

STATE OF NEW MEXICO  
SECOND JUDICIAL DISTRICT COURT  
BERNALILLO COUNTY

FILED IN MY OFFICE THIS

MAR 07 2017

CLERK DISTRICT COURT

PATRICIA SERNA

DANIEL LIBIT,

Plaintiff,

v.

No. D-202-CV-2017-01620

THE UNIVERSITY OF NEW MEXICO  
FOUNDATION, INC., and THE BOARD  
OF REGENTS OF THE UNIVERSITY  
OF NEW MEXICO,

Defendants.

**COMPLAINT UNDER THE NEW MEXICO INSPECTION  
OF PUBLIC RECORDS ACT**

This action is brought by Plaintiff Daniel Libit to enforce violations of the New Mexico Inspection of Public Records Act (IPRA) and ensure that the public continues to receive “the greatest possible information regarding the affairs of government and the official acts of public officers and employees.” NMSA 1978 § 14-2-5. IPRA mandates that “every person has a right to inspect public records,” *id.* at § 14-2-1(A), maintained by a “public body” in the State of New Mexico, *id.* at § 14-2-6(F). Defendant The University of New Mexico Foundation (“the Foundation”), which is a 501(c)(3) non-profit corporation created by Defendant The Board of Regents of the University of New Mexico (“the Regents”) to provide support to the University of New Mexico (“the University”), has rejected all of Plaintiff’s and others’ IPRA requests, wrongfully claiming to be a “non-public entity” and therefore “not subject to” IPRA.

The Foundation’s noncompliance with IPRA has inhibited public understanding of the University and the Foundation and has thwarted access to information regarding the operations of this public entity. The Foundation has refused to provide plaintiff, a journalist, with access to

the Foundation's records in violation of IPRA, thus giving rise to this complaint. Plaintiff asks this Court to declare that the Foundation is a public body that is subject to IPRA and that the Foundation maintains public records that are subject to disclosure by IPRA, and award him equitable relief, damages, and attorneys' fees as a result of the Foundation's noncompliance with IPRA.

### **PARTIES**

1. Plaintiff Daniel Libit is a journalist who, among other journalistic activities, operates NMFishbowl.com, a website "that primarily covers the University of New Mexico, its athletics department – and the key figures who maintain it, support it, and are enriched by it." *See* <https://nmfishbowl.com/about/> (last accessed Mar. 6, 2017). Libit is a resident of Cook County, Illinois but was born and raised in New Mexico. Libit commonly requests documents under IPRA in the course of his reporting, including for NMFishbowl.com.

2. Defendant University of New Mexico Foundation, Inc. is a 501(c)(3), tax-exempt corporation established by the Board of Regents of the University of New Mexico. It is incorporated in New Mexico and its principal place of business is in Albuquerque, New Mexico. The "sole purpose" of the foundation is "soliciting, receiving, distributing and managing private gifts and donations given for the benefit of the University." Ex. A at 1. Moreover, the Foundation is "the primary organization for overseeing the development, coordination and implementation of the fund-raising activities for the University." *Id.* Because of these activities, the Foundation plays a public role, making it a public body, and creates and maintains public records deriving from these activities that are subject to disclosure under IPRA.

3. Defendant Board of Regents of the University of New Mexico is a corporate, governmental body and political subdivision of the State of New Mexico, established pursuant to

the laws of the State of New Mexico. It is the governing body of the University of New Mexico and the body that established and controls the University of New Mexico Foundation. It is located in Albuquerque, New Mexico.

#### **JURISDICTION AND VENUE**

4. This action is brought according to this Court's original jurisdiction enumerated under Article IV, Section 13 of the New Mexico Constitution, and NMSA 1978 § 14-2-12, which authorizes actions to enforce IPRA.

5. Venue is proper in the County of Bernalillo because the defendants are corporate and governmental entities with their principal place of business in Albuquerque, New Mexico. NMSA 1978 § 38-3-1(A). Venue is further proper in the County of Bernalillo because the transaction at dispute in this complaint, namely the Foundation's rejection of an IPRA request, occurred in Albuquerque, New Mexico. *Id.*

#### **FACTUAL BACKGROUND**

##### ***The University of New Mexico Foundation***

6. The University of New Mexico Foundation was established by the Board of Regents of the University of New Mexico in 1979, and began operations in 1980, to provide financial support for the University.

7. By the terms of its articles of incorporation, bylaws, and the memorandum of agreement between the Foundation and the University, the Foundation is a creature of the University and is substantially controlled by the University. For example, the President of the University serves as a voting member of the Foundation's Board of Trustees, its Executive Committee, and its Committee on Trustees. *See* Ex. A at ¶ 1.3. The Board of Trustees of the Foundation also includes two Deans of colleges at the University and a member of the Board of Regents. *Id.* Up

to twenty-five percent of the Foundation's Board of Trustees may be employees, officers or Regents of the University. *Id.*

8. The President of the University also plays a leading role in the administration of the Foundation. For example, "[t]he Foundation recognizes a lead role of the President of the University in hiring, evaluating, compensating and terminating the President of the Foundation, and the President of the University must be included in all facets of the work of the President of the Foundation." Ex. A at ¶ 1.4. The President of the Foundation also reports "primarily to the President of the University." *Id.*

9. The Foundation has been designated by the Board of Regents as the investment advisory committee that manages the University's endowment. Ex. A at ¶ 2.1. In this role, the Foundation is a fiduciary to the University, performs the public, governmental function of managing the University's endowment, and makes recommendations to the Board of Regents regarding management of the endowment. *Id.* at ¶ 2.2. At the same time, the Board of Regents "retains the authority to remove some or all of the University's funds" from management by the Foundation and to revoke the Foundation's authority to manage the endowment. *Id.*

10. The Foundation maintains records "of all gifts and donations to the University and affiliated organizations." Ex. A at ¶ 1.8. Those records detail the fundraising for state-created and -controlled higher education at the University, as carried out by public officials. Accordingly, the Foundation's records are public records subject to IPRA.

11. The Foundation is expressly limited by the University in how it may spend the funds that it maintains. For example, the University must work with the Foundation to establish the procedures for transferring money between the Foundation and the University. Ex. A at ¶ 3.1. And the Foundation may distribute money as compensation for a University employee or for the

purchase of goods or services for the University only after the approval of the President of the University. *Id.* at ¶ 3.2.

12. When carrying out its enumerated duties, the Foundation possesses “a non-exclusive license to use the name ‘the University of New Mexico’ and any other trademarks of the University in connections with its fund-raising activities.” Ex. A at ¶ 7.1. Based on this authority, the Foundation and University share the same logo.

13. The University’s oversight of the Foundation also establishes that it is subject to the exclusive control of the University. For example, the University occasionally audits the Foundation’s operations at the direction of the Board of Regents’s audit committee. *See* Ex. B. Moreover, the 2015 financial statements of the Foundation, prepared by KPMG at the direction of the New Mexico State Auditor, state that the University of Mexico Foundation is “a component unit of the University of New Mexico.” Ex. C. Along the same lines, the Foundation provides a report on its activities to the Board of Regents of the University of New Mexico. *See* Ex. D.

14. The Foundation may also receive the benefit of University employees working directly for the Foundation, but in such a scenario, those employees remain subject to the policies and procedures of the University. Ex. A at ¶ 6.1.

15. The University also provides funding necessary for the Foundation to operate. *See* Ex. A at ¶ 6.2. And “[t]he University, as it deems appropriate and as resources are available, may provide additional financial support to the Foundation for major fund-raising campaigns.” *Id.* at ¶ 7.2. For the fiscal year 2014-2015, the Foundation projected receiving support from the University of \$4,850,367. *See* Ex. D at 3.

16. Despite these provisions of its governing documents, the Foundation has advertised that the benefit to contributing money to the University via the Foundation was that the Foundation was not subject to IPRA. *See* Ex. E at 5 (quoting the Foundation website, which at one time stated that “it offers donors ‘[g]reater assurance of . . . confidentiality, since [it] is a separate not-for-profit corporation and not subject to open records laws.’”).

***The Foundation and the University’s Athletics Department Act in Concert to Achieve their Fundraising Priorities***

17. The facts alleged above establishing that the Foundation is an arm of the University are exemplified by the relationship between the University’s Athletics Department and the Foundation.

18. The memorandum of agreement provides that the University directs the Foundation’s fundraising priorities. Ex. A at ¶ 5.1. Such authority is specifically carried out by the Athletics Department. For example, on May 26, 2015, Paul Krebs, the University’s Vice President for Athletics, sent the Foundation a list of the Athletics Department’s fundraising priorities in “priority order.” *See* Ex. F. Those priorities were: 1) “Olympic Sports Performance Center,” 2) “Phase 3 of Baseball Stadium,” 3) “Football Stadium Upgrades,” 4) “Track Locker Room,” 5) “Sand Volleyball Courts,” 6) “Soccer Stadium,” 7) “Phase 2 of Tennis,” 8) “Endowed Scholarships,” and 9) “Facility Branding Program.” *Id.*

19. The Athletics Department and the Foundation also hold out to the public that the five employees of the Foundation are employees of the Athletics Department. The Athletics Department’s website states that Foundation employee Kole McKamey is the Senior Associate Athletic Director for Development, Foundation employee Jalen Dominguez is the Assistant Athletic Director for Development, Foundation employee Jessica Philbrook is the Associate Director of Development/Special Events, Foundation employee Paige Klostermann is the

Assistant Director of Development/Special Events, and Foundation employee Sean Ferrara is the Director of Premium Seating. See <http://www.golobos.com/staff.aspx> (last accessed Mar. 6, 2017). All five employees maintain Foundation e-mail addresses and are listed as employees in the Foundation's staff directory, but under different titles. See <https://www.unmfund.org/employees/> (last accessed Mar. 6, 2017).

