

STATE OF NEW MEXICO

STATE AGENCY ON AGING

**Review of the Southwestern New Mexico Area
Agency on Aging**

November 7, 1997

**REPORT to
the LEGISLATIVE FINANCE COMMITTEE**

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November 17, 1997

**Betty Blackburn, Chairperson
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1151 Heather St.
Las Cruces, New Mexico 88005
and
Michelle Lujan Grisham, Director
State Agency on Aging
228 E. Palace Avenue
Santa Fe, New Mexico 87501**

On behalf of the Legislative Finance Committee (Committee), I am pleased to transmit this limited review report issued by the performance audit team which addresses certain functions within the Southwestern New Mexico Area Agency on Aging (Area Agency).

The audit team reviewed and analyzed documentation in preparing this report which will be presented to the Committee on November 20, 1997.

Please provide a written response to the findings and recommendations and a corrective action plan within ten days from the date of this letter.

We believe this report addresses issues the Committee asked us to review and hope the New Mexico State Agency on Aging and the Area Agency will benefit from our efforts. Thank you for your cooperation and assistance.

Sincerely,

**David Abbey
Director**

DA:JMS/njw

**STATE OF NEW MEXICO
STATE AGENCY ON AGING
SOUTHWESTERN AREA AGENCY ON AGING
TABLE OF CONTENTS**

	<u>Page</u>
Executive Summary	1
Review I nformation.....	3
Findings and Recommendations	
Internal Control And Organizational Structure Weakness	7
Land P urchase and Building C onstruction.....	9
Lack of Adequate SAOA Oversight.....	14
Incorrect Fund Balance	15
Surety Bond Coverage.....	17
Exhibits	18
Realty C ontract	A
Lease Agreement	B
Fund Balance Analysis	C
Land and Building C osts	D

EXECUTIVE SUMMARY

**NEW MEXICO STATE AGENCY ON AGING
REVIEW OF SOUTHWESTERN NEW MEXICO AREA
AGENCY ON AGING
EXECUTIVE SUMMARY**

Pursuant to a request from the State Agency on Aging (SAOA) to the Legislative Finance Committee, the Performance Audit team conducted a limited review of the Southwestern New Mexico Area Agency on Aging (Area Agency) internal controls, purchase of land, construction of a building, fund balance disposition, and compliance with relevant Board policies.

The following concerns were noted:

- The Area Agency is a small organization that consists of six employees and three part-time volunteers. The executive director and deputy director (management) are husband and wife; and in a small organization, this can create an inherent internal control weaknesses such as a breakdown in detecting errors and irregularities; possible abuse of authority in usage of telephone, vehicle, annual and sick leave; and appearance of providing favorable treatment to certain employees which usually result in poor staff moral, etc.
- The Area Agency did not follow its procurement policies nor the State Procurement Code in the purchase of the land, building furnishings, building construction, and realtor agent services. Also, flow-through monies designated for service providers were used by the Area Agency for building construction. The following should be noted:
 - a) the land and building costs increased from \$150,000. estimate as of August 15, 1996 to \$178,895. which may be attributed to the lack of competitive procurement process.
 - b) the Area Agency used \$120,000 from the fiduciary funds to pay for construction-in-progress.
 - c) the realty consultants were paid \$7,200 commission on the construction project. However, it is unusual to hire and pay a commission to a real estate agent on a construction project.
- The Area Agency issues, such as build up of interest amounts due the state, a 360 percent increase in rental expense budget request and cash build up in the fiduciary (agency) fund, etc. could have been prevented and resolved by SAOA through monitoring and review processes. This is indicative that the SAOA oversight was inadequate.
- The Area Agency fund balance has been incorrectly calculated, the proper restatement of fund balance suggests that the Area Agency may have severe

financial problems.

