progress in ensuring that all required documentation is submitted to Federal oversight agencies timely, and that submissions are properly reviewed prior to submission.

CRITERIA

The OMB Circular A-102 Common Rule requires that non-Federal entities receiving Federal awards (i.e., the Department's management) establish and maintain internal control designed to reasonably ensure compliance with Federal laws, regulations, and program compliance requirements. Per OMB Circular A-133, the Department "shall implement a process designed to provide reasonable assurance that transactions are properly recorded and accounted for to permit the preparation of reliable financial statements and federal reports, maintain accountability over assets and demonstrate compliance with laws, regulations and other compliance requirements. Furthermore, per the grant agreement programmatic reports are due 30 days after the end of each federal fiscal quarter and the annual programmatic report is due 90 days after the end of the applicable year-end date."

SECTION III: FEDERAL AWARD FINDINGS (CONTINUED)

CAUSE

The program manager retired during the year and the acting program manager did not have authorization to submit programmatic reports in a timely manner.

QUESTIONED COSTS - NONE

EFFECT

Non-compliance with reporting requirements and regulations could cause OSI to lose available funding.

RECOMMENDATION

OSI should ensure that all reports and supporting documentation submitted to federal agencies are reviewed by management prior to submission. OSI should submit reports on or before the required due dates and maintain documentation showing when federal reports are submitted.

MANAGEMENT RESPONSE

OSI's policies and procedures are in final review and approval, with implementation expected by the end of February 2017. OSI's Life & Health Division Director is responsible for ensuring timely reporting and will maintain documentation showing reporting submittal.

FA2015-004 (REVISED/REPEATED) SUSPENSION & DEBARMENT EXCEPTION (SIGNIFICANT DEFICIENCY AND NON-COMPLIANCE)

Federal program information:

Funding Department: Department of Health and Human Services

Title: Grants to Support States in Health Insurance Rate Review- Cycle II & Cycle III

CFDA Number: 93.511

Award Year: 2014

Questioned Costs: None

CONDITION

OSI does not check to see if potential award recipients have been suspended or debarred prior to making awards of federal monies.

It does not appear that the corrective action plan described in the FY15 management response to this finding has been implemented effectively. OSI does not appear to have made progress in ensuring that awards of federal monies are not made to suspended or debarred parties.

SECTION III: FEDERAL AWARD FINDINGS (CONTINUED)

CRITERIA

OMB Cost Circular A-102 states: "Debarment and Suspension. Federal agencies shall not award assistance to applicants that are debarred or suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549. Agencies shall establish procedures for the effective use of the List of Parties Excluded from Federal Procurement or Non-procurement programs to assure that they do not award assistance to listed parties in violation of the Executive Order. Agencies shall also establish procedures to provide for effective use and/ or dissemination of the list to assure that their grantees and sub-grantees (including contractors) at any time do not make awards in violation of the non-procurement debarment and suspension common rule."

CAUSE

Program Manager was unfamiliar with this requirement.

QUESTIONED COSTS - NONE

EFFECT

OSI could unknowingly award federal assistance to applicants that are ineligible for participation in their programs, causing noncompliance with the grants and potential questioned costs.

RECOMMENDATION

Management should develop policies and procedures, with appropriate training for staff, sufficient to prevent non-compliance with federal reporting requirements including OMB Circulars and their Compliance Supplements.

MANAGEMENT RESPONSE

OSI now has a procedure in place to verify potential award recipients have not been suspended or debarred from receiving federal award funds, and the OSI ACA Business Manager will ensure signed and dated documentation will be retained. OSI will continue to abide by the existing policy to ensure recipients' eligibility.

