



**Report  
to  
The LEGISLATIVE FINANCE COMMITTEE**



New Mexico State Fair  
Program Evaluation  
October 20, 2011

**Report #11-13**

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*State of New Mexico*  
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October 20, 2011

Mr. Hossie Sanchez, Chairman  
New Mexico State Fair Commission  
P.O. Box 8546  
Albuquerque, NM 87198

Dear Mr. Sanchez:

On behalf of the Legislative Finance Committee (Committee), I am pleased to transmit the *New Mexico State Fair Evaluation*. The evaluation review team assessed operational and capital financing, effectiveness and efficiency of operations, and relationships with external constituencies. The report will be presented to the Committee on October 20, 2011. Exit conferences were conducted with State Fair Commissioners and staff to discuss the contents of the report. The Committee would like a plan to address the recommendations within this report within 30 days from the date of the hearing.

I believe this report addresses issues the Committee asked us to review and hope the New Mexico State Fair benefits from our efforts. We very much appreciate the cooperation and assistance we received from your staff.

Sincerely,

A handwritten signature in cursive script that reads "David Abbey".

David Abbey, Director

cc: Senator John Arthur Smith, Chairman, LFC  
Representative Luciano "Lucky" Varela, Vice-Chairman, LFC  
Representative Henry "Kiki" Saavedra, Legislative Finance Committee  
Mr. Tom Clifford, Secretary-Designate, Department of Finance and Administration  
Mr. Dan Mourning, Interim Manager, New Mexico State Fair

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*The 1996 LFC evaluation of the New Mexico State Fair pointed to many of the same issues that still exist today.*

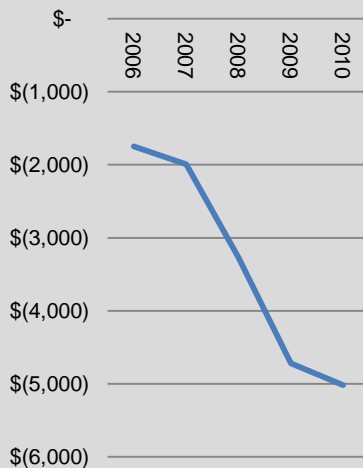
As an enterprise agency of the state of New Mexico, the New Mexico State Fair is designed as a self-sufficient entity governed by a seven-member commission appointed by the governor and confirmed by the Senate. Operating revenues, ranging from a high of \$16 million in FY08 to \$13 million in FY10, come from the annual State Fair, the Albuquerque Downs, concerts, and numerous other events.

The LFC evaluated the New Mexico State Fair in 1996 amidst concerns over finances and operations and was requested to do so again in 2011. This evaluation assessed the adequacy and sustainability of operational and capital financing, the effectiveness and efficiency of operations, and the New Mexico State Fair’s overall performance in meeting the needs of selected constituencies.

In short, the New Mexico State Fair is operationally insolvent. The New Mexico State Fair has been losing money for many years and currently lacks financial leadership. Including depreciation, operational losses totaled \$17 million from FY06 through FY10 and unrestricted cash reserves have been exhausted.

The amount currently due to creditors exceeds the cash available to pay those creditors. Although externally restricted cash is adequate to service the outstanding bonded indebtedness from pari-mutuel tax proceeds and to meet very limited capital emergencies this money cannot be used to cover operational expenses.

**New Mexico State Fair  
Operating Loss**  
(in thousands)

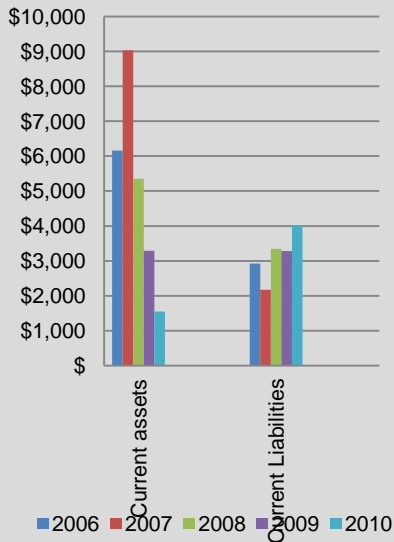


The New Mexico State Fair has continued to operate by not paying key creditors. The largest amount, \$1.9 million, is owed to the Risk Management Division of the General Services Department for insurance coverage dating back to FY09. This de facto loan from another state agency has allowed the New Mexico State Fair to have enough cash to maintain solvency.

Additionally, the New Mexico State Fair failed to properly manage two contracts: the lease with the Downs at Albuquerque and the carnival concessions contract. It appears that decisions have been made to benefit the contractors to the financial detriment of the New Mexico State Fair and a lack of strategic planning has led to a rushed request for proposals (RFP) for a renewed racing lease.

A combination of management and legislative actions are needed to increase accountability and oversight to ensure the New Mexico State Fair continues to fulfill its vital economic and cultural role within the state of New Mexico.

**New Mexico State Fair  
Assets vs. Liabilities**  
(in thousands)



*Other state agencies are financing the New Mexico State Fair's operations.*

*The New Mexico State Fair's financial condition has caused a culture of crisis management.*

## KEY FINDINGS

**The New Mexico State Fair is operationally insolvent.** By FY10 the New Mexico State Fair had 39 cents in current assets to cover every \$1 of current liabilities. This is largely due to declining revenues and a 46 percent drop in attendance since 2006 at the 17-day annual Fair. Revenues from the annual Fair have fallen from a high of \$7.3 million in 2007 to \$5 million in 2010.

***The New Mexico State Fair's actual losses are greater than what has been reported to the Legislature.*** Including depreciation, the New Mexico State Fair has annual operating losses ranging from \$1.7 million in FY06 to \$5 million in FY10.

***To cover operational expenses, the New Mexico State Fair has not paid other state agencies.*** The largest amount, \$1.9 million, is owed to the Risk Management Division of the General Services Department for insurance coverage dating back to FY09. This de facto loan from another state agency has allowed the New Mexico State Fair to have enough cash to continue operations.

***The New Mexico State Fair is in a crisis management mode, forcing strategic decisions according to short-term need rather than a strategic plan.*** An example of crisis management is the process that led to the recent RFP for the lease of the 93 acres currently leased by the Downs at Albuquerque. The \$2 million annual lease agreement is vital to the New Mexico State Fair's solvency, yet because of cash flow concerns only 30 days was allowed for the RFP and only two responses were received.

One step has been to reduce permanent staff by 50 percent to lower payroll costs, though these efforts are neither a complete nor permanent solution to the New Mexico State Fair's current financial woes. A management plan from 2010 recommends reducing the length of the annual Fair to 10 or 11 days, similar to many comparable and neighboring states.

***Since the departure of the New Mexico State Fair chief financial officer over a year ago the position has remained unfilled.*** This has left a vacuum of financial leadership at the New Mexico State Fair.

**The New Mexico State Fair's lease with the Downs of Albuquerque is fraught with problems.** The New Mexico State Fair does not appear to be getting full payment under its lease with the Downs.

*Decisions have been made benefiting contractors to the detriment of the New Mexico State Fair.*

**Racing Amounts Due to the New Mexico State Fair**  
(in thousands)

Year	Gross Handle	1% due NMSF
2006	\$5,201	\$52
2007	\$5,266	\$53
2008	\$4,391	\$44
2009	\$3,934	\$39
2010	\$4,050	\$41
<b>Total</b>	<b>\$22,842</b>	<b>\$228</b>

*The New Mexico State Fair was underpaid by approximately \$477 thousand in FY10 for carnival concessions because the wrong contract was enforced.*

*During the 2011 Fair, a temporary cashier allegedly embezzled approximately \$5 thousand.*

*Although the Downs at Albuquerque made its monthly cash lease payments, there is no evidence of the 10 percent increased payment.* The Downs is not meeting its annual obligation to provide \$420 thousand worth of promotional events, marketing, or advertising as required by the option period of the lease through January 2012. Additionally, it appears that the Downs is under-paying its share of the annual electricity bill. Finally, the Downs owes the New Mexico State Fair \$215 thousand for the New Mexico State Fair’s share of revenues from horse races.

**Lack of oversight and accountability has resulted in contract irregularities and inadequate cash controls.** Although there was a new carnival concessions contract for the 2010 Fair that called for increased ride, food, and game compensation, the New Mexico State Fair received payment according to the prior, lower contract rates, resulting in an estimated underpayment of \$477 thousand.

*Amendments to the new contract substantially eliminated the financial benefits to the New Mexico State Fair.* One such amendment reduced the percentage the New Mexico State Fair collected on tickets and wristbands and reduced payments for game and food concessions.