- **The Area Agency does not have surety bond coverage as required by Board policy 4.04.**

**NEW MEXICO STATE AGENCY ON AGING
REVIEW OF SOUTHWESTERN NEW MEXICO AREA
AGENCY ON AGING
EXECUTIVE SUMMARY**

Recommendations

- **The SAOA review and closely monitor the operations of the Area Agency on a regular basis and implement stringent control procedures due to the relationship of the executive director and deputy director.**
- **The Area Agency follow its procurement policies and the State Procurement Code and maintain adequate supporting documentation for all purchases. Flow-through monies should be used for intended purposes. Except for the initial payment each fiscal year the Area Agency is on a cost reimbursement basis for funds received from SAOA, it should not draw down excess funds. The SAOA needs to determine if land and building costs are reasonable and allowable. The SAOA refer procurement code violation to the district attorney and/or federal authority for further investigation.**
- **The Area Agency needs to recalculate its fund balance. The fund balance should only consist of donations and interest income earned on the donations. Program income should be recognized as a reduction of expenditures and surplus funds be refunded back to the grantor.**
- **The Area Agency should comply with its own policy on surety bond coverage for its Officers and Board of Directors.**

Conclusion

The SAOA needs to increase its oversight responsibility to ensure that area agencies comply with federal and state laws, rules and regulations, and contract terms. Increased monitoring will lessen disputes over appropriateness of program costs. The majority of findings identified in the SAOA assessment report dated August 12, 1997, were substantiated and as a result the SAOA must scrutinize decisions and transactions of the Area Agency until the Area Agency addresses issues identified.

REVIEW INFORMATION

**NEW MEXICO STATE AGENCY ON AGING
REVIEW OF THE SOUTHWESTERN AREA
AGENCY ON AGING**

Background Information

The Older Americans Act of 1965 requires that in order for a state to be eligible to participate in programs of grants to states from allotments under the title III grants, the state shall, in accordance with regulations of the Federal Commissioner for Administration on Aging, designate a state agency as the sole state Agency to:

- A. develop a state plan to be submitted to the Commissioner for approval;**
- B. administer the state plan within such state;**
- C. be primarily responsible for the planning, policy development, administration, coordination, priority setting, and evaluation for all state activities related to the objectives of this Act;**
- D. serve as an effective and visible advocate for older individuals by reviewing and commenting upon all state plans, budgets, and policies which affect older individuals and providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals; and**
- E. divide the state into distinct planning and service areas after considering the geographical distribution of older individuals in the state; the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal assistance, and the distribution of older individuals who have greatest economic need. The state agency shall designate in such area, a public or private nonprofit agency or organization as the area agency on aging for such area.**

The Administration on Aging within the Federal Department of Health and Human Services, has been created to provide assistance in the development of new or improved programs to help older persons through grants to the states for community planning and services and for training through research, development, and training project grants.

The State Agency on Aging Act is contained in Sections 28-4-1 through 28-4-9 NMSA 1978. Section 28-4-4 NMSA 1978, creates the State Agency on Aging which is administratively attached to the Human Services Department. The administrative head of the agency is the Director, who is appointed by and serves at the pleasure of the governor. The State Agency on Aging is designated as the state agency for handling all programs of the federal government related to the aged, except those designated by law as the responsibility of another state agency, and may enter into agreements and contracts with agencies of the federal government for this purpose.

**NEW MEXICO STATE AGENCY ON AGING
REVIEW OF THE SOUTHWESTERN AREA
AGENCY ON AGING**

The Area Agency was incorporated in 1984 under the laws of the State of New Mexico. The Area Agency is authorized by its charter to operate exclusively for charitable purposes, and in particular, for the purpose of providing relief to the poor, disabled, ill, frail, and otherwise distressed elderly population in Program Service Area Four (PSA4) covering New Mexico counties of Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, and Socorro.

Authority for Review

The Legislative Finance Committee (Committee) has the statutory authority under Section 2-5-3 NMSA 1978 to examine the 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, the policies and costs of governmental units as related to the laws, and to recommend changes to the legislature. In the furtherance of its statutory responsibility, the Committee may conduct inquiries into specific transactions affecting the operating policies and costs of governmental units and their compliance with state law.