20. The joint employment relationship of many Foundation and University employees is also exemplified by the minutes for Athletics Department meetings: Stu Starner, a former Foundation employee that served as the development director for the Athletics Department was a regular attendee at Athletics Department leadership meetings. Despite the fact that the minutes for these leadership meetings includes a line for "guests" that are present, Starner is never listed as a guest. After Starner resigned, his replacement, Kole McKamey, regularly attended the same meetings.

#### ***The WisePies Naming Agreement***

21. On December 1, 2014, the University announced that the naming rights to its basketball arena, commonly referred to as "The Pit" had been purchased by WisePies Franchise Services, LLC which operates the WisePies Pizza & Salad chain. As a result of the transaction, the arena would be renamed the "WisePies Arena (aka The Pit)."

22. The terms of the naming rights agreement were negotiated by the Foundation and Paul Krebs, with further input by Robert Frank, former President of the University, Amy Wohlert, the University President's Chief of Staff, and Sandra Liggett, the former General Counsel of the Foundation. See Ex. G.

23. The naming rights agreement requires that WisePies provide \$5 million to the Foundation over a period of ten years, which will be used to "create the WisePies Fund to support the UNM Athletics department." Ex. H at ¶ 1.

24. The agreement was reviewed by Maureen McGuire, Associate University Counsel, David Harris, Executive Vice President of the University for Administration, and Jamie Koch, a former member of the Board of Regents. *See* Ex. I.

25. Krebs was designated as the University official that would administer the fund and signed the agreement. Ex. H at ¶ 1. The agreement was also signed by Steven B. Chavez, one of the owners of WisePies, and Henry Nemcik, the President of the Foundation. *Id.* at 3.

26. Records detailing the negotiations, review of the agreement, and agreement itself are information “regarding the affairs of government and the official acts of public officers and employees,” and therefore are public records subject to disclosure under IPRA. The Foundation tacitly recognized this when it decided to release the naming rights agreement on the day that the name change was announced. *See* Ex. J.

27. In 2016, WisePies Pizza & Salad became financially distressed. Because the Foundation claims to not be subject to IPRA, the future of the WisePies naming agreement remained unclear to the public. For example, in May of 2016 it was reported that WisePies may be sold to an out-of-state owner and that the future of the naming agreement was called into question. *See* Ex. K.

28. WisePies was also subject to actions to collect unpaid taxes by the State of New Mexico. *See* Ex. L. The State of New Mexico later sought a court order to halt WisePies’s business operations until they paid those delinquent tax bills. *See* Ex. M.

29. Because of the financial distress, there were serious concerns that WisePies would not be able to make the payments required by the naming rights agreement. *See* Ex. L.

30. As detailed below, Plaintiff duly served the Foundation two IPRA requests for documents related to the WisePies naming agreement, but the Foundation refused to disclose the requested documents. The Foundation’s refusal to disclose public records as required by IPRA, however,



limited the ability of the public to be fully informed regarding any negotiations or discussions regarding the payments, or even whether the required payments were being made.

### ***Libit's IPRA Requests***

31. On November 7, 2016, Plaintiff sent an IPRA request to the University requesting "All written communications, either sent or received by UNM Foundation's Larry Ryan, transmitted between May 1, 2016 and the present date of this request, in which the following phrases, terms or words appear: 'WisePies,' 'Wise,' 'Pies,' 'Steve Chavez,' 'gift,' 'naming.' This includes emails in which Mr. Krebs is a third-party on an exchange. This request includes messages transmitted on UNM property, and/or through private electronic devices where the subject is discussing matters related to official UNM business." Ex. N.

32. The University denied this request on November 11, 2016, asserting that it "does not have the records" sought by the Plaintiff. The University also suggested that the Plaintiff contact the "Foundation directly, which is a separate legal entity, for their consideration of your request." *Id.*

33. On November 14, 2016, Plaintiff sent an IPRA request to the Foundation requesting, among other things, "Any/all electronic correspondence, dated between Jan 1, 2016 and the present moment of this request, to/from UNM Foundation's Larry Ryan, in which the following words or terms appear: 'WisePies', 'Wise', 'Pies,' 'Steve Chavez,' 'arena', and/or 'gift agreement'." Ex. O.

34. The Foundation does not have a custodian of records as required by IPRA. Therefore, the request was sent to Jennifer Kemp, Director of Communications for the Foundation. *Id.*

35. The Foundation denied Plaintiff's November 14th request on November 19, 2016. In doing so, the Foundation stated that it was a "501(c)(3) non-profit, non-public entity and is therefore not subject to the Inspection of Public Records Act (IPRA)." Ex. P.

36. On January 12, 2017, Plaintiff sent an IPRA request to the University requesting "a copy of the check(s), as well as any banking documentation – that relate to WisePies' Pizza and Salad's final naming rights payments of 2016." Ex. Q.

37. On January 27, 2017, the University denied the request, stating that "[t]he University does not have the records" sought by the request. The University then directed Plaintiff to "contact the . . . Foundation directly." *Id.*

38. That same day, Plaintiff sent an IPRA request to the Foundation, requesting "any/all bank documentation related to the monies that WisePies gave to the UNM Foundation as part of its naming rights agreement for The Pit. This includes a copy of the checks themselves, and any deposit slips or bank documentation that indicates when such monies were deposited." Ex. R.

39. Because the Foundation does not have a custodian of records, the request was again sent to Jennifer Kemp. *See id.*

40. On January 30, 2017, the Foundation denied this IPRA request, stating that "is a non-profit, non-public entity and is therefore not subject to [the] Inspection of Public Records Act (IPRA)." *Id.*

#### **CLAIM FOR RELIEF**

##### **Violation of the New Mexico Inspection of Public Records Act**

41. Plaintiff incorporates by reference the facts alleged in paragraphs 1 through 40.

42. Defendants have violated IPRA by failing to produce, as required by IPRA, the public records requested by the Plaintiff.

43. Defendants' assertion that they are not subject to IPRA because they are a "non-profit, non-public" entity violates IPRA because they are a public body as defined by NMSA 1978 § 14-2-6(F).

44. Defendants are attempting to keep secret matters of significant public concern involving funding for the University's Athletics Department and the controversial naming rights agreement for the University's basketball arena, in direct violation of its obligation to disclose such information under IPRA.

45. The Foundation does not have a custodian of records as required by NMSA 1978 § 14-2-7.

46. Plaintiff is entitled to damages according to NMSA 1978 § 14-2-11(C) for Defendants' failure to provide the requested records.

47. Plaintiff is entitled to a writ of mandamus or injunction, under NMSA 1978 § 14-2-12(B), ordering the Defendants to produce all requested documents in the Defendants possession.

48. Plaintiff is entitled to recover his attorneys' fees and costs according to NMSA 1978 § 14-2-12(D).

#### **PRAYER FOR RELIEF**

The Plaintiff requests that the Court:

- a) Declare that the University of New Mexico Foundation is a "public body" subject to IPRA;
- b) Declare that the records sought by Plaintiff are public records and are subject to disclosure;
- c) Issue a writ of mandamus or injunction ordering the Defendant to produce the records and information requested without further delay;

d) Enter an injunction requiring the Defendant to submit to the Court within 30 days a written plan for establishing adequate policies and procedures to ensure that the Defendant can, and will, identify a custodian or records and comply with future requests for public records by Plaintiff and by other requesters;

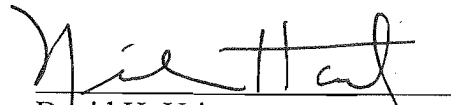
e) Award “damages, costs, and reasonable attorneys’ fees” as required by NMSA 1978 § 14-2-12(D); and

f) Award such further relief the Court deems necessary.

Date: March 7, 2017

Respectfully submitted,

**FREEDMAN BOYD HOLLANDER  
GOLDBERG URIAS & WARD, P.A.**

A handwritten signature in black ink, appearing to read "David H. Urias", written over a horizontal line.

David H. Urias  
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**RESTATED AND AMENDED  
MEMORANDUM OF AGREEMENT  
BETWEEN  
THE REGENTS OF THE UNIVERSITY OF NEW MEXICO  
AND  
THE UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**

The Memorandum of Agreement made on the 11<sup>th</sup> day of March 1991, as previously amended April 30, 2008 and February 27, 2009 (the "MOA" or "Agreement") between the Regents of the University of New Mexico (the "University"), a public corporation of the State of New Mexico and the University of New Mexico Foundation, Inc. (the "Foundation"), a non-profit corporation created by the University for the sole purpose of soliciting, receiving and managing private voluntary support for the benefit of the University, is restated and amended this 25<sup>th</sup> day of September, 2012 as follows.