*The New Mexico State Fair lacks proper segregation of duties to protect the more than \$3.5 million in cash collected annually.* From the time the cash is received at the “bank” until is taken to a bank depository, there is no segregation of duties between the custody of the cash and the record-keeping of the cash received.

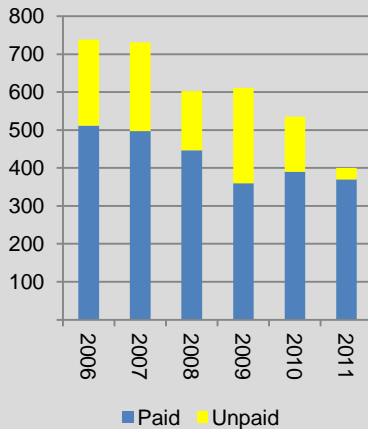
**The New Mexico State Fair lacks a strategic capital plan.** The \$27 million in capital appropriations the New Mexico State Fair has received since 2003 have largely been spent to keep the fairgrounds operating. With no preventive maintenance program, capital funds are used for emergency maintenance and repairs on systems that are run to failure. Additionally, numerous contracts for commercial work have been awarded to residential contractors.

**Opportunities exist for the New Mexico State Fair to better work with external constituencies.** The New Mexico State Fair could strategically partner with the city of Albuquerque and Bernalillo County to identify mutually beneficial goals.

**KEY RECOMMENDATIONS**

The Legislature should amend statute to increase oversight of the New Mexico State Fair, including the Department of Finance and Administration, the State Personnel office, and the General Services Department.

**NM State Fair  
Attendance Trends**  
(in thousands)



***Reducing the length of the annual Fair to 10 or 11 days will purportedly lower costs 30 percent while attracting the same number of people.***

The New Mexico State Fair should:

Devise a plan that looks at some strategic changes to reduce costs and increase profitability such as changing the length of the annual Fair to 10 days and properly costing out all the New Mexico State Fair events to insure profitability.

Work with the affected state agencies to develop a debt re-payment plan.

Hire a qualified chief financial officer.

Explore charging food vendors at the annual Fair a percentage of revenue, much like the contracts with the New Mexico State Fair's year-round food vendors, rather than a flat rate.

Properly enforce the terms and conditions of all contracts and develop written policies and procedures clarifying the New Mexico State Fair Commission's role in the approval of all contracts and amendments.

Process all New Mexico State Fair contracts through DFA in compliance with DFA Rules and Regulations.

With the advice of legal counsel, consider voiding the current carnival concession contract and issuing a new concessions RFP.

Retain an outside consultant to recommend internal controls for the cash handling function, including limiting handling of cash to permanent employees and using cashless systems, and immediately implement those controls.

Complete a facility condition index and develop a comprehensive preventive maintenance plan and capital budget.

Enter into a new capital master planning process for the fairgrounds that integrates the need for enhanced revenue into a new strategic capital master plan.

Review how capital contracts are awarded to ensure compliance with all applicable laws, rules, and regulations.

## BACKGROUND INFORMATION

As an enterprise agency of the state of New Mexico, the New Mexico State Fair is self-sufficient, generating its own revenue to fund operations and accounted for as an enterprise fund. Enterprise funds account for operations financed and operated in a manner similar to private business – where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges.

The New Mexico State Fair occupies 236 acres of prime real estate in Albuquerque and has been in continuous operation since 1938. Consistent with the provisions of Sections 16-6-15 and 16-6-16 NMSA 1978, the New Mexico State Fair is governed by a seven member commission appointed by the governor and confirmed by the Senate (see **Appendix A** for a list of commissioners and overview of the New Mexico State Fair's departments). Operating revenue comes from events such as the annual State Fair; the Albuquerque Downs; concerts; a wide variety of art, animal, and other shows; and numerous other events that take place at Tingley Coliseum, the Manuel Lujan Complex, fully-equipped horse and livestock complexes, and various other venues located on the fairgrounds.

The New Mexico State Fair in recent years has experienced a decline in operating revenue, including a net decline of \$1.2 million in FY10. These revenue decreases are caused by a combination of factors, such as the national economic slowdown, decreased attendance, increased competition for concert and other event revenues, loss of resident professional sport teams, and loss of the National Arabian Horse Show.

Capital projects have been funded by the state of New Mexico through capital allocations from the general fund, severance tax bond proceeds, the pari-mutuel betting tax that expires in 2014, and proceeds from bonds issued for the New Mexico State Fair by the New Mexico Finance Authority.

This evaluation follows-up on findings and recommendations from LFC New Mexico State Fair reports from the mid 1990s; many of those findings still exist today (see **Appendix B**). Given the cultural and economic role the New Mexico State Fair plays within New Mexico, the Legislative Finance Committee is continuing its practice of evaluating the efficient and effective use of public resources.

## PROJECT INFORMATION

### Evaluation Objectives.

- **Adequate and Sustainable Operational and Capital Financing.** Is the current business model of the New Mexico State Fair adequate to fund its annual operating needs as well as its capital needs and, if so, if that business model is sustainable in the future?
- **Effectiveness and Efficiency of Operations.** Are selected State Fair operations, including the annual Fair, cash management, the lease with the Albuquerque Downs, and other contracts, run effectively and efficiently?
- **Overall Performance in meeting the needs of selected constituencies.** Is the New Mexico State Fair meeting the needs of selected constituencies, including neighborhood associations, the city of Albuquerque, and Bernalillo County?

### Scope and Methodology.

- Review of laws, rules and regulations;

- Review of Legislative Finance Committee (LFC) files;
- Interview the New Mexico State Fair staff, neighborhood associations, contractors, city officials, and county officials; and
- Analyze relevant financial documents, including contracts.

**Authority for Review.** The LFC has the statutory authority under Section 2-5-3 NMSA 1978 to examine laws governing the finances and operations of departments, agencies and institutions of New Mexico and all of its political subdivisions, the effects of laws on the proper functioning of these governmental units and the policies and costs. The LFC is also authorized to make recommendations for change to the Legislature. In furtherance of its statutory responsibility, the LFC may conduct inquiries into specific transactions affecting the operating policies and cost of governmental units and their compliance with state law.

**Project Evaluation Team.**

Dupuy Bateman, LFC Contractor

**Exit Conference.** The contents of this report were discussed with the New Mexico State Fair staff on October 17, 2011.

**Report Distribution.** This report is intended for the information of the Office of the Governor, the State Fair Commission and staff, the Office of the State Auditor, and the Legislative Finance Committee. This restriction is not intended to limit distribution of this report, which is a matter of public record.



Charles Sallee  
Deputy Director for Program Evaluation

## FINDINGS AND RECOMMENDATIONS

### THE NEW MEXICO STATE FAIR IS OPERATIONALLY INSOLVENT.

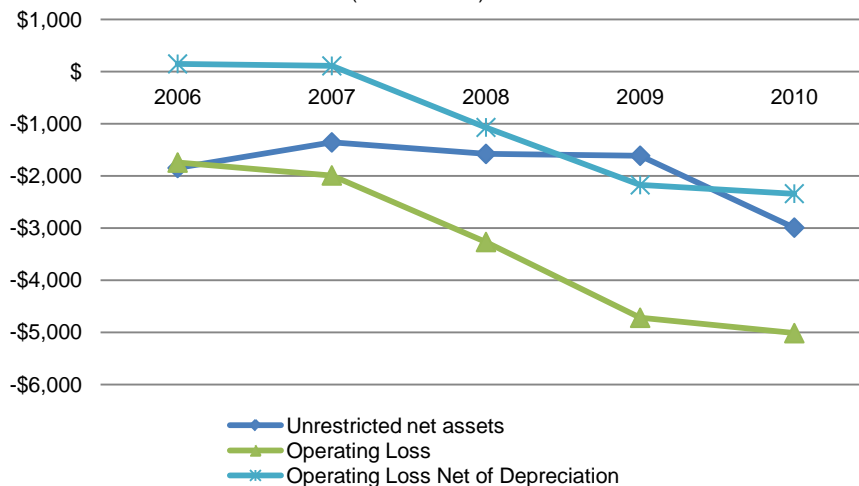
**With the current financial model in place it will be almost impossible for the New Mexico State Fair to pay its current creditors while continuing to operate.** Current liabilities exceeded current assets at the end of 2011 by more than 100 percent, with operational reserves exhausted.

*The New Mexico State Fair has been losing money for years and has exhausted the operational cash reserves.* The New Mexico State Fair is an enterprise agency of the state. It was designed to be self-supporting from its own operations, although the state of New Mexico has provided capital appropriations to help the New Mexico State Fair maintain its many buildings and related infrastructure.

The financial outlook of the New Mexico State Fair is bleak. Operating margins deteriorated between FY06 and FY10. The preliminary results for FY11 show similar results, although the losses may be somewhat less than FY10. The New Mexico State Fair does not have enough money to pay creditors or to finance day-to-day operations.