Purpose

The performance audit team conducted a limited review of the Area Agency internal controls purchase of land, construction of building, fund balance, expenditures, and compliance with applicable board policies.

Objectives

To determine if:

1. the Area Agency was in compliance with laws, regulations, policies and procedures relating to the acquisition of land and a building.
2. the Area Agency was properly administering the distribution of funds as intended by SAOA.
3. instances of nepotism were evident in the administration of the Area Agency.
4. the fund balance was properly stated.
5. the findings and recommendations reported in the SAOA assessment report, dated August 12, 1997, were valid.

**NEW MEXICO STATE AGENCY ON AGING
REVIEW OF THE SOUTHWESTERN AREA
AGENCY ON AGING**

Procedures

1. Reviewed federal regulations, state statutes, SAOA and Area Agency regulations and pertinent policies and procedures.
2. Reviewed audit reports of SAOA internal auditors and independent public accountants.
3. Reviewed area plans submitted by the Area Agency to SAOA for years 1996 through 2000.
4. Reviewed Area Agency board meeting minutes.
5. Reviewed documentation for the purchase of land and construction of a building.
6. Reviewed contracts between SAOA and Area Agency.
7. Reviewed contracts between Area Agency and other service providers.
8. Reviewed a sample of expenditure records to determine compliance with applicable laws, rules and regulations.
9. Obtained a general understanding of the Area Agency internal control structure.

Exit Conference

The contents of this report were discussed on November 13th at 8:30 a.m. among the following individuals:

Area Agency

The Area Agency was provided a draft copy of the report on November 12, 1997. The Executive Director did not participate in the exit conference.

SAOA

Gene Varela, Deputy Director
Dolph Bunkley, Program Manager
Ralph Tapia, Administrative Services Division/ Audit Manager
Joann Salazar, Deputy Director

**NEW MEXICO STATE AGENCY ON AGING
REVIEW OF THE SOUTHWESTERN AREA
AGENCY ON AGING**

Legislative Finance Committee

**Dannette Burch, Deputy Director
Manu Patel, Performance Audit Manager
Joseph M. Salazar, Senior Performance Auditor**

Distribution of Report

This report will be distributed to the Office of the Governor, SAOA, Area Agency, Human Services Department, Department of Finance and Administration, Office of the State Auditor and Legislative Finance Committee. The report is a matter of public record, and is available to all interested parties from the Legislative Finance Committee.

**Manu Patel
Performance Audit Manager**

MP/njw

FINDINGS AND RECOMMENDATIONS

**NEW MEXICO STATE AGENCY ON AGING
REVIEW OF SOUTHWESTERN NEW MEXICO AREA
AGENCY ON AGING
FINDINGS AND RECOMMENDATIONS**

Internal Control and Organizational Structure Weaknesses

The Area Agency is a small organization consisting of six full-time employees. It is staffed by an executive director, deputy director, financial manager, nutrition programs manager, ombudsman program coordinator, and an administrative assistant. Additionally, three volunteers donate services on a part-time basis.

The Area Agency's executive director and deputy director are husband and wife which can create an appearance of nepotism or conflict of interest, for example:

- No other area agencies on aging of comparable size has a position of deputy director.
- A waiver, granted by the Board of Directors (Board) allowed the employment of a husband and wife.
- Subsequent to the deputy director running a negative sick leave balance, the executive director proposed and the Board enacted a policy whereby an employee may voluntarily donate accumulated sick leave to a fellow employee if they so desire, subject to the consent of the executive director. Thereafter the executive director donated and approved the transfer of his own sick leave to the deputy director.