Recitals

**WHEREAS**, the University formally recognizes the Foundation as a separate corporate entity established for the sole purpose of soliciting, receiving, distributing and managing private gifts and donations given for the benefit of the University; and,

**WHEREAS**, the Foundation agrees that it will function as an interdependent entity with a close operational and fiscal relationship with the University through the University President and the academic leadership of the University; and,

**WHEREAS**, the University further recognizes that the Foundation provides the following services; 1) creates and encourages an opportunity for private individuals and organizations to invest in the support of University programs and services with the assurance that the benefits of these gifts and donations supplement state appropriations to the University; 2) provides a corporate structure for managing private gifts and donations, including endowments and income-producing properties, that do not jeopardize the University's tax-exempt status or create unrelated business tax obligations for the University; 3) provides added assurance to donors that their contributions will be distributed and utilized for the specified purposes; and, 4) provides a medium for alumni and community leaders to participate in and contribute to the strengthening of the University through their participation in the solicitation, management and distribution of private gifts and donations; and,

**WHEREAS**, it is understood by the University and the Foundation that all gifts and donations received by the Foundation are given for the benefit of the University and, therefore, shall be managed, distributed, and utilized in accordance with policies and procedures established by the University and the Foundation to assure accountability to the donor and to the public that supports the University; and,

**WHEREAS**, the University has determined that the Foundation shall be the primary organization for overseeing the development, coordination and implementation of the fund-raising activities for the University.

**NOW, THEREFORE**, it is agreed as follows:

**EXHIBIT  
A**

## FOUNDATION AGREEMENTS

### 1.0 ORGANIZATION AND OPERATIONS OF THE FOUNDATION

1.1 The Foundation shall operate according to its Articles of Incorporation filed June 4, 1979 and Bylaws, as amended on December 4, 2009 and as amended from time to time. The Foundation shall, at its next regularly scheduled Board of Trustees meeting, further amend its Bylaws to conform with the terms of this MOA.

1.2 The Foundation shall organize and operate in such a manner that will retain the Foundation's legal status as a tax-exempt, non-profit organization pursuant to section 501(c)(3) of the Internal Revenue Service Code, or any successor statute.

#### 1.3 Involvement of the University in Foundation Governance

1.3.1 The President of the University will serve as a voting member of the Foundation's Board of Trustees, its Executive Committee and its Committee on Trustees.

1.3.2 The President of the University will appoint two Deans to serve as voting members of the Foundation's Board of Trustees.

1.3.3 A member of the University of New Mexico Board of Regents shall be included as a voting member of the Foundation's Board of Trustees; and,

1.3.4 No more than 25% of the Foundation's Board of Trustees may be employees, officers or Regents of the University.

1.4 The President of the Foundation is the chief executive officer and an employee of the Foundation. The Foundation recognizes a lead role of the President of the University in hiring, evaluating, compensating and terminating the President of the Foundation, and the President of the University must be included in all facets of the work of the President of the Foundation. The President of the Foundation shall report primarily to the President of the University and then to the Executive Committee of the Foundation. In concert with the President of the University, the Foundation will identify and provide an appropriate benefits package for the Foundation President and other senior leadership employees it hires, including but not limited to retirement, deferred compensation, and health, dental, vision, disability, and life insurance.

1.5 The Foundation will hire and oversee advancement staff to provide solicitation, consultation and other related fundraising, fund management and administrative support to maximize private gifts and donations from various sources to the Foundation for the benefit of the University.

1.6 The Foundation shall not solicit or accept gifts, grants, conveyances, devices, bequests or otherwise from any source for a use specified by the donor which is inconsistent with the University's goals and policies.

- 1.7 The Foundation will maintain policies and procedures for the review and acceptance of gifts and donations. The acceptance of any gift or donation that requires a matching obligation of the University or creates a future obligation of University resources must first be approved by the University's Chief Financial Officer in accordance with any applicable university policies.
- 1.8 The Foundation agrees to establish and maintain a record of all gifts and donations to the University and affiliated organizations.
- 1.9 The Foundation will not engage in any instructional, research or public service activity sponsored, or participated in, by a University department or individual employee, without prior approval of the President of the University.
- 1.10 The Foundation shall, at all times, maintain adequate insurance coverage, including Trustee and officers' liability insurance, property and casualty insurance appropriate to cover property held and managed by the Foundation for the benefit of either the Foundation or the University.

## 2.0 MANAGEMENT OF GIFTS AND DONATIONS

- 2.1 The Foundation agrees to appoint an Investment Committee, which committee is hereby designated by the Board of Regents of the University as the investment advisory committee required by Section 21-1-38B(1)(b), NMSA 1978. Pursuant to Section 21-1-38.B (2), the University hereby delegates to the Foundation, acting through its Investment Committee, the authority to manage the investments of both the University funds and Foundation funds placed in the Consolidated Investment Fund ("CIF"). The Consolidated Investment Fund shall be managed in accordance with the Consolidated Investment Fund Endowment Investment Management Policy ("CIF Policy"), as developed, approved and amended by the Foundation and the Board of Regents from time to time, as required by Section 21-1-38.B(1)(c). A current copy of the CIF Policy is attached hereto and incorporated herein as Exhibit A, and any subsequently modified and approved versions shall be similarly incorporated herein.
- 2.2 The Investment Committee will conform to the requirements of the Uniform Investment Act (NMSA 1978 §45-7-611), the Uniform Prudent Management of Institutional Funds Act (NMSA 1978 §46-9-2), and other laws governing the management of the University and its funds.
  - 2.2.1 The Investment Committee shall, at least quarterly, select and review the performance of investment managers in the context of predetermined performance standards and shall periodically review and adjust the allocation of funds within various investment categories.
  - 2.2.2 Annually, the Investment Committee will review the CIF Policy and recommend revisions, if any, to the Foundation Board of Trustees and the University Board of Regents.

2.2.3 The Investment Committee shall be deemed to have met its fiduciary and other legal responsibilities to the University Board of Regents and the Foundation so long as it acts in conformity with the provisions of this Section 2.0 and the CIF Policy.

2.3 The University Board of Regents retains the authority to remove some or all of the University's funds from the CIF and to change or revoke this delegation of responsibility to the Foundation. Any withdrawals from the CIF shall be made on a prorated, unitized basis.

2.4 In addition to the endowments currently held or received in the future in the name of the University or the Foundation, the Foundation also agrees to be the custodian and manager of any endowments received by any University-affiliated organization. The Foundation shall not co-mingle the funds of such endowments but may co-invest such endowments under the CIF Policy.

### 3.0 DISTRIBUTION AND EXPENDITURE OF FUNDS

3.1 The University Controller and the Foundation Chief Financial Officer will establish procedures to transfer funds between the University and the Foundation as required by this Agreement.

3.2 No gift funds will be disbursed directly through the Foundation account(s), either in the form of compensation to a University employee or for the purchase of goods and services for any unit of the University or University-affiliated organization, unless specifically approved by the University President or his/her designee. The expenditure of gift funds for the benefit of any unit of the University or University-affiliated organization will be disbursed through the University's general ledger system.

3.3 To assure that the donor directive on the use of the gift is followed when disbursed through the University's general ledger system, the Foundation will be responsible for providing the University the appropriate information on donor-directed gift restrictions.

3.4 All funds that are transferred from the Foundation to a University spending account are subject to all state laws and regulations governing the disbursement and administration of public funds. Private donations and grants made to the Foundation, or made to the University through the Foundation, shall not be considered public funds until dispersed to a University spending account.

### 4.0 REPORTS AND ACCOUNTING

4.1 The Foundation will work with the President of the University to develop a strategic plan to identify information and reports that are needed by various constituencies. At a minimum, the Foundation shall provide the University with an annual report that will include a summary of all gifts and donations received and held or distributed during the past year, the performance of the investment management program and the Foundation's operating income and expenses for the fiscal year.

4.2 The Foundation shall provide the University with the report of an annual audit performed by an independent certified public accounting firm selected by the Foundation. Any



independent certified public accounting firm selected by the Foundation that is not the same firm selected by the University must agree to provide the necessary audit information for the University to be able to comply with any federally mandated "single audit" report.

- 4.3 The Foundation agrees to provide any information regarding operations of the Foundation to the University's internal audit staff upon formal request to the Foundation's Executive Committee.

## UNIVERSITY AGREEMENTS

### 5.0 UNIVERSITY PRIORITIES AND LONG RANGE OBJECTIVES

- 5.1 The University agrees that the Foundation will be responsible for the development, implementation and oversight of the University's primary fund-raising activities.
- 5.2 In recognition of the philanthropic and investment services provided by the Foundation and to maximize the Foundation's ability to match fund-raising activities with priority needs, the University agrees to provide a clear statement of fund-raising priorities and long range academic objectives. In addition, the University agrees to involve the Foundation as the University continues to develop planning goals.
- 5.3 The University President will appoint a Dean's Council to work with the Foundation leadership to implement appropriate fundraising strategies.
- 5.4 The University will revise the job descriptions and evaluation forms for all Deans to include fundraising and fundraising metrics.