*The New Mexico State Fair's actual losses are greater than those reported to the Legislature.* Including depreciation, the New Mexico State Fair had annual operating losses ranging from \$1.7 million in FY06 to \$5 million in FY10, with an average annual operating loss of \$3.4 million over those five years as reported in its annual audited financial statements. The operating results without depreciation ranged from an operating profit of \$144 thousand in FY06 to an operating loss of \$2.3 million in FY10, with an annual average operating loss of \$1.1 million. These financial results led to a decline in unrestricted net assets (an enterprise fund equivalent of unrestricted fund balance) from negative \$1.9 million in FY06 to negative \$3 million in FY10, a net decline of \$1.1 million over five years and an average decline of \$229 thousand per year.

**Graph 1. New Mexico State Fair Key Financial Indicators**  
(in thousands)



The revenues and expenditures submitted to the Legislature, however, painted a much rosier picture of the New Mexico State Fair's financial condition than was reported in audited financial statements.

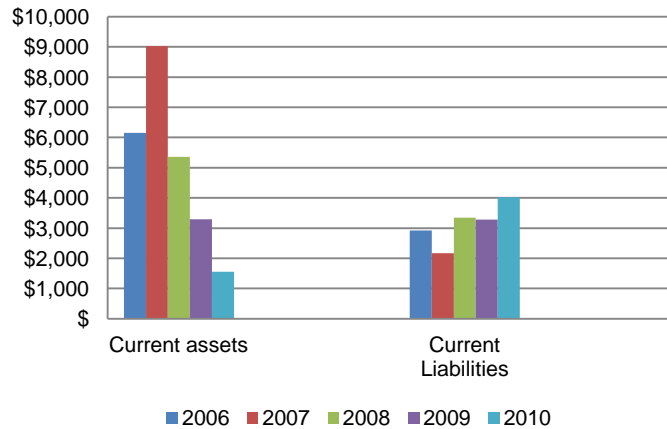
**Table 1. New Mexico State Fair Actuals as Reported to the LFC**  
(in thousands)

Sources	FY 06	FY07	FY08	FY09	FY10
General Fund Transfers	\$	\$	\$	\$478	\$435
Other Transfers	\$1,214	\$696	\$1,220	\$1,150	\$1,027
Other Revenues	\$13,776	\$13,926	\$14,696	\$14,300	\$11,837
Fund Balance	\$334				
<i>Total Sources</i>	\$15,324	\$14,622	\$15,916	\$15,929	\$13,299
<b>Uses</b>					
Personal Services & Employee Benefits	\$6,322	\$6,820	\$7,648	\$7,689	\$7,232
Contractual Services	\$3,233	\$3,083	\$3,347	\$3,735	\$3,516
Other	\$4,245	\$4,192	\$4,921	\$4,504	\$4,115
<i>Total Uses</i>	\$13,800	\$14,095	\$15,916	\$15,929	\$14,863
<b>Net Profit/ (Loss)</b>	\$1,524	\$527	\$	\$	(\$1,564)

Source: LFC

From FY06 to FY10, the New Mexico State Fair saw an overall decrease in current assets and an increase in current liabilities. While in FY06 the New Mexico State Fair had \$2.10 in current assets to cover every \$1 of current liabilities, by FY10 that ratio had declined to 39 cents in current assets to cover every \$1 of current liabilities. The decline continued in FY11.

**Graph 2. New Mexico State Fair Current Assets vs. Current Liabilities**  
(in thousands)



**The New Mexico State Fair has not paid other state agencies to cover other operational expenses.**

The New Mexico State Fair does not have enough money to pay its bills and is losing money on a daily basis. The largest amount, \$1.9 million, is owed to the Risk Management Division of the General Services Department for insurance coverage dating back to FY09. This de facto loan from another state agency has allowed the New Mexico State Fair to have enough cash to continue operations.

**The financial condition of the New Mexico State Fair is resulting in crisis management, forcing strategic decisions to be driven by short-term need rather than a strategic plan.**

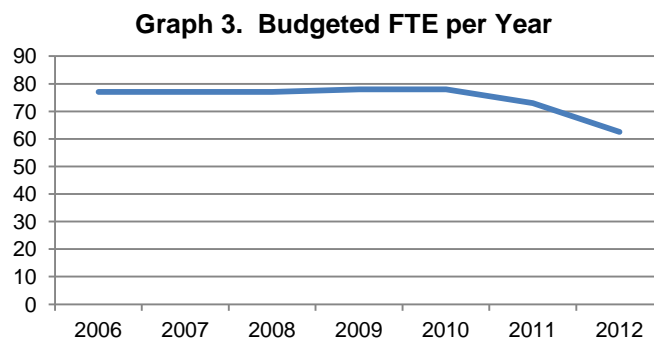
An example of crisis management is the process that led to the recent request for proposals (RFP) for the lease of the 93 acres

currently leased by the Downs at Albuquerque. The lease payment of \$167 thousand from the Downs is required each month to make payroll. After payroll is covered with lease and other revenue, the remaining cash is disbursed to vendors as prioritized by the general manager.

- The current lease expires on January 11, 2012.
- A new management team took over in March 2011 and extended the lease through January 11, 2013.
- The lease extension was found to require legislative approval which management felt was unlikely given the timing of the lease expiration.
- New Mexico State Fair management was faced with the loss of lease revenue in January 2012.
- To continue generating revenue, the New Mexico State Fair issued an RFP for a “Race Track and Casino Operations lease or Alternative Use lease” of the 93 acres currently leased to the Downs at Albuquerque in July 2011 with a 30-day response.
- Two proposals were submitted.
- These proposals are being reviewed by a three-person panel appointed by the governor.
- This time-frame should allow for a new lease to be in place by the expiration of the current lease and provide revenue needed for continued operations.

This was a process driven by the immediate need for cash from the lease to maintain solvency. The short response time, 30 days, potentially reduced the number of respondents to the RFP; given a less compressed time-frame, the process and results might have been vastly different.

*Although there has been an effort to reduce payroll costs through leaving positions vacant as well as a reduction in force, efforts to contain temporary personnel and other costs during the annual Fair are not a complete and permanent solution to the New Mexico State Fair’s current financial woes.* The budgeted permanent FTE at the New Mexico State Fair, between 77 and 78 from FY06 to FY10, was reduced to 73 in FY11 and was further reduced to 62.5 in FY12.



Source: State Fair

New Mexico State Fair management asserts that the current permanent FTE is 36 after two years of allowing budgeted positions to remain vacant and the recent reduction in force of 17 permanent FTE. Although the New Mexico State Fair may be able to reach a breakeven point and operate in the black, it will not be able to cover the losses of past years without some external help.

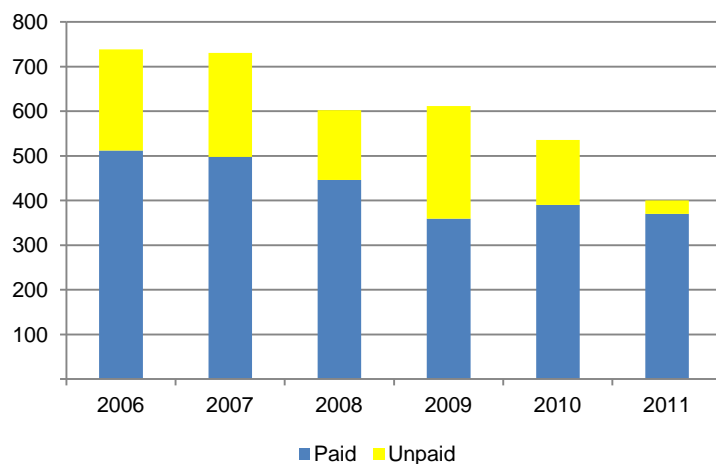
**The New Mexico State Fair has been without a chief financial officer (CFO) for a year.** In prior years, the New Mexico State Fair had a CFO and a staff of ten in the accounting department. In August of this year the New Mexico State Fair hired a contract accountant with an accounting degree and with several years of accounting and auditing experience in the private sector. The department has reconciled stale accounts and implemented procedures to maintain account balancing on an ongoing basis and has implemented several internal controls. Financial statements are now produced monthly and reviewed with upper management. The accounting department has been reorganized and the number of staff trimmed down to four employees.

The New Mexico State Fair management agrees with the benefits of working within the state’s SHARE system.

**Declining attendance and revenues, combined with increasing costs, put the New Mexico State Fair in financial jeopardy.** The current Fair is held for 17 days in September of each year. The primary revenue sources for the annual Fair are Fair admissions, Tingley Coliseum admissions, carnival admissions, concessions parking, and sponsorships.