Additionally, policy changes were made that are questionable and which could further compromise the internal control structure. These being:

- Procedure changes no longer have to go to the Board for review and approval.
- The election process for Board members was changed from a straight election by community members of the senior service centers to a nomination by a nominating committee. The committee consists of one representative from each contributing community, one representative from each of the Area Agency's contractors and each Senior Center. This committee submits two candidates for consideration and a third candidate is selected by the executive director. Since the executive director serves at the pleasure of the Board and is accountable to the Board, it is not appropriate for the executive director to participate in nominating a member of the Board.
- The executive director received Board approval to teach at the Dona Ana branch of NMSU; but he did so while on Area Agency time; therefore, both the Area Agency and NMSU paid for his time.

**REVIEW OF SOUTHWESTERN NEW MEXICO AREA
AGENCY ON AGING
FINDINGS AND RECOMMENDATIONS**

- **At the request of the executive director, the Board authorized merit awards to employees based on years of service which mostly benefitted the executive director.**

Also, the executive director and deputy director have signature authority on the two Area Agency bank accounts, the executive director approves the time sheets of all employees including the deputy director. The husband and wife relationship lends itself to potential abuse in areas such as telephone usage, vehicle usage, leave accrual and usage, etc. Such conditions can create internal control weaknesses in which errors and irregularities may not be detected in a timely manner.

Our review of telephone charges and vehicle usage indicated that telephone and vehicle logs are not maintained to indicate the purpose of the usage. For example we noted out of state telephone calls and vehicle usage.

Item No. 32, of the contract agreement between the Area Agency and the SAOA states that “this agreement shall be governed by the laws of the New Mexico ”. Our review of the Area Agency’s practice regarding Board meetings may have violated requirements of the New Mexico Open Meetings Act, Sections 10-15-1 through 10-15-4, NMSA 1978 as follows:

- 1. notice of the public meetings, and**
- 2. holding teleconference meetings is not specifically provided for in the bylaws**

Compliance with the open meetings act and the board bylaws is essential to ensure that all persons are given the greatest possible information regarding the affairs of the organization and have an opportunity to attend the Board meetings as interested spectators and in the interest of open communications and exchange of ideas.

Recommendation

We recommend that SAOA monitor and review the operations of the Area Agency more frequently to strengthen the internal control structure. The SAOA should:

- **review and clarify the current contract terms and provisions with the Area Agency to determine if additional internal and management controls can be instituted;**
- **obtain and review agenda items before approval by the Board to ensure compliance with open meeting requirements;**
- **obtain and review minutes of Board meetings;**

**NEW MEXICO STATE AGENCY ON AGING
REVIEW OF SOUTHWESTERN NEW MEXICO AREA
AGENCY ON AGING
FINDINGS AND RECOMMENDATIONS**

- require the Board to review and approve all major contracts and agreements and have them signed by the chairman of the Board;
- review the organizational structure of similar size area agencies to determine if there is a need for the deputy director position and restructure the organization as necessary to improve internal controls, and reduce administrative expenditures and overhead costs to make more funds available for direct program related expenditure to provide better services to senior citizens;
- review expenditures for compliance with the area plan and program objectives;
- ensure that procedural changes are approved by the Board;
- instruct the Area Agency to immediately remove the bank account signature authority currently given to the deputy director and ensure all checks issued by the Area Agency have two signatures, one a Board member and the other the executive director;
- recommend that the election process for the Board be changed to eliminate participation by the executive director in the nomination/selection process;
- require Area Agency to request SAOA's advance approval of items (such as merit awards, personnel policy, etc.) that are subject to being questioned for allowability and that SAOA provide written justification for approval or disapproval;
- require that telephone and vehicle usage logs be maintained; and
- conduct a more intensive review of the Area Agency operations to provide specific oversight as these issues are resolved;

Land Purchase and Building Construction

Our review of the Area Agency's acquisition of a new administrative office determined that the method used for purchase analysis was inappropriate. The Area Agency had a local real estate agent compile information on the cost of leasing office space in the Las Cruces area. The compilation, which gave information on leasing space based on dollars per square foot was then compared to the costs per square foot of construction of a similar size office. The following items were noted in reviewing this analysis:

NEW MEXICO STATE AGENCY ON AGING

**REVIEW OF SOUTHWESTERN NEW MEXICO AREA
AGENCY ON AGING
FINDINGS AND RECOMMENDATIONS**

- **The costs for leasing space was compiled from sites in a more expensive area of Las Cruces, specifically from the Telshor business district.**
- **The executive director compared the costs of leasing new office space to the cost of acquiring a building. However, this was misleading because the comparison should have been between leasing at the Old Mesilla Senior Center and costs of acquiring land and building an administrative office.**
- **The cost analysis was compiled after the fact rather than prior to acquiring the land and constructing an office building.**
- **The Area Agency used a real estate agent as a procurement manager. The real estate agent's fees were based on the construction cost of the building.**

A correct comparison of cost for leasing the Old Mesilla Senior Center with the costs of acquiring land and constructing a building would have indicated an increase in annual office space rental costs from \$5,500 to approximately \$21,900.

In addition, the Area Agency incurs monthly utility, repair and maintenance expenses at the new facility which were not previously incurred. This in itself clearly indicates that the methods of analysis were inadequate to justify purchase of land and construction of a new administrative office building.

To better understand the issues surrounding the land purchase and the construction of the administrative office building for the Area Agency, a brief summary of documented events is provided below:

- **In a letter to the Vice President of the First National Bank of Dona Ana County dated February 21, 1996, the executive director states that the Board instructed him on January 30, 1996, to begin looking into either purchasing or building an administrative office. There was no discussion regarding the purchase or construction of any type of building in Board minutes dated January 30, 1996.**
- **In April 1996, the Area Agency Area Plan for FY97 included as part of the budget request, \$23,844 for rent that was approved by the SAOA.**
- **On May 1, 1996, the executive director and a local real estate agent entered into a contract, without prior approval from the Board, in which it was agreed that the agent would be paid a commission of "six percent of contracted price to build of \$120,000.00". (See Exhibit A) It is unusual to have and pay commission to real estate agents on a construction project.**

NEW MEXICO STATE AGENCY ON AGING

**REVIEW OF SOUTHWESTERN NEW MEXICO AREA
AGENCY ON AGING
FINDINGS AND RECOMMENDATIONS**

- In the Board meeting minutes of May 9, 1996, the executive director discusses the possibility of acquiring a piece of land to build office space for the Area Agency. The cost of the building would be \$55 to \$60 a square foot and the entire cost of the project would be between \$110,000 and \$120,000. In the minutes, it appears that the Board was unaware of the May 1, 1996 contract between the executive director and the real estate agent.
- Prior to obtaining Board approval, the executive director submitted an offer to purchase .59 acres off Elks Drive. The offer was accepted by the land owner on June 7, 1996, according to a letter dated August 28, 1996 from the executive director to the Vice President of the First National Bank of Dona Ana County.
- Per the Board meeting minutes of June 12, 1996, the executive director informed the Board that a piece of land had been found for construction of an administrative office. The Board then gave their approval in principle for the executive director to submit an offer pending final Board action.

To this point, there was no evidence of communication with the SAOA regarding the construction of an administrative office. It is also evident that the Area Agency abandoned efforts to rent or lease office space.

- On August 1, 2, and 3, 1996, the real estate agent advertised in the legal section of local newspaper for letters of intent from local contractors. Again, without Board approval, the real estate agent, in effect, becomes the procurement officer for the Area Agency.
- The real estate agent claimed that only one contractor in the greater Las Cruces metro area responded to the advertisement and a letter of intent to bid is created and signed by a representative of Grider Construction, Ltd., who coincidentally is the same contractor who according to the executive director, built the executive director's home a few months prior. A sealed bid was never submitted by the contractor as required by Board policy and by the State Procurement Code.
- Per the Board minutes of August 15, 1996, the executive director informed the Board that he had made an offer on a half acre lot off of Elks Drive for \$35,000. He would use \$15,306 from the fund balance as the down payment and had secured a financing commitment from the First National Bank of Dona Ana County for the balance. However, the land purchase settlement statement indicates that the actual purchase price of the land is \$36,000. The executive director proposed an office building of approximately 2000 square feet at an estimated cost of \$110,000. Costs for the entire project were estimated at \$115,000.