### 6.0 BUDGET AND FINANCIAL SUPPORT

- 6.1 University staff assigned to the Foundation to carry out development functions shall continue to be governed by the policies, procedures, practices and employment privileges of the University.
- 6.2 The University commits to provide revenue sufficient to allow the Foundation to fund its operations and to grow the fundraising efforts to meet mutually identified strategic needs of the University. Exhibit B contains the multi-year fiscal commitment of the University to provide financial resources necessary to fund the operations of the Foundation.

### 7.0 UNIVERSITY SUPPORT SERVICES

- 7.1 The University grants the Foundation a non-exclusive license to use the name "The University of New Mexico" and any other trademarks of the University in connection with its fund-raising activities. The Foundation agrees to abide by all the University's trademark requirements.
- 7.2 The University shall cooperate with the Foundation in the development of its fund-raising programs and campaigns, including providing information, data, plans, speakers, facilities for meetings on the University campus and such other materials and services as

may reasonably be necessary for the successful conduct of fund-raising programs and campaigns. The University, as it deems appropriate and as resources are available, may provide additional financial support to the Foundation for major fund-raising campaigns.

#### 8.0 UNIVERSITY COMPLIANCE WITH GIFT RESTRICTIONS

- 8.1 The University agrees to assume the responsibility of monitoring the expenditures or income disbursements from both non-endowed gift accounts and endowed spending accounts to ensure that any and all donor-imposed restrictions are maintained.
- 8.2 The Department of Internal Audit will periodically audit the University's compliance with such restrictions.

### JOINT AGREEMENTS

#### 9.0 OPERATIONAL CONSIDERATIONS

- 9.1 The Foundation and the University agree that, at all times and for all purposes of this Agreement, the Foundation as an entity, in the performance of this Agreement and other activities to be undertaken by the Foundation, shall act in an independent, separate legal capacity and not as an agent of the University. Within the limits and restrictions of the New Mexico Tort Claims Act, Sect. 41-4-1 et. seq. NMSA 1978, each party agrees to be responsible for its own negligent acts or omissions which may occur during the performance of this Agreement and which result in claims by individuals or entities not parties to this Agreement.
- 9.2 It is mutually understood and agreed any alteration or variation of the terms of the Foundation's Articles of Incorporation or the Bylaws of the Foundation, which affect the ability of the Foundation to carry out its responsibilities under this Agreement shall be submitted for approval of the Board of Regents of the University.

All official notices required under this agreement shall be given as follows:

Notice to University:      University President  
   Scholes Hall  
   University of New Mexico  
   Albuquerque, NM 87131-3001

Notice to Foundation:      President  
   University of New Mexico Foundation, Inc.  
   700 Lomas Blvd. NE Suite 108  
   University of New Mexico  
   Albuquerque, NM 87131

- 9.3 The Foundation will take appropriate steps to ensure that it does not discriminate against any person because of race, religion, national origin, color, gender, veteran status or sexual orientation. The Foundation will put in place a complaint, investigation and resolution process that meets the requirements established by state and federal law and that will take prompt steps to remedy any discrimination that is found to have occurred.

9.4 This Agreement will be governed by the law of the state of New Mexico.

9.5 No amendment to this Agreement shall be valid unless made in writing and signed by both Parties. No oral understandings or agreements not incorporated herein, and no alterations or variations of the terms hereof, unless made in writing between both Parties, shall be binding on either of the Parties.

#### 10.0 TERMINATION

10.1 This Agreement may be terminated by either party effective upon written notice to the other party at least sixty (60) days in advance thereof. If for any reason this Agreement is terminated, or the Foundation is dissolved, liquidated, or ceases to be a 501(c)(3) organization, all accounts of the Foundation shall be transferred to the University or a successor organization(s) designated by a resolution of the Board of Regents on or before the date of termination. In such event, the University or other successor organization will honor to the maximum extent possible the instructions of donors to the Foundation.

IN WITNESS HEREOF, the parties hereto have caused this Agreement to be executed.

THE UNIVERSITY OF NEW MEXICO FOUNDATION, INC.

By: [Signature]  
Chairman of the Board of Trustees

10/1/12  
date

By: [Signature]  
Secretary of the Board of Trustees

10/1/12  
date

THE REGENTS OF THE UNIVERSITY OF NEW MEXICO

By: [Signature]  
President of the Board of Regents

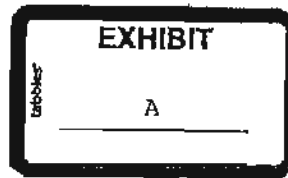
10/12/2012  
date

By: [Signature]  
Secretary of the Board of Regents

10/12/12  
date

This Agreement was approved at a regularly called meeting of the Board of Directors of the University of New Mexico Foundation held on September 25, 2012 by a vote of 14 in favor and 0 opposed.

This Agreement was approved at a regularly called meeting of the Board of Regents of the University of New Mexico held on September 11, 2012 by a vote of 7 in favor and 0 opposed.



## CONSOLIDATED INVESTMENT FUND INVESTMENT POLICY



THE UNIVERSITY of  
NEW MEXICO  
FOUNDATION

THE UNIVERSITY OF NEW MEXICO

THE UNIVERSITY OF NEW MEXICO FOUNDATION, INC.

Revisions:

1989 September  
1992 February  
1995 March  
1997 February  
1999 September  
2001 May  
2002 June  
2003 October  
2004 May  
2005 October  
2010 July

## CONSOLIDATED INVESTMENT FUND POLICY STATEMENT

In accordance with Sections 21-1-38.B(1)(b) and 21-1-38.B(2), New Mexico Statutes Annotated 1978, the University of New Mexico Board of Regents (the "Board of Regents") has designated the University of New Mexico Foundation Investment Committee (the "Investment Committee") to act as the official Advisory Committee to oversee and manage the investment of both the University of New Mexico (the "University")'s and the University of New Mexico Foundation, Inc. (the "Foundation")'s endowment funds. The combined endowment assets of the University and the Foundation are known as the Consolidated Investment Fund (the "CIF"). The Investment Committee will apply the standards of conduct described in Sections 6-8-10 and 46-9A-1 through 46-9-12, NMSA 1978, in managing the CIF, subject to the standards set forth herein.

In accepting this responsibility, the Investment Committee agrees to follow the Consolidated Investment Fund Investment Policy (the "Policy"), which has been approved by the Board of Regents pursuant to Section 21-1-38.B(1)(c), NMSA 1978 and the Investment Committee of the Board of Trustees of the Foundation.

The Policy is to be effective July 1, 2010 and supersedes all previous versions.

The Policy governs the investment of gifts and donations to the University or the Foundation in the form of endowments, as well as quasi-endowments established by the Board of Regents, with long-term benefit objectives. All common endowment and quasi-endowment funds of the University and the Foundation will be managed through the CIF. Participants in the CIF will receive units in the pooled fund. At all times the Policy shall recognize and implement all legally enforceable restrictions and directions that may have been placed on gifts by donors and the Policy shall comply with all applicable laws and shall be changed as necessary to comply with changes in applicable law or legal advice.

### INVESTMENT PHILOSOPHY

The CIF has a long-term investment horizon, and allocates its assets accordingly. It is recognized that a strategic long-term asset allocation plan implemented in a consistent and disciplined manner along with the long and short-term needs of the University in carrying out its educational mission will be the major determinant of the CIF's investment performance.

The assets will be managed on a total return basis. The Policy also recognizes the importance of preservation of capital. It is appropriate to consider alternative investment strategies if such strategies are in the CIF's best interest on a risk-adjusted basis and are consistent with sufficient liquidity and investment risks that are prudent and reasonable, given the prevailing capital market conditions.

Risk management of the investment program is focused on understanding both the investment and operational risks to which the CIF is exposed. The objective is to minimize operational risks and realize an appropriate return for the investment risks that the Investment Committee is willing to accept.

## INVESTMENT OBJECTIVES AND POLICIES

**Return Goal:** The long-term objective of the CIF is to earn a return sufficient to preserve the purchasing power of the CIF for generations to come, as well as to provide for current needs. As a result, the goal is to achieve an annual total return, net of management and custodial fees, that equals or exceeds the annual Spending Distribution, the annual Development Funding Allocation and inflation as measured by the U.S. Department of Labor All Urban Consumer Price Index "CPI-U".

**Return Measurement:** To achieve the Return Goal, the CIF assets will be invested to generate a total return consisting of market appreciation and depreciation and/or dividend and interest income. While there cannot be complete assurance that the Return Goal will be realized, it is believed that the likelihood of realization is enhanced by diversifying the assets of the CIF. Over time, the Policy will aim to achieve the Return Goal while maintaining acceptable risk levels. To accomplish this goal, the CIF will diversify assets among several asset classes. The following objectives are designed to support achievement of the Return Goal and are net of (after) investment expense:

- Total CIF assets should achieve an annualized nominal rate of return equal to or greater than that of the Return Goal.
- In general, active managers will be expected to provide returns greater than their appropriate benchmark, net of fees, while utilizing acceptable risk levels, over rolling thirty-six month periods. In contrast, passive managers will be expected to provide returns nearly identical to the appropriate benchmark, before reasonable fees, with no more volatility than the benchmark.