Total attendance dropped from more than 740 thousand in 2006 to 400 thousand in 2011, a decline of 46 percent. Over this time, paid admission dropped from 512 thousand to 370 thousand and unpaid attendance declined from 227 thousand to 30 thousand (in 2011 only attendees holding unpaid admission passes were counted).

**Graph 4. NM State Fair Attendance Trends**  
(in thousands)



**Related revenues have also fallen.** Admissions revenue hit a high in 2007 at \$2.3 million but was down to \$1.5 million in 2010. The cost of admission increased from \$5 in 2006 to \$7 in 2007 and has remained constant at \$7 except for a 2008 admission price increase to \$9 with free parking.

Parking revenues hit a high of \$564 thousand in 2007 but decreased to \$451 thousand in 2010. The parking price has remained at \$7 except for 2008 when parking was free.

Carnival revenue remained fairly stable from 2006 through 2009, dropping just \$33 thousand from \$875 thousand to \$842 thousand. Carnival revenue fell off to \$618 thousand in 2010 when ride tickets were weighed, rather than counted.

Cash sponsorship revenue, in-kind sponsorship revenue, Tingley admissions, and concessions also declined, particularly in 2010 when the annual Fair was closed four of the 17 days.

**Table 2. Event Revenue by Source**  
(in thousands)

	FY06	FY07	FY08	FY09	FY10	% Change FY07- FY10
<b>Admission Revenue</b>	\$1,837	\$2,345	\$2,215	\$1,711	\$1,520	-35%
<b>Parking Revenue</b>	\$510	\$565	Free	\$368	\$452	-20%
<b>Carnival Revenue</b>	\$875	\$846	\$838	\$842	\$618	-27%
<b>Sponsorship Revenue Cash</b>	NA	\$399	\$345	\$321	\$220	-45%
<b>Sponsorship Revenue In Kind</b>	NA	\$1,329	\$1,041	\$1,269	\$844	-36%
<b>Tingley Admissions</b>	\$564	\$473	\$688	\$432	\$374	-21%
<b>Concessions</b>	\$1,563	\$1,310	\$1,479	\$1,411	\$927	-29%
<b>Total</b>	\$5,349	\$7,267	\$6,606	\$6,354	\$4,955	-32%

*Profitability has declined over recent years.* The effect of the economic downturn was first seen in 2008 when the annual Fair lost \$365 thousand. The profitability of other years of the annual Fair can only be estimated because the New Mexico State Fair collects and reports all revenue amounts but no comprehensive report was made available that measures Fair expenses against the related revenues.

In spite of this trend, the annual Fair has remained a 17-day event, though in 2010 and 2011 the annual Fair spanned 17 days but was closed on Mondays and Tuesdays.

Management put together a business plan in February 2010 that pointed out the annual Fair grew to 17 days in response to many key indicators; chief among them was the state of the local economy. There is no evidence the plan was ever officially presented to the State Fair Commission. Recommendations from that plan can be seen in **Appendix C**.

Although there may be ways to reduce costs and increase revenues within the current 13-day format, it does not seem that sustaining the annual Fair lies in that scenario. Instead, reducing the length of the annual Fair to 10 or 11 days will purportedly lower costs 30 percent while attracting the same number of people that the annual Fair is currently attracting. This time-length is similar to many comparable and neighboring states.

**Table 3. State Fair Attendance and Price Comparison**

State	# of Days	Attendance	+/- over prior year	Ticket Prices
Nebraska	10	129,023	+ 7%	+/- \$8
Idaho	10	243,850	-1%	+/- \$7
Arkansas	10	472,194	+22.8	+/- \$8
Wisconsin	11	911,231	+4.0%	+/- \$10
Colorado	10	515,995	- 1%	+/- \$10
Oklahoma	10	1,000,000	+10%	+/- \$9
Texas	24	2,618,500		+/- \$16
Arizona	18	1,041,039	+8.3%	+/- \$8
Utah	10	325,000	flat	+/- \$10
New Mexico	17	535,567	- 12%	+/- \$7

Current New Mexico State Fair management indicated it agrees with the recommendation to shorten the annual Fair to 10 or 11 days.

### **Recommendations**

The Legislature should amend statute to increase oversight of the New Mexico State Fair under direction of the Department of Finance and Administration, the State Personnel office, and the General Services Department.

Devise a plan that looks at shortening the annual Fair and strategic changes to reduce costs and increase profitability and properly costing out all events (both direct and indirect costs) held at the New Mexico State Fair to insure profitability.

Work with the affected state agencies to develop a long-term payment plan that would allow the New Mexico State Fair to meet its obligations.

Hire a qualified chief financial officer.

Explore charging food vendors at the annual Fair a percentage of revenue, much like the contracts with the New Mexico State Fair’s year-round food vendors, rather than a flat rate.

## **THE NEW MEXICO STATE FAIR'S LEASE WITH THE DOWNS OF ALBUQUERQUE IS FRAUGHT WITH PROBLEMS.**

**The New Mexico State Fair does not appear to be getting full payment under its lease with the Downs.** Since 1985, the New Mexico State Fair has leased the 93 acres encompassing the horse racing facilities, casino facilities, and related facilities to the Downs at Albuquerque. In 2010, the lease had been in effect for 25 years and the State Fair Commission requested to extend the lease for two additional years. Legislative approval allowed for the extension of the lease for one additional year through January 2011, with an option to extend until January 2012. This also increased the base rent by 10 percent for the first year and an additional 10 percent in the second year.

In January 2010, addendum number five to the lease was signed between the New Mexico State Fair and the Downs at Albuquerque. The financial terms establish a lease rate of \$2 million per year with a 10 percent increase of \$200 thousand in first year and an additional 10 percent of \$420 thousand in the second year. At the discretion of the New Mexico State Fair, the addendum allows the Downs to offset the increased lease payment on promotional events, marketing, or advertising that benefits the New Mexico State Fair. This addendum further stipulates these expenditures must be agreed on in writing by both parties.

*Although the Downs at Albuquerque made its monthly cash lease payments of \$166,666 during the extension (through 1/11/11), there is no evidence of promotional events, marketing, or advertising that benefited the New Mexico State Fair to offset the 10 percent increased payment.* A letter from the Downs to the New Mexico State Fair indicates that \$200 thousand in promotional expenses incurred by the Downs qualify as an offset to the increased rent obligation, but marketing staff at the New Mexico State Fair saw no evidence of these “promotional events, marketing and/or advertising” referred to in the letter.

*Though required by the lease, the New Mexico State Fair did not provide prior approval for these promotional expense offsets.* According to Downs at Albuquerque officials, qualifying promotional material was any Downs ad mentioning the Downs physical location at Expo New Mexico. The former general manager, however, signed a document in February, 2011 that the \$200 thousand obligation had been met.

*The Downs is not meeting its obligation to provide \$420 thousand worth of promotional events, marketing or advertising as required for the option period of the lease (through 1/11/12).* According to Downs at Albuquerque officials, nothing is currently being done to meet this current obligation, but if the Downs is awarded a new lease, they will spend the \$420 thousand promoting their new facility. The Downs does have the option to pay this amount in cash at the end of the lease period.

**Utility payments under the current lease as informally amended by a letter of agreement will result in the Down paying less than its share of the annual electricity bill.** The lease calls for the Downs to pay for electricity used by the Downs under the lease. For 2007 to 2010 the electricity billed to the Downs was approximately \$267 thousand per year. Based on a February 2011 letter of agreement, however, the Downs will only be responsible for paying up to \$20 thousand per month for electricity. This amount was reached based on a Downs estimate and will result in at least \$27 thousand less in electrical payments than averaged for the past four years.

**The Downs owes the New Mexico State Fair \$215 thousand for its share of revenues from horse races.** The New Mexico State Fair enters into a professional service agreement with the Downs for the operation of the race meet held during the annual Fair. The race days are conducted under the New Mexico State Fair’s racing license by the Downs. In consideration for the right to operate the racing meet during the annual Fair the Downs pays the New Mexico State Fair 1 percent for the first \$5.7 million wagered and 1.25 percent in excess of this amount.

*The New Mexico State Fair shows no record of payment in 2006, 2007, 2008, and 2010.* The Downs reported to the New Mexico State Fair the amount owed for 2008 was \$30 thousand and the New Mexico State Fair booked a like amount for a receivable for 2010. The Downs has not paid these two amounts. The Downs made a payment of \$13,000 in 2009 based on figures given the New Mexico State Fair by the Downs. The amounts due by year are as follows:

**Table 4. Racing Amounts Due to the New Mexico State Fair**  
(in thousands)

Year	Gross Handle	1% due NMSF
2006	\$5,201	\$52
2007	\$5,266	\$53
2008	\$4,391	\$44
2009	\$3,934	\$39
2010	\$4,050	\$41
<b>Total</b>	<b>\$22,842</b>	<b>\$228</b>

Source: Gaming Commission

The total still due the New Mexico State Fair, \$215 thousand, has not been paid to date.