FA2015-005 REVISED/REPEATED LACK OF INTERNAL CONTROLS OVER FEDERAL DISBURSEMENTS (SIGNIFICANT DEFICIENCY)

Federal program information:

Funding Department: Department of Health and Human Services

Title: Grants to Support States in Health Insurance Rate Review- Cycle II & Cycle III

CFDA Number: 93.511

Award Year: 2014

Questioned Costs \$85

SECTION III: FEDERAL AWARD FINDINGS (CONTINUED)

CONDITION

The following internal control deficiencies were noted regarding federal disbursements:

- OSI did not document whether, or not, the program manager reviewed and approved disbursements, for two payments totaling \$4,664 out of forty tested, prior to payment.
- Ten out of forty items tested, totaling \$6,334, documented the grant business manager, as opposed to the program manager, as approving the disbursement. The grant business manager also approved a credit totaling (\$1,579).
- One out of forty items tested, in the amount of \$85, was dis-approved for payment by the grant manager, but was actually paid from grant funds.

It does not appear that the corrective action plan described in the FY15 management response to this finding has been implemented effectively. OSI does not appear to have made progress in ensuring the program manager reviews and approves all proposed disbursements affecting federal funds prior to payment.

CRITERIA

OMB Circular A-133 §.300(b) requires the auditee to maintain internal control over Federal programs that provides reasonable assurance that the auditee is managing Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs.

OSI's policy is for the program manager to review and approve allowable federal disbursements prior to payment.

CAUSE

The program manager retired during the year and a new permanent program manager has not been hired. This caused a disruption in the approval process. Additionally OSI did not always not maintain adequate documentation to establish whether, or not, disbursements are properly approved by management.

QUESTIONED COSTS - \$85

EFFECT

OSI is unable to consistently provide evidence to establish that disbursements were properly supported and approved. This increases the risk of fraud, waste or abuse and may jeopardize the receipt of federal funding.

RECOMMENDATION

The program manager should document the review of all disbursements, with approval where appropriate, prior to payment. OSI should ensure all federal disbursements are reviewed and approved by the program manager to determine if allowable prior to payment. Disapproved amounts should not be charged to the grant.

SECTION III: FEDERAL AWARD FINDINGS (CONTINUED):

MANAGEMENT RESPONSE

OSI agrees that consistent protocols for review and approval of all federal disbursements is imperative. Although some disruption in the process was experienced due to the program manager's retirement, the protocol moving forward has been established with a two-party review and approval, prior to disbursement. This current process, for which OSI provided documentation to the auditor previously, should ensure proper internal controls. The OSI ACA Bureau Chief remains the responsible position.

FA2015-006 (REVISED AND REPEATED) MISSING TIME AND EFFORT CERTIFICATIONS (SIGNIFICANT DEFICIENCY, NON-COMPLIANCE)

Federal program information:

Funding Department: Department of Health and Human Services

Title: Grants to Support States in Health Insurance Rate Review- Cycle II & Cycle III

CFDA Number: 93.511

Award Year: 2014

Questioned Costs: None

CONDITION

OSI did not:

- Maintain the minimum semiannual certification report required to substantiate time and effort where employees' time is charged 100% to a grant.
- Maintain a personnel activity report, or equivalent, where employees worked on both federal and non-federal awards.
- Additionally 3 employees certified they spent 100% of their time on the federal grant when in fact their time was actually charged to federal and nonfederal programs.

It does not appear that the corrective action plan described in the FY15 management response to this finding has been implemented effectively. OSI does not appear to have made progress in ensuring time and effort certifications are maintained in accordance with Federal requirements.

CRITERIA

OMB A-87 states, "Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semiannually and will be signed by the employee or supervisory official having first-hand knowledge of the work performed by the employee."

Additionally, 2 CFR Part 225 states, "Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection 8.h.(5) of this appendix unless a statistical sampling system (see subsection 8.h.(6) of this appendix) or other substitute system has been approved by the cognizant Federal agency. Such documentary support will be required where employees work on: (a) More

SECTION III: FEDERAL AWARD FINDINGS (CONTINUED)

than one Federal award, (b) A Federal award and a non-Federal award, (c) An indirect cost activity and a direct cost activity, (d) Two or more indirect activities which are allocated using different allocation bases, or (e) An unallowable activity and a direct or indirect cost activity.”