**Preservation of Capital:** Consistent with their respective investment styles and philosophies, investment managers shall make reasonable efforts to preserve capital, understanding that losses may occur in individual securities.

**Cash Reserves:** In accordance with the CIF's long-term investment horizon, a fully invested position should be maintained for the overall portfolio with minimal, but sufficient cash reserves to meet all current spending and capital calls.

**Risk:** It is important that risk is defined so that the assets are managed in a manner consistent with investment objectives and strategies. The policy defines risk as:

- Overall Investment Risk - the probability of not maintaining purchasing power over the CIF's investment time horizon, net of spending and investment expenses.
- Operational Risk - the potential of loss arising from deficiencies in internal controls, human errors, physical systems failures and other business execution risks.
- Cash Flow Risk - the probability of not achieving the CIF's short term cash flow requirements.
- Compliance Risk - non-compliance with applicable State of New Mexico statutes concerning the investment of public funds.
- Interest Rate Risk - the potential for fluctuations in bond prices due to changes in interest rates and/or a duration/liability mismatch.
- Credit Risk - the possibility that a bond issuer will fail to make timely payment of either interest or principal to the portfolio.
- Reinvestment Risk - the possibility that the proceeds of a maturing or called security will be reinvested at lower yields as a result of a general interest rate decline in the bond market.

- **Liquidity Risk** - the possibility that the liquidity of the market for a security may decline thereby making it more difficult to dispose of the security promptly; presenting difficulties in valuation of the security; or causing the security to experience greater price volatility.

**Asset Allocation:** Asset allocation is the single most important decision which affects the CIF. Investment research has determined that a significant portion of a portfolio's investment behavior can be attributed to (1) the asset classes/styles which are employed by the portfolio, and (2) the weighting of each asset class/style. Given its importance, the asset allocation will be reviewed at least quarterly and revised as necessary.

- The asset allocation shall be determined taking into consideration a comprehensive allocation study completed by the Investment Consultant and taking into consideration the asset allocations of peer institutions as published in the NACUBO-Commonfund Study of Endowments.
- The asset allocation shall be designed to give balance to the overall structure of the investment program over a long-term horizon.
- Asset allocation decisions will not be based on market timing. However, some factors may impact the policy allocation, thereby requiring an asset allocation review and possible rebalancing. Some of these factors include a change in the assessment of the intermediate and long-term outlook for different types of asset classes and styles or divergence in the performance of the different asset classes and styles.
- In consultation with the Investment Consultant, specific target asset allocations may be established by the Investment Committee within the minimum and maximum ranges of the Policy to address current economic and/or market conditions.

Assets shall be invested within the following maximum and minimum ranges for each asset class:

#### Percent of Total Assets

Asset Class	Minimum	Maximum
Domestic Equity <sup>1</sup>	10%	50%
International Equity <sup>1</sup>	10%	40%
Fixed Income/Cash	10%	50%
Illiquid Real Assets <sup>2</sup>	0%	0%
Private Equity <sup>2</sup>	0%	0%
Marketable Alternatives	5%	20%

<sup>1</sup> The combined maximum allocation to domestic and international equities shall not exceed 70% at any point in time.

<sup>2</sup> The Policy's intent is to allow for no new commitments to either Illiquid Real Assets or Private Equity which will result in no allocation to either asset class in the long term as these investments mature. However, the Policy recognizes that existing commitments to these asset classes will require additional "capital calls" in the short-term.



**Portfolio Rebalancing:** It is desirable to rebalance the CIF's holdings periodically to minimize deviations from the Policy's asset allocation mix. The Investment Consultant shall inform the Investment Committee at the close of any quarter in which rebalancing the CIF is necessary. The Investment Committee shall review and approve any rebalancing actions and the Investment Consultant shall assist as needed in implementing such actions.

**Manager Concentration Limits:** All actively managed accounts shall be limited to no more than 5% of total assets.

**Spending Distribution:** The Policy aims to distribute on an annual basis a percentage, established as discussed below, of the average market value of the CIF at the calendar year-end of the previous 20 quarters (the "Spending Distribution"). The Spending Distribution shall not exceed 6% nor be less than 4% of the average market value. The Policy allows for the Spending Distribution regardless of whether the fair market value of an individual account exceeds its historic gift value, unless otherwise precluded by the donor or by law. This practice is consistent with the Uniform Prudent Management of Institutional Funds Act, and recognizes that not spending from an endowment is likely to be contrary to a donor's intent to provide current benefits for the designated purpose. The Investment Committee shall establish at its first meeting of each calendar year the Spending Distribution to be used for the current fiscal year. The Investment Committee shall strive to maintain a Spending Distribution which achieves intergenerational equity, so today's beneficiaries do not unfairly benefit at the expense of future beneficiaries. In addition to considering this Policy and the objectives as stated above, the Investment Committee shall consider, if relevant, the following items in their annual deliberations to determine a reasonable Spending Distribution:

- The net rate of return earned by the CIF in each of the five most recent fiscal years.
- The net real (after adjusting for inflation as measured by the CPI-U) rate of return earned by the CIF in each of the five most recent fiscal years.
- Payout rates established by other university endowments as published in the NACUBO-Commonfund Study of Endowments.
- Other resources available to University and any unusual or extraordinary circumstances impacting these resources (tuition revenues, State appropriations, etc.).
- The extent to which programs benefiting from the Spending Distribution rely on these funds to achieve their goals and objectives.
- Recommendations from the CFO.
- The Spending Distribution in effect at the time of deliberations.
- General economic conditions.
- The possible effect of inflation or deflation.
- The expected total return of the CIF per the most recent asset allocation study.

**Development Funding Allocation (the "DFA"):** The Board of Regents and the Board of Trustees have agreed that a fair and reasonable uniform basis point fee applicable to all endowment accounts is an appropriate means to assist the operations of the Foundation. The DFA does not provide support for any direct costs of investing and administering the CIF, such as investment consultant fees, custodial fees and investment manager fees. These costs are assigned directly to the CIF. The DFA is subject to review and approval by the Board of Trustees and the Board of Regents annually and at other intervals as required by the Board of Regents.



The following items shall be considered in establishing a reasonable DFA:

- Any external costs including the Investment Consultant, custodian, and investment manager fees of managing the CIF.
- The internal (i.e., accounting, fund raising, information systems, gift administration) costs to raise funds for, manage the assets of and provide stewardship for the CIF.
- Cost Recovery Fee rates established by other university endowments if published in the NACUBO-Commonfund Study of Endowments.
- Recommendations from the CFO.
- The Development Funding Allocation in effect at the time of deliberations.
- The impact on the Spending Distribution.

## **AUTHORITY AND RESPONSIBILITY**

### **University of New Mexico Board of Regents**

The Board of Regents shall review the performance of the Investment Committee and the CIF at least annually. The Board of Regents shall approve annually, along with the Board of Trustees:

- The Investment Policy and any changes thereto.
- The Development Funding Allocation.
- The Investment Consultant and its fees.

### **University of New Mexico Foundation Board of Trustees**

In accordance with the bylaws of the Foundation, the Board of Trustees shall appoint an Investment Committee. The Board of Trustees shall approve, along with the Board of Regents:

- The Investment Policy and any changes thereto.
- The Development Funding Allocation.
- The Investment Consultant and its fees.

### **The Investment Committee**

The Investment Committee has fiduciary responsibility for directing and monitoring the investment of the CIF, and is authorized to retain and solicit recommendations of qualified professionals including the CFO, Investment Consultant and Investment Managers.

The Investment Committee's responsibilities include:

- Recommending an Investment Consultant and the contract.
- Selecting an Investment Custodian and approving the contract.
- Approving investment products for inclusion in the CIF portfolios.
- Monitoring the CIF investments for compliance with all laws, rules and regulations, including but not limited to the Management of Charitable Funds Act as implemented by the State of New Mexico from time to time.

- Developing an investment policy for approval by the Board of Trustees to include an asset allocation model taking into consideration the appropriate rates of return and risk for each asset class.
- Reviewing performance at both the manager and portfolio level on a periodic basis and, if necessary, instructing the CFO and/or the Investment Consultant to conduct additional due diligence on any investment manager/product.
- Rebalancing the CIF in accordance with the asset allocation ranges.
- Providing regular reports to the Board of Trustees and to the Board of Regents at their regularly scheduled meetings, including recommendations with respect to any suggested changes in investment policies.

### **The Chief Financial Officer**

The CFO serves as an advisor to the Investment Committee, and shall assist the Investment Committee as needed in carrying out their responsibilities noted above. Additional responsibilities of the CFO include:

- Implementing Investment Committee decisions as directed.
- Working directly with the Investment Consultant as needed.
- Preparing an annual report on the CIF, including performance and allocation information important to the donor community.
- Coordinating agenda items with the Investment Committee Chair and scheduling meetings of the Investment Committee such that all important matters are brought to the Committee's attention in a timely fashion.
- Reviewing and executing, in consultation with legal counsel, all offering documents for new investment products approved by the Investment Committee.
- Providing the Investment Committee with reports comparing investment performance and asset allocation with the NACUBO-Commonfund Study of Endowments.