The Downs operated the race meet in 2011 but refused to sign an agreement. The Downs has informed the New Mexico State Fair that it will not operate the 2012 race meet unless it is required by a new lease.

**Recommendations**

The New Mexico State Fair should properly enforce the terms of all contracts.

All New Mexico State Fair contracts should be processed through DFA in compliance with DFA rules and regulations.

## **LACK OF OVERSIGHT AND ACCOUNTABILITY HAVE RESULTED IN CONTRACT IRREGULARITIES AND INADEQUATE CASH CONTROLS.**

**An RFP for the carnival concessions contract was issued in 2010 and a new contract was awarded, but the financial terms of the new contract were never enforced.** A request for proposals (RFP) was issued for the carnival concession contract at the annual Fair in May 2010 for a period of 30 days. The notice of an RFP was sent to eight companies and copies of the RFP were requested by four companies. The New Mexico State Fair only received one response to the RFP from the incumbent vendor, Spectacular Attractions, INC d/b/a Murphy Bros.

A contract was awarded by the New Mexico State Fair on July 12, 2010 and executed on July 27, 2010. The term of the contract was effective on execution and terminated on November 15, 2014.

**The 2010 the New Mexico State Fair contract settlement (payment) for the carnival concessions contract was under the terms of the “old” contract, not the new contract which became effective in July 2010.** Although the new contract in place for the 2010 Fair called for increased ride, food, and game space compensation, the New Mexico State Fair received payment according to the prior, lower contract rates.

Under the new contract rates, the operation rides and shows were as follows:

- 40 percent for the first \$1 million in gross receipts
- 35 percent for that portion of gross receipts between \$1 million and \$1.5 million
- 30 percent for that portion of gross receipts over \$1.5 million

For concessions, the contractor was to pay to the New Mexico State Fair \$175 per foot measured by the combined length of one long and one short side of the booth for all concessions including hitches, but excluding awnings of all concessions.

*The New Mexico State Fair was underpaid by an estimated \$477 thousand for the concessions contract.* The contractor paid 33 percent on ticket sales, 25 percent on wristband sales, and \$190 thousand flat rate for concessions for a total of \$618 thousand. If the new and current contract terms had been enforced the contractor would have paid \$610 thousand for the percentage of rides alone and \$175 per foot of all concessions. Based on 2011 Fair measurements, the footage payment can conservatively be estimated at \$485 thousand. According to these calculations, the payment to the New Mexico State Fair should have been \$1.1 million, \$477 thousand more than was actually paid.

*A change in the way tickets were counted also resulted in decreased revenues in 2010.* Before the annual Fair, the vendor requested that additional tickets be printed because the contractor did not want to take cash at the concessions and games. The reason given was that the contractor did not trust his game subcontractor to settle fairly. Additional tickets were printed identical to the ones to be used for rides. At the end of the annual Fair the contractor brought tickets that were divided into two groups, those for rides (commission had to be paid) and those used for concessions and games. The contractor certified the separation of tickets was correct. The tickets were weighed (not counted) to estimate the number of tickets eligible for commission to be paid the New Mexico State Fair. This is one factor that impacted total commission paid the New Mexico State Fair to be \$618 thousand compared with a previous four-year average of \$850 thousand, a 27 percent decrease of \$232 thousand. Declining attendance in 2010 also contributed to this drop.

**Amendment #1 to the new contract was executed in October 2010 and substantially eliminated the financial benefit of the new contract to the New Mexico State Fair.** Amendment #1 to the new contract, executed by the then general manager and the chairman of Spectacular Attractions, was “approved as to form and legal sufficiency” by an attorney on contract to the New Mexico State Fair. The attorney under contract to the New Mexico State Fair was the general counsel to the Workforce Solutions Department under the previous administration.

Amendment #1 does not appear to have been approved by DFA or the State Fair Commission and was not made known to the New Mexico State Fair procurement director by the general manager until April 2011, after his departure from the New Mexico State Fair. Until then, the agreement was presumably known only to the signers.

***The terms of Amendment #1 financially benefit the contractor.*** Most specifically the percentage collected on tickets was reduced to 33 percent, the amount collected on wristbands (computed in the new contract the same as tickets) was reduced to 25 percent, and the concessions (food, games and all other non-ride concessions) was reduced from “\$175 per foot measured by the combined length of one long and one short side of the booth including hitches, but excluding awnings” to a flat \$190 thousand. This was similar to the terms of the old contract and negated the increased compensation expected from the RFP process which was, in fact, reflected in the new contract.

Amendment #2 was executed in September 2011 for the 2011 Fair. The amendment restored the percentage collected on wristbands to 33 percent but left the other changes in place.

**The New Mexico State Fair lacks proper segregation of duties to protect the more than \$3.5 million in cash collected annually.** It is conservatively estimated that the New Mexico State Fair takes in more than \$3.5 million dollars a year in cash, 25 percent of the total annual revenue. Staff was unable to accurately report the amount of cash (as separate from checks and credit cards) actually collected and deposited annually. This cash is generated through annual parking receipts, admission to the annual Fair, midway admission for rides, weekly payment for flea market booths, box office sales, concessions, and events.

***From the time the cash is received at the “bank” until is taken to a bank depository, there is no segregation of duties between the custody of the cash and the record-keeping of the cash received.*** Ninety-nine percent of all cash collected on the fairgrounds goes through an office referred to as the bank. The bank is a small, old building directly south of the administration building. The building is cramped and lacks any modern security.

During the annual Fair the vault may hold \$500 thousand at any one time because of a large change fund kept on hand and daily revenue received. The bank serves as the main depository building for all cash received throughout the year by the New Mexico State Fair. The bank has a walk-in vault and a smaller safe within the walk-in vault. The lack of both structural and electronic security at this building makes it inadequate for the storage of large amounts of cash.

Both the New Mexico State Fair staff and external auditors have extensively studied how cash is handled from the point it is received from the customer through when it is deposited at the cashiers window of the bank, but not the procedures followed from when the money is deposited at the New Mexico State Fair

bank building until is taken by armored truck to the bank depository. One external auditor recalled that the New Mexico State Fair management had specifically asked the audit team to focus on cash collection points other than the bank.

One person was responsible for the areas of parking operations (including cash collections), box office, and the bank. Within that responsibility, the same employee scheduled and supervised all parking operations, all box office operations and all operations within the bank—in other words, the scheduled and supervised the employees who handled the most amount of cash.

Access to the bank is as follows:

<u>Position</u>	<u>Keys</u>	<u>Vault &amp; Safe Combinations</u>	<u>Alarm Code</u>
Bank Manager	X	X	X
Accounts Receivable Clerk	X	X	X
Temporary Cashier 1	X	X	
Temporary Cashier 2	X	X	
Temporary Cashier 3	X	X	X
Parking Operations Manager	X		X
Parking Operations Asst.	X		X

***Temporary employees (sometimes untrained during the annual Fair) handle and record cash.*** The three temporary cashiers who worked regularly on the weekends had open access to the building, vault, and safe (each had keys and combinations).

The building alarm system was only used when the building was locked up for the evening until it was opened in the morning. Three employees (bank manager, accounts receivable clerk, and one of the temporary cashiers) had the alarm code and keys, as well as vault and safe combinations giving them the access to return after hours, thus giving them the opportunity to remove cash and change the records. There is no evidence that this has actually happened.

The bank is open and staffed all weekends throughout the year for the flea market. Weekly cash receipts from parking and the flea market are at least \$25 thousand.

This cash is handled by the bank manager and temporary employees. From the time the cash is received into the bank (Saturday and Sunday) until it is picked up by an armored truck on Monday to be taken to a bank depository, both the cash and the record-keeping for that cash is completely under the control of the bank manager and the temporary employee working that weekend.

During the annual Fair, between \$100 thousand and \$300 thousand per day in sales comes into the bank and is sent to the bank depository via an armored truck for deposit.

The bank manager has total control of all cash and all record-keeping for the cash brought to the bank from the time is received at the cashier’s office until it is picked up by an armored truck and taken to the depository bank. Neither the total of the cash collected at the New Mexico State Fair bank over the weekend nor the amount picked up by an armored truck and taken to the bank depository on the following business day is independently verified.

***Current cash handling violates the segregation of duties standard of internal control.*** No single individual should be in charge of custody of assets and the recording of transactions. Adequate segregation of duties reduces the likelihood that errors (intentional or unintentional) will remain undetected by providing for separate processing by different individuals at various stages of a transaction and for independent reviews of the work performed. The basic idea underlying segregation of duties is that no one employee or group of employees should be in a position both to perpetrate and conceal errors or irregularities in the normal course of their duties.