CAUSE

Initially the program manager was unfamiliar with the requirements for time and effort required certifications and personnel activity reports. Certification did begin during the year, but did not occur for the entire year. Neither the program manager or the business manager reconciled the certifications to the labor cost vouchers to verify that the certifications supported the financial records.

QUESTIONED COSTS

None

EFFECT

For the time certified, OSI appears to have charged a non-federal funding source for federally funded activities, possibly not claiming amounts legitimately owed. Conversely, for the time not certified, OSI may have misallocated payroll expenses to federal grants which increases the risk that reported costs are non-compliant with laws, regulations or grant conditions.

RECOMMENDATION

We recommend OSI prepare, approve and maintain semiannual certification, and/or personnel activity, reports. Grant/program managers should verify that any certifications signed by employees support the labor cost vouchers and identified discrepancies should be reviewed and corrected immediately. Employees should not certify they worked 100% on a federal program, when their time is split between federal and non-federal programs.

MANAGEMENT RESPONSE

This finding refers to the federal requirement that all staff must sign a time and effort statement if they have a single funding source, but keep a detailed log of hours if they have more than one funding source. This requirement was put in place for all Rate Review Cycle III grants. Upon learning that the documentation would be needed for both Cycle II and III staff, an immediate verbal request was submitted to the Administrative Services Division to move two positions from 50/50 grant and MOU funding to full Cycle II grant funding. After discovering that the move was not retroactive, the previously prepared single source statements were found to be insufficient for these positions. As all personnel are now either fully federal grant or fully MOU funded positions, this issue should be cured for the future. The OSI ACA Bureau Chief will remain the responsible position.

**STATE OF NEW MEXICO
OFFICE OF SUPERINTENENT OF INSURANCE
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
June 30, 2016**

SECTION IV: PRIOR YEAR FINDINGS

FINANCIAL STATEMENT FINDINGS:

2014-001 CONTROLS OVER PAYROLL - REVISED AND REPEATED
2014-002 PAYROLL DOCUMENTATION - REVISED AND REPEATED
2014-003 TRAVEL AND PER DIEM - RESOLVED
2014-004 TRAVEL AND PER DIEM-OTHER TRAVEL- REVISED AND REPEATED
2015-001 CONTROLS OVER VEHICLE USAGE – REVISED AND REPEATED
2015-002 CHIEF PROCURMENT OFFICER – REVISED AND REPEATED

FEDERAL AWARD FINDINGS:

FA 2015-003 INTERNAL CONTROLS OVER REPORTING – REVISED AND REPEATED
FA 2015-004 SUSPENSION/DEBARMENT – REVISED AND REPEATED
FA 2015-005 FEDERAL DISBURSEMENTS – REVISED AND REPEATED
FA 2015-006 TIME AND EFFOR CERTIFICATION – REVISED AND REPEATED

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE
Exit Conference
For the Year Ending June 30, 2016

EXIT CONFERENCE:

An Exit Conference was held on November 22, 2016. The following individuals were in attendance:

Representing OSI:

John G. Franchini, Superintendent of Insurance

Jolene Gonzales, Chief Administrative Officer

Andy Romero, Director, Compliance Division

Sisto Abeyta, Bureau Paralegal

Margaret Caffrey Moquin, Chief Staff Council

Representing the Office of the State Auditor:

Sanjay Bhakta, CPA, Deputy State Auditor

Anna Williams, CPA, Director, Financial Audit Division

Elise Mignardot, CPA, Audit Supervisor

Karl Hjelvik, Senior Auditor

Emily Oster, CPA, Director, Quality Control

PREPARATION OF THE FINANCIAL STATEMENTS:

The accompanying OSI financial statements have been prepared by the Office of the State Auditor, the organization's independent public auditor. The financial statements, however, are the responsibility of OSI management.