### **The Investment Consultant**

The Investment Consultant is responsible for providing advice to the Investment Committee as follows:

- Reviewing the asset allocation as appropriate and no less than annually.
- Monitoring the portfolios to ensure that assets remain within the designated ranges as specified in the asset allocation models, and recommending appropriate actions to address situations outside the designated ranges.
- Providing written comments and recommendations on the Policy as needed, but on no less than an annual basis.
- Assisting in selecting, monitoring, and replacing investment managers and products.
- Recommending appropriate benchmarks and peer groups with which to monitor selected investment managers.
- Providing written quarterly reports no less than quarterly to the Investment Committee on investment products and managers, including departures of key personnel, style drift, changes in investment process and any other matter requiring the Investment Committee's attention including a recommendation that an investment manager be retained or terminated.

- Disclosing any fee relationships with investment managers, advertisers, placement agents or other providers of service for the CIF.
- Presenting reports to the Board of Regents and the Board of Trustees as needed.
- Reviewing all offering documents for new investment products prior to submission to the CFO for signature.

### **The Investment Managers**

Investment managers shall:

- Act as responsible fiduciaries in all matters involving their management of CIF assets and comply with all applicable laws, rules and regulations.
- Report all activity to the CFO and Investment Consultant on a timely basis as agreed, but in no event will such report be provided on less than a quarterly basis. Such reports shall include a comparison of performance with the agreed-upon benchmark, and might include details about the holdings and strategies of the applicable product.
- Vote, or cause to be voted, all proxies on securities held by the CIF.
- Provide CFO with copies of audited financial statements covering the investment product in a timely manner.
- Make presentations to the Investment Committee when and as requested.
- Maintain a strict adherence to the mandate under which they were engaged.
- Provide CFO and Investment Consultant with a written report within five business days of the following matters: (a) change in ownership or legal entity status; (b) change in key personnel, including a change in anyone on the product portfolio management team; (c) change in investment philosophy or style; (d) civil or criminal charges filed against the firm by a regulator.
- Disclose any fee relationship with the investment consultant, advertisers, placement agents or other providers of service for the CIF.

### **The Investment Custodian:**

The Investment Custodian shall:

- Provide monthly reports detailing investment holdings and account transactions within 15 business days following the end of each month and an annual report summarizing the following within 15 business days following each fiscal year end.
- Establish and maintain an account(s) for each Investment Manager of the portfolio as requested by the CFO.
- Provide all normal custodial functions including security safekeeping, collection of income, settlement of trades, collection of proceeds of maturing securities, daily investment of uninvested cash, etc., effect trades, if applicable, manage securities lending program, if applicable.
- Prepare additional accounting reports as requested by the CFO or Investment Consultant.

## PERFORMANCE MEASUREMENT AND REPORTING

### Performance Measurement

The performance of the CIF will be reviewed at least annually to determine the continued feasibility of achieving the investment objectives and the appropriateness of the investment policy for achieving these objectives. In consideration of the CIF's goals and objectives, several standards will be utilized in evaluating investment performance as opposed to a single measure. These standards reflect several aspects of investment performance, including the specific objectives and the market indices used to measure the performance of individual Managers.

- **TOTAL FUND PERFORMANCE:** The Investment Committee expects the total assets under management to perform in the upper quartile of an acceptable comparable peer universe, over a market cycle or a three to five year period if shorter.
- **ASSET CLASS LEVEL PERFORMANCE:** Each asset class approved by the Investment Committee will have an intermediate term benchmark that is investable and a longer term benchmark that represents the investment objective in that asset class's inclusion in the portfolio.
- **INVESTMENT MANAGER PERFORMANCE:** Each Investment Manager's performance should compare favorably over comparable periods to that of other Investment Managers of a like style and discipline. The Investment Managers shall have discretion to invest a portion of the assets in cash reserves when they deem it appropriate. However, the Investment Managers will be evaluated against their peers and their predetermined benchmarks on the performance of the total funds under their direct management.

### Conflict of Interest

All persons responsible for investment decisions or who are involved in the management of the Foundation or who are consulting to, or providing any advice whatsoever to the Investment Committee, shall disclose in writing at the beginning of any discussion or consideration by the Investment Committee, any relationships, material beneficial ownership, or other material interest(s) which the person has or may reasonably be expected to have, with respect to any investment issue under consideration. The Investment Committee will require such persons to remove themselves from the decision-making process.

Any members of the Investment Committee responsible for investment decisions or who are involved in the management of the Foundation shall refuse any remuneration, commission, gift, favor, service or benefit that might influence them in the discharge of their duties, except as disclosed in writing to and agreed upon in writing by the Investment Committee. The intent of this provision is to eliminate conflicts of interest between committee membership and the Foundation. Failure to disclose any material benefit shall be grounds for immediate removal from the Investment Committee. This provision shall not preclude the payment of ordinary fees and expenses to the Foundation's custodian(s), Investment Managers, or Investment Consultant in the course of their services on behalf of the Foundation.



**The University of New Mexico Foundation  
FY 2013 & 2014 Budgets**

**REVENUES**

	<b>FY 2012/13 Original Budget</b>	<b>FY 2012/13 Proposed Revised Budget</b>	<b>FY 2013/14 Proposed Budget</b>
Reserve Balance Forward	-	-	49,529
Development Funding Allocation (DFA)			
DFA @ 185 bps (excl. Woodward)	5,300,675	5,300,675	5,300,675
DFA Reduction to 140 bps (excl. Woodward)	-	-	(1,289,353)
DFA @ 185 bps (Woodward)	661,500	661,500	-
DFA Reduction to 90 bps (Woodward)	-	(339,689)	-
DFA @ 90 bps (Woodward)	-	-	321,811
Short-Term Investment Income	850,000	850,000	850,000
Other Revenues & Transfers	150,000	150,000	150,000
Existing Cost-Share Agreements (HSC & Athletics)	660,780	660,780	660,780
Existing Cost-Share Agreements (Main Campus)	600,000	-	-
Existing Cost-Share (Fringe Benefits)	150,000	-	-
University One-Time Funds (Main Campus)	600,000	450,000	150,000
University One-Time Funds (Fringe Benefits)	150,000	-	-
Foundation Surcharge (All Campuses) *	-	2,459,000	4,918,000
Use of Foundation Reserves	481,973	-	-
<b>Total Revenues</b>	<b>9,604,928</b>	<b>10,192,266</b>	<b>11,111,441</b>

**EXPENDITURES**

Salaries & Benefits			
Current Foundation Staff	7,685,062	7,685,062	7,685,062
Merit and/or COLA Increase - 2.0%	-	-	153,701
Additional Foundation Staff (FY13-April Hire)			
Regional Dev. Officer - High Cost Location (2 FTE)	-	104,250	417,000
Regional Dev. Officer - Mid Cost Location (2 FTE)	-	88,125	352,500
Dev. Officers - Schools of Med. & Engr. (2 FTE)	-	18,000	72,000
Research Manager - Albuquerque Office	-	17,738	70,950
Staff Support - Albuquerque Office	-	11,288	45,150
Operational Expenses	1,651,591	1,650,000	1,700,000
Office Space Rent	268,275	268,275	268,275
Data Records Upgrade (One-Time Funds)	-	300,000	300,000
<b>Total Expenditures</b>	<b>9,604,928</b>	<b>10,142,737</b>	<b>11,064,638</b>

**PROJECTED RESERVE**

	-	49,529	46,803
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\* UNM Funding based on a 25bps charge against UNM departments in FY13, and an additional 25bps charge against UNM departments in FY14

# **REVIEW OF UNM FOUNDATION OPERATIONS**

## **THE UNIVERSITY OF NEW MEXICO**

**Report 2012-06  
August 14, 2012**



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### **Audit Committee Members**

J.E. "Gene" Gallegos, Chair  
Lt. General Bradley Hosmer, Vice Chair  
James Koch

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### **Audit Staff**

Manilal Patel, Audit Director  
Bill Cottrell, Senior Auditor  
Victor Griego, Internal Auditor II  
Victoria Gorman, Internal Audit Student Intern

**EXHIBIT  
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## ABBREVIATIONS

Bylaws.....	Restated and Amended Bylaws
CASE.....	Council for Advancement and Support of Education
CFO.....	Chief Financial Officer
CIF.....	Consolidated Investment Fund
CIP.....	Consolidated Investment Policy
DFA.....	Development Funding Allocation
ERB.....	New Mexico Educational Retirement Board
FY.....	Fiscal Year
GAAP.....	Generally Accepted Accounting Principles
GASB.....	Governmental Accounting Standards Board
Form 990.....	Form 990, Return of Organization Exempt From Income Tax
Foundation.....	University of New Mexico Foundation, Inc.
HSC.....	Health Sciences Center
I&G.....	Instructional and General
Internal Audit.....	University of New Mexico Internal Audit Department
IT.....	Information Technology
MOA.....	Memorandum of Agreement
Regents Endowment.....	Regents Special Endowment
ROG.....	Report of Giving
University.....	The University of New Mexico
UNM.....	The University of New Mexico
Winrock Endowment.....	Winrock Land Sale Endowment
██████████ Endowment.....	Sandia Foundation Endowment, as established by ██████████



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## **EXECUTIVE SUMMARY**

Prior to Fiscal Year (FY) 2009, the fundraising and development activities of the University of New Mexico (UNM) and the University of New Mexico Foundation, Inc. (Foundation) were integrated with, and embedded within the overall financial and management operations of the University of New Mexico (University). In FY 2009, at the request of the UNM President and with the approval of the UNM Board of Regents, the Foundation and the fundraising and development activities for UNM were operationally and financially separated from the University. These activities are now managed and accounted for by the Foundation. The Audit Committee of the UNM Board of Regents requested that UNM Internal Audit conduct a review of the operations of the Foundation.