In the case of the annual Fair, temporary employees and the bank manager had custody of the cash received and kept records for that cash. During flea market weekends, these employees received and accounted for approximately \$25 thousand per weekend without proper controls in place.

The bank manager was not present all the time because of other responsibilities related to parking operations and the box office, so the temporary cashier was often alone with access to both cash and the recordkeeping for the cash.

The cash was received by the temporary cashier at the cashier's window with the appropriate backup from the person bringing the deposit, then recorded on a spreadsheet by the temporary cashier and stored in the safe. The temporary cashier had ample opportunity to take cash before recording the deposit on the official daily spreadsheet by merely alternating or destroying the backup that came with the cash.

***The New Mexico State Fair has recently implemented and improved internal controls.***

- Two persons are always present in the banking process. The persons are rotated weekly and daily during the annual Fair.
- Access to the bank building, security alarm code, vault combination and drop box are restricted to specific individuals with emphasis on separation of functions.
- Security cameras have been installed in various locations covering 360 degrees of the banking area. Monitors and video recordings are maintained in a separate building. A person is stationed at the monitors at all times that there is banking activity.
- Security personnel are stationed at the banking area, one outside the building and another inside the bank. During the annual Fair there are two to three stationed outside the bank building and one inside.
- The bank manager no longer handles cash. The bank manager reviews the balancing forms and deposit slips and signs off on them before moneys are deposited in the drop box. The moneys are immediately taken to the drop box by the bank manager and the cashier and the balancing forms are immediately emailed to the accounts receivable office. The following day the accounts receivable person and the accounts payable person open the drop box and deposit the moneys on the armored vehicle. A receipt is produced and recorded in the accounts receivable files.
- Policies and procedures for internal controls are being documents.

***During the 2011 Fair, a temporary cashier allegedly embezzled approximately \$5 thousand.*** It is alleged that a temporary cashier concealed a cash deposit received from a parking seller in an extra drawer and then took the cash, concealed on their person, away from the building. This was discovered through the use of a new camera system installed just prior to the annual Fair.

The bank manager also had custody of the cash and record-keeping for those assets. Therefore the opportunity to remove cash and change the official records existed continuously, making it possible for cash to be taken before ever being recorded on the books of the New Mexico State Fair.

As fieldwork was being done for this report, the bank manager and the temporary weekend cashiers were all interviewed. The bank manager abruptly retired and the temporary employees resigned.

New Mexico State Fair management moved swiftly to replace the bank manager as well as separate the responsibility for parking operations from that position. Temporary positions were replaced with new temporary employees and existing accounting personnel were reassigned to that department. Additionally, changes were made to the internal layout of the bank building to decrease open access through the building, thereby increasing security.

Even with these changes in place the need for separation of the assets and record-keeping for the assets still exists. The same fundamental weakness in the internal control structure remains, and New Mexico State Fair cash is still vulnerable.

### **Recommendations**

The State Fair Commission should properly enforce the terms and conditions of all contracts and develop written policies and procedures clarifying its role in the approval of all contracts and amendments.

All New Mexico State Fair contracts should be processed through DFA in compliance with DFA rules and regulations.

The New Mexico State Fair should consider, with the advice of legal counsel, voiding the current carnival concession contract and issuing a new RFP for the carnival concession contract.

The New Mexico State Fair should retain an outside consultant to recommend internal controls for the cash handling function and immediately implement those controls.

The New Mexico State Fair should use permanent employees when possible to handle cash. All employees should be extensively trained before being allowed to work as a cashier.

The New Mexico State Fair should explore the use of cashless systems (such kiosks or online purchases) for parking and admissions, thereby reducing the amount of cash handled by employees of the New Mexico State Fair.

## THE NEW MEXICO STATE FAIR LACKS A STRATEGIC CAPITAL PLAN.

**Capital funds that have been allocated to the New Mexico State Fair have been expended for emergency repair and maintenance.** The New Mexico State Fair has received approximately \$27 million for capital improvements since 2003. A significant portion of the funds have been used to renovate the aging New Mexico State Fair facilities and infrastructure. The following list represents \$19 million in expenditures.

• Indian Village	\$4,622,696
• Villa Hispania	\$2,526,311
• Water Master Plan	\$2,007,090
• Grounds landscaping	\$1,707,008
• Horse arenas & stalls	\$1,699,710
• Tingley	\$1,248,782
• Paving	\$ 682,994
• Lujan Buildings – primarily maintenance	\$ 657,427
• Tingley Parking lot lighting	\$ 556,439
• Electrical infrastructure	\$ 490,825
• Grandstand Downs	\$ 418,802
• Equipment needs	\$ 416,898
• Beef barn	\$ 404,100
• AAP (Alice K. Hoppes)	\$ 211,156
• Restrooms – repair and maintenance	\$ 161,098
• Youth Hall	\$ 132,464
• Infield/Tunnel	\$ 123,237
• Queens Row S barn	\$ 123,022
• Swine Stalls & Barn Repair	\$ 115,020
• Door Project	\$ 90,784
• AAPAC Addition	\$ 80,382
• Palomino Barn	\$ 79,179
• Bolack Agriculture Building	\$ 62,490
• Creative Arts	\$ 58,703
• Master plan Update	\$ 52,290
• Flea Market	\$ 40,060
• AAPAC Landscaping	\$ 38,254
• Public Safety Building	\$ 29,835
• PA Systems	\$ 20,106
• Feed Store	\$ 15,973
• Hispanic Arts Lighting	\$ 13,021
• School Arts and Flower Building	\$ 8,244
• Roofing – Other	\$ 6,536

***There has been no preventive maintenance program at the New Mexico State Fair and major systems have been allowed to run to failure.*** Many of the capital dollars spent have been for emergency maintenance of buildings and their operational systems because of the lack of any preventive maintenance

program. Both buildings and building systems have been run to failure and used capital funding to replace or repair them because of the lack of operational resources.

Recently, one of the four primary air handling units at Tingley (installed in 1999) self-destructed with an estimated repair cost of over \$165 thousand. There was no preventive maintenance performed on this unit. Three similar units remain in service.



***There is the lack of a current comprehensive capital master plan for the New Mexico State Fair.*** Instead, the New Mexico State Fair maintains a list of deferred maintenance addressed through capital expenditure. Much of the investment has been to merely keep the New Mexico State Fair facilities operational. A comprehensive capital master plan would better define the future of New Mexico State Fair facilities and would direct investment toward a future vision as defined in the capital master plan.

***Numerous contracts for commercial work have been awarded to residential contractors.*** A review of capital expenditures for FY10 and FY11 found a number of contracts for roof repair, concrete manure pits, concrete horse wash stalls, stucco repair, and building remodel were given to residential contractors. These contracts totaled \$2.5 million over this two-year period. Some of these were emergency purchase orders, allowing them to be awarded outside the normal procurement process.

## **Recommendations**

The New Mexico State Fair should:

Complete a facility condition index and develop a comprehensive preventive maintenance plan and capital budget.

Enter into a new capital master planning process for the fairgrounds that integrates the need for enhanced revenue into a new strategic capital master plan.

Review how capital contracts are awarded to ensure compliance with all applicable laws, rules, and regulations.

## **OPPORTUNITIES EXIST FOR THE NEW MEXICO STATE FAIR TO WORK MORE EFFECTIVELY WITH EXTERNAL CONSTITUENCIES.**

**The New Mexico State Fair has an impact on the neighborhoods that surround it as well as the city and the county.** Neighborhood associations from Fair Heights and Mark Twain have shared similar neighborhood concerns. In general the New Mexico State Fair does not have good relationships with the neighborhood associations because of several reasons voiced by neighborhood representatives:

- The New Mexico State Fair is political with a revolving door of management.
- Until recently, the neighborhood associations lacked representation within the New Mexico State Fair governance.
- The New Mexico State Fair does not partner with the neighborhoods, the city, or the county.
- The neighborhoods perceive the New Mexico State Fair to be heavy-handed.
- The New Mexico State Fair sought no input from the neighborhoods during creation of current RFP for the lease of the 93 acres currently leased by the Downs at Albuquerque.
- At times, animosity between city and state comes to a head during the annual Fair.
- The neighborhoods do not trust the New Mexico State Fair will accomplish what it says it will do and have no confidence in its promises.

Particular concerns addressed include the following:

- Health issues caused by manure and ponding water
- Noise
- Lighting
- Vagrants
- People living in the stables
- Traffic
- Gambling
- Loss of both vendors and customers at flea market

The neighborhood associations agree the wall around the New Mexico State Fair is forbidding and unsightly, with a bare wall and dying shrubbery facing the neighborhoods. Neighborhood associations would like to see the fairgrounds busy every day with business and cultural activities that have community focus. An arts community is needed at the fairgrounds. Suggestions to make it an economic engine include schools, soccer fields, covered flea market, and state agency offices.