**REVIEW OF SOUTHWESTERN NEW MEXICO AREA
AGENCY ON AGING**

**AGENCY ON AGING
FINDINGS AND RECOMMENDATIONS**

Board ratified the purchase offer and approved the Area Agency entering into a mortgage agreement for the of building construction pending a signed agreement.

- On October 21, 1996, a contractual agreement was entered into between the Area Agency and Grider Construction Ltd. for the construction of an administrative office for \$120,000. The contract provides a schedule of payment advances for construction. Oddly, the final construction contract for \$120,000 is exactly the amount indicated on the May 1, 1996 contract between the executive director and the real estate agent.
- The first payment of \$30,000 was disbursed by the Area Agency to the contractor on November 12, 1996. However, flow through monies designated for the service providers were used for the building construction payment, a direct violation of their intended use.
- On December 2, 1996, a second payment was disbursed in the amount of \$48,000, again using flow through monies designated for service providers.
- On December 9, 1996, while construction of the administrative office is well underway, the real estate agent provided the executive director an analysis of the market for leasing space. It should be noted that the locations listed on the analysis are incomparable to the Old Mesilla Senior Center because the analysis includes sites in more expensive Las Cruces business districts.
- On December 12, 1996, a third payment for \$24,000 was disbursed, again using flow through monies.
- On December 20, 1996, an \$18,000 fourth and final payment was disbursed to contractor again using flow through monies.
- On December 27, 1996, the Area Agency settled a mortgage loan for \$148,500 plus \$560 from the operating account to payoff the balance of the \$21,000 land loan, \$120,000 for the building and \$7,200 for realtor commission and \$860 for other settlement charges.
- On January 1, 1997, the executive director prepared and entered into a rental lease contract with the Area Agency as “lessor” and “lessee” at a monthly rental cost of \$1,825 plus utilities, maintenance and repairs (Exhibit B). The Area Agency did not follow the State Procurement Code and this lease agreement may not be considered an “arms length” transaction for allowability of costs to the federal/state programs.
- On January 4, 1997, a final payment is made to Grider Construction, Ltd. which includes

NEW MEXICO STATE AGENCY ON AGING
REVIEW OF SOUTHWESTERN NEW MEXICO AREA

**AGENCY ON AGING
FINDINGS AND RECOMMENDATIONS**

\$7,650 for sales tax and \$3,792 for counter tops. However, these items were specifically included in the initial \$120,000 contract building specifications. The construction agreement was amended for the sales tax amount by the executive director and contractor; however, the executive director failed to obtain prior Board approval for the additional expenses.

The Area Agency did not follow its Board procurement policies in obtaining formal competitive proposals prior to contracting for the purchase of land, in the procuring of construction services and in realty services. Also, the procurement of construction services was delegated to an outside organization, rather than issuing request for bids by the Area Agency.

We were unable to locate documentation wherein the Board approved the realtor contract, construction contract, or approved payment of the \$7,650 sales tax.

The Area Agency used fiduciary funds designated for reimbursement to service provider organizations to pay the contractor for building construction. The excess funds resulted from the Area Agency drawing down more funds from the SAOA than the actual disbursement made to service providers. The Office of Management and Budget (OMB) circular A-110 Subpart C, Section 22, Payment, states that the payment method shall minimize the time elapsing between the transfer of funds from the United States Treasury and the issuance or redemption of checks or warrants by the recipients. The circular also imposes the same requirements for the pass through funds to subrecipients.