## **ANALYSIS OF GOVERNING INSTRUMENTS**

Internal Audit reviewed the Governing Instruments and Corporate Documents of the Foundation, including the Memorandum of Agreement (MOA) dated April 30, 2008 between the Foundation and UNM, the Consolidated Investment Policy (CIP), Articles of Incorporation, Corporate Bylaws, Treasury Operations Agreement, and the Foundation's Operating and Business Policies. Internal Audit observed minor findings of non-compliance with certain governing documents.

## **FINANCIAL ANALYSIS**

Internal Audit compiled financial information on development activities conducted by the Foundation for FYs 2006-2008. The FYs 2006-2008 (pre-separation) analysis is compared with the operating expenses of the Foundation for FYs 2009-2011 (post-separation).

The Foundation is funded primarily from the Development Funding Allocation, short term interest on gift balances, unrestricted gifts to the Foundation, cost sharing agreements with UNM affiliate organizations, and institutional support from the University.

The Foundation undergoes an annual external audit of its financial statements, and annually files Form 990, Return of Organization Exempt From Income Tax (Form 990). Internal Audit analyzed the financial reports for FYs 2006-2011 and reconciled the net revenues less expenses on the Form 990 to the change in net assets on the audited financial statements.

## **FUNDRAISING ACTIVITIES**

The Foundation is currently conducting the campaign *Changing Worlds: The Campaign for UNM*. Presented is an analysis of pledges and donations and balances of Pledges Receivable from the audited financial statements. The audited financial statements are prepared from the Foundation's general ledger using Generally Accepted Accounting Principles (GAAP). The campaign results are reported in the annual Report of Giving (ROG) using national standards for counting promulgated by the Council for Advancement and Support of Education (CASE). Total campaign results of \$406.5 million, from inception of the campaign in FY 2007 through FY

2011, are reported in the FY 2011 ROG. The reconciliation in Exhibit 6 shows that on a GAAP basis, \$175.3 million is recorded in the general ledger for the current campaign.

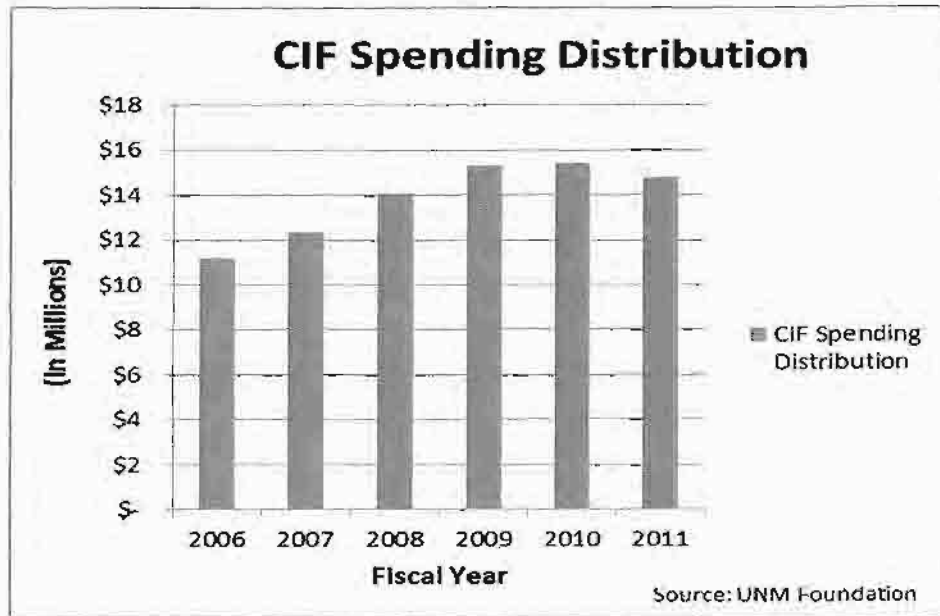
## **CONSOLIDATED INVESTMENT FUND**

The Consolidated Investment Fund (CIF) includes the combined endowment assets of the University and the Foundation. In 1979, the UNM Board of Regents delegated oversight and management of the CIF to the Foundation's Investment Committee. The Investment Committee and the Foundation's Chief Financial Officer (CFO) work with an Investment Consultant and Investment Fund managers to actively manage the assets held in the CIF. The CIF is a unitized fund and is segregated between Foundation and UNM owned endowment assets, each reporting the value and number of units on their respective financial statements. For FY 2011, the UNM endowments had a market value of \$192,584,392, while the Foundation endowments had a market value of \$143,392,723. Altogether, the market value for the CIF for FY 2011 was \$335,977,115. All the endowment funds have been donated for the benefit of the University.

The main endowments owned by UNM are the Regents Special Endowment (Regents Endowment), the Winrock Land Sale Endowment (Winrock Endowment), and the Sandia Foundation Endowment, as established by [REDACTED] ([REDACTED] Endowment). The Regents and Winrock Endowments are quasi-endowments and the [REDACTED] Endowment is a true endowment. The three funds had market values for FY 2011 as follows: Regents Endowment - \$28,836,736, Winrock Endowment - \$27,578,901, and [REDACTED] Endowment - \$37,282,002.

The CIF incurs investment management fees for the fund custodian, the investment consultant, and the individual fund managers. Direct fees are investment management expenses paid directly out of the CIF. Indirect fees are investment management fees paid to fund managers of the CIF as a reduction in investment income and are reflected as a reduction of net asset value of the individual funds. For FY 2011, the direct fees were \$959,926, and indirect fees were \$2,147,531.

The Foundation annually calculates and distributes an endowed spending distribution to the University to fund scholarships, faculty, and program support. The endowed spending distribution is calculated according to the Consolidated Investment Policy (CIP) and distributed on a quarterly basis to approximately 1,500 endowment spending accounts throughout the University. The donor's intent is communicated to the departments, schools and colleges, and is verified by these areas prior to disbursement of the funds. The following graph shows the spending distribution for FYs 2006-2011.



Internal Audit reviewed the processes for verifying compliance with donor intent at certain UNM colleges and departments. Internal Audit did not note any instances of non-compliance. Internal Audit, working with the Foundation and the University, will implement a process for verifying that disbursements from the endowed spending distribution comply with donor intent.

In accordance with the applicable State of New Mexico statutes (Section 21-1-38, NMSA 1978; Sections 46-9A-2 through 46-9A-5, NMSA 1978), the UNM Board of Regents and the Foundation Board of Trustees have adopted a Consolidated Investment Policy for investing endowment funds. The statutes include provisions for establishing an Investment Advisory Committee comprised of individuals with special skills or expertise to manage and invest the CIF.

## CONCLUSION

The Foundation has a sound governance framework in place to guide and assist in the fulfillment of its purpose. Internal Audit noted minor findings during the review of the Foundation. Following are the key recommendations made in the report.

### Key Recommendations

1. The Foundation, working with the UNM President, should review the current MOA for appropriate amendments as necessary.

2. The Foundation should explain the basis of campaign counting used in the Annual Report of Giving (ROG), and how those nationally approved standards differ from Generally Accepted Accounting Principles (GAAP) used in the annual financial statements.
3. The Foundation, working with the UNM President, should adopt a business plan that considers appropriate funding of its operation, including resources needed for future capital campaigns.

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## INTRODUCTION

### BACKGROUND

The University of New Mexico Foundation (Foundation) was formed as a separate legal entity in 1979. As a separate legal entity, the Foundation reports to its own Foundation Board of Trustees. It is organized as a non-profit corporation under Section 501(c)(3) of the Internal Revenue Code, and is required to file an annual tax return on Form 990. The Foundation is reported as a component unit of UNM in the University's financial statements.

The purpose of the Foundation is to support the University of New Mexico. The Foundation provides direct services to many of the University's other non-profit organizations. The services include acceptance and management of endowments, gift acknowledgements, and preparation of reports of giving. Other services include maintenance of the donor alumni database, electronic communication to donors and alumni, special events, and planned giving services. The Foundation is currently conducting the capital campaign *Changing Worlds: The Campaign for UNM*, which began in FY 2007.

The Foundation President reports to the Foundation's Board of Trustees. The Foundation President has direct reports of seven leadership positions. Currently, the Foundation has a staff of 84 employees, 17 of which are UNM employees.

The Foundation oversees and manages the CIF, which is comprised of endowment assets of the University and the Foundation. In 1979, the UNM Board of Regents delegated the management of UNM endowed assets to the Foundation's Investment Committee. Foundation revenues include support from the University, the Development Funding Allocation (DFA), short term interest on non-endowed gift balances and unexpended spending distribution balances, cost sharing reimbursements with affiliated organizations, and Foundation reserves.