The neighborhood associations feel partnerships with the New Mexico State Fair will be mutually beneficial. An inclusive, collaborative effort would improve the neighborhoods and the New Mexico State Fair, while having a positive impact on the surrounding areas that have suffered from the effects of poverty and addiction.

***The relationship between Albuquerque and the New Mexico State Fair has been contentious in recent years.*** Rather than cooperation, differing political agendas have created a deep divide.

The city of Albuquerque is currently seeking to develop a mutually beneficial relationship with the New Mexico State Fair. Cooperation on many levels is required, including the coordination of the New Mexico State Fair's strategic vision for the New Mexico State Fair with the city's 25-year plan.

Opportunities also exist for the Albuquerque Convention and Visitors Bureau and the New Mexico State Fair events department to negotiate contracts with customers who hold major events at the fairgrounds such as the Junior Arabian Horse Show. This could include partnerships between the transportation division of Albuquerque and the New Mexico State Fair.

The Bernalillo County Commission currently has minimal direct relations with the New Mexico State Fair but is interested in developing opportunities for strategic partnerships.



Susana Martinez  
Governor

October 18, 2011

Legislative Finance Committee  
State of New Mexico  
416 State Capitol Building  
Santa Fe, NM 87501

Ladies and Gentlemen of the Legislative Finance Committee:

The following represents our response to the recommendations set forth as a result of the performance audit memorandum dated earlier this month. We very much appreciate the effort and the lengths to which Dupuy Bateman went during the discovery phase of his report, and overall we found the experience to be very enlightening. Our characterization of Mr. Bateman's report follows, in that we agree wholeheartedly that our most critical concern is long-term stability and solvency, and how to achieve both in such a way as not to place any further burden on the taxpayer of New Mexico. As an enterprise fund, EXPO New Mexico, a.k.a. The New Mexico State Fair, is designed as a self-sufficient entity except with regard to specific areas of capital improvement that fall under the purview of the State Legislature. (Since FY09, the Legislature as approved virtually no capital funding for maintenance, upkeep or infrastructure with regard to the 73-year-old grounds and facilities.) In order to remain self-sufficient and to transition back from its current insolvent state into solvency are the major goals while also representing the most difficult challenges presently facing the agency.

We view this most recent LFC evaluation as an opportunity to establish some critical baselines from which realistic goals can be set, as well as a chance to take stock of the agency; the tools we have to work through some of the myriad challenges we face, from staffing to IT and other infrastructure to highlight but a few.

In its earliest incarnation, the State Fair was the premier annual event in the state that generated ample revenue not only to fund itself as an agency with a simple mission to present an annual State Fair representative of each of New Mexico's 33 counties, but also to provide venues for what are referred to as "interim" events—those events taking place outside of Fairtime each year on the Fairgrounds at one or more of its numerous facilities such as arts shows, trade shows, concerts, animal exhibitions, crafts fairs, etc. A gradual but steady shift in that paradigm has seen the situation very nearly reverse itself, to the extent that the interim events held at EXPO New Mexico

generate revenues that bolster the budget and to a large extent contribute to the agency's ability produce the annual event (State Fair).

Changing times and dramatic shifts in the state's economic landscape and outlook coupled with a sea change in how EXPO New Mexico operates and is perceived to operate within state government, and the overall unwillingness of past administrations to effectively deal with problems and issues at hand has forced us to take an exceptionally detailed, honest look at the agency in the hope that we can make it once again solvent and self-sustaining for many generations into the future. Difficult choices and challenges lay ahead, but we believe that none of them is insurmountable.

#### KEY FINDINGS

##### **The New Mexico State Fair is Operationally Insolvent:**

In concurrence that the Fair is financially insolvent, management has taken steps to increase revenues by being more aggressive about renting its facilities. Management has also considered the possibility of shortening the annual event from 17 days to an undetermined number of days that makes the most economic sense for the agency and for consumers based in historical context (e.g.: closing the Fair on what have historically been its slowest days, reducing number of days thereby reducing overhead and expenses).

##### **Crisis Management:**

Crisis inherited as of March 1. Incumbent upon new management to build 2011 Fair from ground up from that date within extremely tight window in order to achieve an acceptable event. In reference to RPF; the lease with the agency's largest tenant is due to expire January 11, 2012. Because previous administrations had failed or declined to deal with the expiration of said lease, timing became one of several critically important factors to consider moving forward.

##### **The New Mexico State Fair has been without a Chief Financial Officer for a year:**

In prior years EXPO had a Chief Financial Officer and a staff of up to 10 in the Accounting Department. Neither the Chief Financial Officer nor any of the accounting staff had a formal accounting education or an accounting degree. The department was over-staffed and productivity as very low. As a result general ledger control accounts were not being reconciled and proper accounting controls were not being followed. In August of this year we hired a contract accountant with an accounting degree and with several years of accounting and auditing experience in the private sector. Since then we have reconciled stale accounts and implemented procedures to maintain account balancing on an ongoing basis and we have implemented several internal controls. Financial statements are now produced monthly and reviewed with upper management. The accounting department has been reorganized and the number of staff trimmed down to four employees. Productivity has increased significantly.

##### **Recommendation:**

The Chief Financial Officer/Controller should be someone that has an accounting degree, at least five years of practical accounting experience and some management/supervisory experience. An organization the size of EXPO with annual revenue of roughly \$13 million should require no more than four staff, including the Chief Financial Officer/Controller.

**State Fair's Lease with Albuquerque Downs Fraught with Problems:**

The Downs and the Fair are contractually bound pursuant an addendum (5) signed January 8, 2010 by former EXPO GM Craig Swagerty. The addendum allows the Fair in its discretion and after written approval to credit agreed amounts spent on "promotional events, marketing/advertising" that benefit both Lessor and Lessee. The obligation of the Downs is an annual payment.

Absent a proposal from the Downs for approval of possible expenses and absent approval by the Fair (which is at the discretion of the Fair), the additional rent must be paid on or before January 12, 2012. Thus far, the Downs has not proposed promotional expenses to be credited for 2012 and as noted above, any such proposed marketing/advertising must be approved by the Fair.

Management is currently working toward closing out the old lease.

**Management of Carnival Contract:**

The current contract with Murphy Brothers (carnival provider) is under review of the State Fair attorney.

**The New Mexico State Fair lacks proper segregation of duties in order to protect the more than \$3.5 million in cash collected annually:**

Up until several months ago there were some major weaknesses in the handling of cash and the banking process. In recent months we have implemented and improved internal controls.

- Two persons are always present in the banking process. The persons are rotated weekly; daily during the State Fair.
- Access to the bank building, security alarm code, vault combination and drop box are restricted to specific individuals with emphasis on separation of functions.
- Security cameras have been installed in various locations covering 360 degrees of the banking area. Monitors and video recordings are maintained in a separate building. A person is stationed at the monitors at all times that there is banking activity.
- Security personnel are stationed at the banking area, one outside the building and another inside the bank. During the State Fair there are two/three security personnel stationed outside the bank building and one inside.
- The bank manager does not handle cash anymore. The bank manager reviews the balancing forms and deposit slips and signs off on them before moneys are deposited in the drop box. The moneys are immediately taken to the drop box by the bank manager and the cashier and the balancing forms are immediately emailed to the accounts receivable office. The following day the accounts receivable person and the accounts payable person open the drop box and deposit the moneys on the armored vehicle. A receipt is produced and recorded in the accounts receivable files.
- Policies and procedures for internal controls are being documents and periodic trainings will be held to make sure all employees properly adhere to internal controls at all times.

These internal controls have already produced some positive results. During the State Fair one employee working in the bank for the last five years was recorded pocketing cash and is currently under investigation.

**Recommendation:**

These changes should be given time to work and allowed to be reviewed by the external auditor during the next audit so the auditor can make further recommendations for improvements in their audit report.

**The New Mexico State Fair lacks a strategic capital plan:**

Fair is undertaking a complete infrastructure assessment which it will morph into a strategic capital plan that encompasses everything from sewage/drainage to Information Technology infrastructure.

Signed by:

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Dan Mourning  
Interim General Manager

## APPENDIX A: STATE FAIR COMMISSIONERS AND OVERVIEW OF DEPARTMENTS

### **State Fair Commissioners**

Chairman, David “Hossie” Sanchez

Member, Benny Roybal

Member, Ruth Bitsui

Member, Larry Kennedy

Member, Kenneth “Twister” Smith

Member, Charlotte Rode

Member, Kenneth “Buster” Goff

### **Events Department**

The events department is responsible for booking fairground’s facilities on a year around basis as well as booking all entertainment during the annual Fair. The events staff is responsible for managing all facility rentals and providing the support necessary to make those events happen.