The Board used \$15,306 from their fund balance for the down payment, we are questioning the accuracy of the fund balance and believe that it is overstated. In a subsequent finding we concluded that the Area Agency did not have sufficient funds available for the down payment to purchase land.

The Area Agency expensed some items that should have been capitalized, as a result the general ledger-fixed asset building account is understated and operating costs are overstated by \$5,992 (See Exhibit C).

Recommendation

The Area Agency comply with its Board policies and all other applicable laws in the procurement of goods and services. All major contracts and agreements be formally approved by the Board, signed by the Chairman of the Board and be incorporated in the minutes of the board meetings as an official record of the Area Agency.

The Area Agency never use flow-through monies for service providers for other than there intended purpose. The Area Agency should only request reimbursement of actual expenditures as indicated.

**AGENCY ON AGING
FINDINGS AND RECOMMENDATIONS**

on the monthly SA-1 reports and as required by the OMB circular A-110, Subpart C, Section 22.

The SAOA determine if the land and building costs are reasonable and allowable charges to the grant. OMB circular A-122, cost principles for non-profit organizations must be followed in determining allowability of costs. OMB Circular A-110 Subpart C Sections 30, 31 and 32 sets forth uniform standards governing the management and disposition of property furnished by the federal government were cost are charged to a project supported by a federal award. Each federal awarding agency shall prescribe requirements for the use and disposition of real property acquired in whole or in part under awards.

The SAOA refer the possible violation of the State Procurement Code to the District Attorney and/or Federal Authority for further investigation. The SAOA indicated that they verbally requested the federal agency to perform an audit and investigation. We recommend that the SAOA refer this matter in writing to the federal regional office and request a federal audit and investigation of the Area Agency.

All major capital expenditures requested by the Area Agency, be approved by the granting agency, and major equipment and construction projects be funded by requesting funding from the legislature.

Adjust the general ledger to reflect appropriate land and building costs and reduce operating expenses by the same amount.

Lack of Adequate SAOA Oversight

Three audit reports of the Area Agency provided to us for the period of June 30,1994 to June 30, 1996, and the financial statements of the Area Agency for June 30, 1997, indicate a balance in the Due to State account. According to the executive director, this balance has never been requested for remittance by the SAOA.

The Area Agency had in its area plan a budget worksheet which included \$23,844 budget for rent. In prior fiscal years, the same budget for this category was \$5,184. The area plan was approved by the SAOA.

The Board minutes dated April 22, 1997, indicate that the executive director received direction from the Board to look into a long-term employment contract that would be satisfactory to the Board, the SAOA and himself. According to the Board minutes dated June 23, 1997, the Area Agency had not received a response from the SAOA regarding this request. However, the SAOA indicated that the Board was verbally discouraged to enter into a long-term employment contract.

**NEW MEXICO STATE AGENCY ON AGING
REVIEW OF SOUTHWESTERN NEW MEXICO AREA
AGENCY ON AGING
FINDINGS AND RECOMMENDATIONS**

Recommendation

The SAOA work with the Area Agency to determine the accurate amount due the state and remit that amount back to the state. The SAOA use due diligence in the review and approval of the area plan submitted by the Area Agency. The SAOA use due diligence to monitor and review the operations of the Area Agency to determine compliance with the approved area plan. Furthermore, there should be written communication between the SAOA and the Area Agency dealing with the long-term employment contract and other program administration issues. SAOA should have knowledge of actions taken by the Area Agency's Board and the activities performed by its management to prevent or diminish disputes over allowable program costs.

Incorrect Fund Balance

The method used by the Area Agency to compute interest is inappropriate. Currently, the Area Agency's interest computations are based on the Area Agency's fund balance and the balances in three liability accounts. The inclusion of balances of the liability accounts by the Area Agency in its interest computation is inappropriate. All monies deposited with its bank, except for donations, belong to the granting agency until such time that the check, warrant or other instrument of payment has cleared the bank of the sub-recipient. Therefore, interest earned on liability accounts does not belong to the Area Agency but must be returned to the SAOA.

Notwithstanding incorrect interest calculations, for the past several years the Area Agency has accumulated a substantial fund balance. The accumulation is due in a large part to the interest earned on bank accounts and program income. For the most part, these bank accounts for which the interest has accrued, consist of funds passed down to the Area Agency from the authorizing oversight agency, the SAOA. According to OMB Circular A-110, Sub-part C, Section 22, paragraph (l), a sub-recipient must remit back to the issuing agency any interest earned on federal funds annually. The Area Agency indicates that \$4,680 of the fund balance is local contract revenue (See Exhibit C). According to the executive director, these were surplus funds from a contract between Area Agency and Dona Ana County. However, Section 1 of the contract requires surplus funds on hand, if any, to be returned in proportion to the contributions made. Hence, the fund balance includes monies not belonging to the Area Agency but to the granting agencies. The composition of the fund balance should only be donations and the interest earned on those donations. Therefore, the fund balance is overstated and the amount due to the state and Dona Ana County is understated in the financial statements of the Area Agency.

**NEW MEXICO STATE AGENCY ON AGING
REVIEW OF SOUTHWESTERN NEW MEXICO AREA
AGENCY ON AGING
FINDINGS AND RECOMMENDATIONS**

Our analysis of the Area Agency's fund balance indicate that the Area Agency may have serious financial problems assuming the SAOA disallows previously questioned costs. The following would be the fund deficit as of June 30, 1997:

	Fund balance as of 6/30/96	\$17,103	
Less:			
	Return of surplus funds to the Dona Ana County	(4,680)	
	Disallowed interest cost due to not obtaining prior approval and not following procurement code	(6,250)	
	Disallowed depreciation over principal payments	(1,853)	
	Disallowed vehicle replacement fund	(2,528)	
	Disallowance of capital expenditure charged to grant funds	(5,992)	
	Purchase of real estate		(15,306)
	Interest income reallocation*		(698)
Add:			
	Donations FY97	1,568	
	25% Interest FY97*	<u>283</u>	
	Adjusted fund deficit 6/30/97	<u>(\$18,353)</u>	

***The fund balance amount is based on information available. The interest income reallocation amount is an estimate. Actual amounts will be determined when the Area Agency and SAOA recompute the fund balance amount.**

**NEW MEXICO STATE AGENCY ON AGING
REVIEW OF SOUTHWESTERN NEW MEXICO AREA
AGENCY ON AGING
FINDINGS AND RECOMMENDATIONS**

Recommendation

Fiscal personnel from the Area Agency, the SAOA, and an independent contract auditor work together to determine the actual fund balance of the Area Agency. Only donations received and the interest earned on those donations should be included. The interest earned should be re-calculated to adequately reflect that amount that is actually due the state and Dona Ana county. Once a final dollar figure has been determined, that amount should be remitted immediately to the SAOA by the Area Agency. Also, the Area Agency, comply with the contract terms with Dona Ana county, and return surplus funds in proportion to the contributions made. Finally, the SAOA determine the financial viability of the Area Agency and its ability to provide services in PSA4 area.

Surety Bond Coverage

Our review and inquiry of the executive director indicated that the Area Agency does not have surety bond coverage as required by its bylaws.

Section 4.04, Surety Bonds, of Article IV of the Bylaws of the Area Agency requires all officers and those members of the Board of Directors designated as check co-signers obtain a bond in such sums and with such surety as the Board deems acceptable, conditioned upon the faithful performance of all duties to the Corporation, including responsibility for negligence and for the accounting for all assets of the Corporation which may come into the possession of such officer or Board member. The minimum surety bond required by bylaws is \$500,000.

Recommendation

It is recommended that the Area Agency comply with the surety bond coverage policy stated in its Bylaws.

EXHIBITS

Realty **Contract** **A**

Lease Agreement **B**

Fund Balance Analysis **C**

Land and Building **Costs** **D**