The events department does profit and loss statements for very few events. The reason given was the lack of data from other departments made this impossible to correctly complete the profit and loss analysis. This results in the New Mexico State Fair not having the data necessary to know if an event made or lost money. This lack of data results in the New Mexico State Fair not having being able to price the facilities rentals to ensure profitability.

Another deficiency is the lack of having an indirect cost rate that estimates indirect costs (overhead) that should be charged to each facility rental to ensure profitability. Without including these costs in pricing facility rentals it is impossible to ensure that facility rentals will cover the related costs, resulting in possibly losing money on each rental.

### **Concessions Department**

The concessions department is responsible for negotiating and managing all annual contracts for food and alcohol vendors at the New Mexico State Fair. These vendors have the rights to sell during all events held at the fairgrounds and pay a percentage of sales to the New Mexico State Fair per their contract.

Additionally this department is responsible for negotiating and managing all vendor contracts during the annual Fair. This is the entire space rental that occurs every year for the 17 days of the annual Fair. These leases are for a flat rate for the entire 17 days of the annual Fair. The spaces are priced on size and location. The Carnival Concessions Contract is negotiated and managed separately. The only exception is the few food and alcohol vendors who are at the fairgrounds year around – they continue to pay their negotiated percentage during the annual Fair.

One way to increase revenue is to develop a method similar to that used for year around vendors, using a percentage of sales instead of a flat rate to charge food vendors during the annual Fair.

As with other departments revenue has declined in recent years based on the overall activity at the fairgrounds.

The Concessions Department appears to be well-organized and well run.

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## **Sponsorship Department**

The Sponsorship Departments negotiates and executes annual sponsorships as well as sponsorships for the annual Fair. Sponsorships are both for cash and in kind services.

The Sponsorship department does a good job of being able to accurately cost out sponsorship proposals with the data they have available. If the New Mexico State Fair is to give out items with a hard value such tickets or parking passes the costs are easy to estimate. If facility usage is part of the sponsorship they use the data that is given to them but as discussed previously the New Mexico State Fair does not have a good method to accurately cost out direct and indirect costs facility rental.

As with other departments revenue has declined in recent years based on the overall activity at the fairgrounds.

The Sponsorship Department appears to be well-organized and well run.

## **Flea Market**

The Flea Market is an event held every Saturday and Sunday during the year except during the annual Fair and Christmas day if it falls on a weekend. The Flea Market attracts many vendors on a weekly basis, both repeat and one time vendors. Space is rented to the vendors based on size and location.

The public attends the event and either pays an amount to park (currently \$5 per car) or \$2 per person at the pedestrian gate.

The Flea Market produces revenue on a weekly basis for the New Mexico State Fair. The Flea Market appears to be run efficiently and effectively. Although, as with most the New Mexico State Fair activities, there is no specific profit and loss done on a weekly basis it does appear that the collection of revenue of \$25,000 to \$30,000 per week is in excess to the cost of labor associated with the flea market.

In order to properly measure profitability the Flea Market should be set up as a separate cost center in the New Mexico State Fair's accounting system.

The Flea Market appears to be well-organized and run.

## **APPENDIX B: SUMMARY OF PREVIOUS LFC EVALUATION OF THE NM STATE FAIR**

The New Mexico State Fair faces many of the same issues in 2011 that the LFC pointed out in reviews in 1993, 1994 and a report in 1996.

A 1993 a review and 1994 follow-up recommended the State Fair study the possibility of operating the carnival concession with multiple independent operators rather than a single operator. The review was also critical of the Murphy Brothers contract because the contract appeared to favor the contractor rather than the State Fair. The State Fair Commission indicated they would study that recommendation.

In the 1996 report, the fundamental problems are similar to the findings are similar to conditions in 2011.

Debt financing, for example, was an issue in 1996 and continues today. In 2011, the outstanding bonded indebtedness of the New Mexico State Fair, \$2.7 million, is secured by a dedicated stream of revenue, the pari-mutuel betting daily capital outlay tax. As indicated in this evaluation, the New Mexico State Fair has not paid vendors on a timely basis, the largest of which is \$1.9 million to the Risk Management Division of the General Services Department dating back to FY09.

Cash Management, including segregation of duties, was an issue in 1996 and cash handling remains an issue in 2011.

Lack of policies and procedures for obtaining fair market value for revenue was an issue in 1996 and remains an issue today. Examples include the carnival concessions contract, a finding in 1996 and a finding in 2011, the actual lease value of the property currently leased by the Downs at Albuquerque, rental values for fairground's facilities, and the method of charging food vendors during the annual Fair.

Current New Mexico State Fair management, staff and other leadership are confident we have some of the answers. Foremost among them is with regard to the length of the Fair itself. Our plan for transforming the Fair into revenue-generating event that is sustainable into the future hinges upon condensing the run of the event from 17 days to 10 days or 11 days, and hosting six rather than eight or 10 rodeo-concerts. Our rationale follows:

- In the current economy – which is predicted to worsen before recovery begins taking hold in New Mexico – a 17-day Fair in 2010 is likely to be the event’s last-gasp, perhaps for years to come, and resurrecting the Fair after even a single year of dormancy would be difficult in the absence of experienced staff.
- A 17-day Fair with an 8- or 10-night rodeo for 2010 is very likely to lose money in the cost of staffing alone.
- Based on accounting figures from the 2008 and 2009 Fairs, losses incurred during the last weekdays of a 17-day Fair have not and are not likely to be recouped over the last weekend.
- EXPO management, staff and leadership are well aware that neither the Legislature nor the incoming Governor will tolerate another year of heavy losses at the agency.
- Something must be done to stop the financial hemorrhage, and the best, most workable plan is to shorten the 2010 Fair to 10 or 11 days.
- The adjustment would not be permanent, rather a temporary, necessary response to the flagging economy and losses incurred over the last seven years.
- A condensed Fair would represent significantly lower cost to concessionaires and vendors in supplies and labor, while their profits would remain roughly the same as during a 17-day event. Happy vendors equal *repeat vendors* who are more likely to be willing to pay more for the same vendor space in the future, particularly if and when the Fair returns to a 17-day run.
- A 10- or 11-day Fair is a much easier sell to Sponsors than a 17-day event, especially those Sponsors who traditionally provide vehicles (trucks for rodeo, grounds), RVs (for Commission, Management and critical Staff who must be on –site 24 hours per day, each day of the Fair) and semi-permanent structures (ticket/parking booth, storage buildings, kiosks, barricades, etc.), catering etc.
- A 10- or 11-day Fair will carry more urgency with would-be patrons than would a 17-day event. At 17 days, potential customers have a tendency to get complacent, telling themselves if they don’t go today, they can always go tomorrow, until there are no more tomorrows.
- A 10- or 11-day event would be significantly cheaper to advertise, and easier to market.
- Savings on Spectaculars (acrobats, animal shows and exhibits, strolling entertainers) – in addition to other live entertainment – would be roughly 30 percent.
- Similarly, savings on staffing, security, utilities, trash removal and other related costs would hover at about 30 percent.

- In fact, our goal with this 10- or 11-day Fair plan versus a 17-day Fair is to achieve a minimum cost savings of 30 percent below last year's overall cost of producing the Fair.
- Based on that 390 percent savings and conservatively estimating a paid attendance of between 350,000 and 400,000, the 2010 State Fair, under this 10- or 11-day plan, would generate between \$1.2 and \$1.4 million *in gate revenue alone*, not inclusive of parking fees, the 33.3 percent take the annual carnival revenues or other costs.
- Such a change would generate significant media attention, which the Fair could use to its marketing advantage.
- The agency quite literally cannot afford to "stay the course," and doing so would be reckless and possibly fatal. Significant, definitive change is necessary to resuscitate the New Mexico State Fair and preserve this irreplaceable cultural icon for the future generations of New Mexicans.
- A 10- or 11-day Fair would allow us to make each and every day count by packing more diversity and quality into every day of the Fair rather than focusing on Thursday through Sunday, as has been the case for the last several years. In nutshell, a condensed Fair would represent more bang for the buck, so to speak – a better overall product and value for the customer.
- All but two stand-alone concerts during the last 10 State Fairs has lost significant money.
- Fewer rodeo-concerts would cost significantly less money, not just in terms of artist fees, but also in the considerable production cost of each show.
- Fewer rodeo-concerts equates to the Fair being able to afford better-quality entertainment on the nights we have it.
- A shorter Fair will allow us to put more emphasis on Fair traditions such as Livestock and Agriculture, and reorient the event even more towards affordable family fun and entertainment.