Prior to FY 2009, the fundraising and development activity of the University and the Foundation were integrated with and embedded within the overall financial and management operations of the University. In FY 2009, operational and financial management of the Foundation and development activities for UNM were separated from the University at the request of the UNM President and with the approval of the UNM Board of Regents.

#### Transition Period – Operational Separation from UNM

The Foundation's transition to a separate operating organization began with the approval of a revision of the MOA (May 28, 2008) by the UNM Board of Regents and the Foundation Board of Trustees and was completed on June 30, 2010 with the establishment of the Treasury Operations Agreement between UNM and the Foundation.

The first operational change included the creation of Human Resource systems, benefit plans, and preparation for staffing of the organization. All UNM employees that worked on development and fundraising were invited to join the Foundation as employees. The first

employee was hired June 1, 2008, and the transfer of most of the UNM development employees was completed in January 2009.

The majority of the personnel, approximately 70 employees, accepted the offer and became Foundation employees. Approximately 25 (currently 17 remaining) employees chose to remain as UNM employees in order to retain service vested in the New Mexico Educational Retirement Board (ERB) retirement plan, and to receive the tuition remission benefit for family members of UNM employees. The Foundation provides tuition benefit for employees, but not for family members. And, although it has a 403(b) retirement plan, the Foundation does not participate in ERB.

A Foundation Board of Trustees' working group was appointed to work with Foundation legal counsel to develop the necessary policies and procedures for an operating organization. The final stage of the transition was the installment of the Treasury Operations Agreement between UNM and the Foundation, effective July 1, 2010.

## **PURPOSE**

In April 2012, UNM's then President-elect retained consultants from the University of Florida to conduct a review of the Foundation's organizational structure and operations. The UNM Board of Regents' Audit Committee requested that Internal Audit review the Foundation's operations to complement the outside consultant's review.

## **SCOPE**

The scope of the review was limited to compiling financial information on Foundation operations for FYs 2006-2011. Our review procedures included interviewing personnel, performing analytical procedures on financial data, and reviewing corporate documents. We also analyzed revenue and expense accounts, and reviewed the Consolidated Investment Fund, UNM endowments, and the Foundation's Annual Report of Giving. Internal Audit completed fieldwork on July 6, 2012.

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## **OBSERVATIONS, RECOMMENDATIONS AND RESPONSES**

### **GOVERNING INSTRUMENTS**

The Foundation operates within guidelines of its corporate documents and governing instruments. We reviewed the Articles of Incorporation, the Restated and Amended Bylaws (Bylaws), the Memorandum of Agreement with UNM, the Consolidated Investment Policy, and the Treasury Operations Agreement. We also tested the Foundation's compliance with the provisions of each document. The MOA makes numerous references to the "Development Office," which is what the Foundation was referred to prior to its separation from UNM. The MOA has a provision that conflicts with the Bylaws; the provision concerns the voting status of the UNM President and UNM Chief Financial Officer as members of the Foundation's Board of Trustees. Other than these minor inconsistencies, the Foundation appears to have a strong governance framework in place. Discussion of some of the relevant governance provisions of the corporate documents follows.

#### **Articles of Incorporation, Bylaws and Form 1023**

The Articles of Incorporation created the Foundation as a corporate entity and were filed with the New Mexico State Corporation Commission on June 4, 1979. In October 1979, the Foundation filed Form 1023, Application for Exemption, with the Internal Revenue Service. The Foundation received status as a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code. The Articles of Incorporation state the purpose of the Foundation is to support the University; to receive and hold property given to the Foundation for the use and benefit of UNM, students and professors; invest, disburse and care for all moneys received; and, ensure the use of funds comply with donor's intent, or to such use as the Board of Trustees agree upon in the case of unrestricted gifts.

Form 1023 states the Foundation was organized for fundraising to support the University. Funds raised are for scholarships to students, the purchase of instructional equipment, the purchase of books and other printed material for the UNM libraries, the purchase of artifacts and works of art for UNM museums and galleries, the establishment of endowed chairs in the academic departments, and the funding of research projects to promote academic excellence.

The Bylaws, amended and restated on December 4, 2009, set forth the corporate roles and responsibilities of the Foundation. The Bylaws govern the establishment, composition and meeting of the Foundation Board of Trustees; defines the roles, terms and responsibilities of the officers; and, outlines the powers, responsibilities and meetings of the standing committees of the Foundation Board of Trustees. The standing committees of the Foundation Board of Trustees enumerated in the Bylaws include: an Executive Committee, an Audit Committee, a Development Committee, a Finance/Budget Committee, a Gift Acceptance Committee, an Investment Committee, and a Committee on Trustees.

The Foundation Board of Trustees is comprised of volunteer members of the community and includes prominent attorneys, certified public accountants, investment advisors, real



estate professionals, and professionals in many disciplines relevant to Foundation operations.

### **Memorandum of Agreement with UNM**

The Memorandum of Agreement (MOA) sets forth the operating agreement between the UNM Board of Regents and the Foundation. The MOA outlines the Foundation agreements including organization, function and budget for the Foundation, management of gifts and donations, the distribution and expenditure of funds, and reporting and accounting. The agreement also outlines the University's responsibilities, including University priorities, budget and financial support for the Foundation, University support services, and University compliance with gift restrictions. The MOA also includes operational considerations and a provision for termination of the agreement.

Following is the historical record of the MOA between the Foundation and the University:

- Originally executed on March 11, 1991.
- Amended and restated on October 9, 1997.
- Amended on June 11, 2002; including an Addendum concerning the Consolidated Investment Fund.
- Amended on April 30, 2008; including an Addendum concerning the Consolidated Investment Fund and the First Amendment to the April 30, 2008 MOA, signed December 8, 2008.

The April 30, 2008 MOA was executed by the Foundation on April 25, 2008, and by the University on May 28, 2008. It is the current MOA in effect. Key provisions are summarized below:

- Section 1.1.1 – The President of the University shall be included as a voting member of the Foundation's Board of Trustees.
- Section 1.1.2 – The University's Chief Financial Officer shall be included as a voting member of the Foundation's Board of Trustees.
- Section 1.1.3 – A member of the University of New Mexico Board of Regents shall be included as a voting member of the Foundation's Board of Trustees.
- Section 1.2 – The Foundation will have paid staff, including a president who will be responsible for expanding the fundraising activities and operations of the Foundation. Until the Foundation is fully staffed, the University will continue to provide staff to serve the administrative needs of the Foundation in order to conduct its business and fulfill its responsibilities to the University. The Foundation's president will report to the Executive Committee of the Foundation.

This is a significant departure from the provision in the 2002 MOA which states the Foundation will have no paid staff, and that the University's Development Office will provide the staffing needs of the Foundation.



- Section 1.2.2 – The Foundation will provide an appropriate benefits package for the Foundation President and other employees it hires, including but not limited to retirement, deferred compensation, and health, dental, vision, disability and life insurance. Prior to FY 2009, all salaries and benefits of Foundation and development personnel were paid by the University.
- Section 1.8 – The Foundation will be responsible for overseeing the Foundation's staff operations in consultation with designated University officials. The Foundation will provide a portion of the financial resources for its operations from one or more of the following: interest earned on the Foundation's agency accounts, an allocation from the Consolidated Investment Fund - or from other sources with approval of the Foundation Board of Trustees, and the University's Chief Financial Officer.
- Section 2.2 – All short term interest earned on the Foundation's agency accounts within the University, with the exception of endowment income, will be retained by the Foundation. The Foundation may develop policies that would, at the discretion of the Foundation's Board of Trustees, distribute all or any portion of such income to gift funds on deposit with the Foundation. Any such income retained by the Foundation may be used to provide a portion of the financial resources necessary to operate the University's Development Office with the approval of the Foundation's Board of Trustees.
- Section 3.2 – To assure that the donor directive on the use of the gift is followed when disbursed through the University's general ledger system, the Foundation will be responsible for providing the University the appropriate information on donor-directed gift restrictions.
- Section 6.2 – The University will provide a portion of the staffing, office and meeting space, computing support and other related services for the Foundation. However, the University and Foundation will expeditiously renegotiate the form and extent of support provided by the University to the Foundation. The staffing level, the recruitment and hiring of staff, the staff compensation and all other personnel matters will be in compliance with general University policies. These policies are not applicable to employees hired by the Foundation.

Prior to FY 2009, the staffing of the Development Office was funded through the University, and the personnel were subject to the University policies. The April 30, 2008 MOA added the provision that the University policies are not applicable to the Foundation employees, and after the transition to separate operations in 2009, the Foundation developed their own operating and personnel policies.

- Section 6.3 – The University will provide a portion of the financial resources necessary for the operation of the Foundation. The University agrees that an amount equal to the percentage of the market value of the Consolidated Investment Fund may also be allocated to the Foundation for the employment of its own staff and other operating costs. The annual amount of the allocation will

be mutually agreed upon by the University and the Foundation. This allocation will be incorporated into the total operating budget of the University's Development Office.

- Section 7.2 – In addition to the services provided by the University's Development Office, the University agrees to provide the Foundation with certain services for which no separate charges will be assessed. Such services will include, but not be limited to, business, financial, legal, and insurance services.

The First Amendment to the MOA changed Section 7.2 to clarify that the Office of University Counsel would not provide legal services to the Foundation.

- Section 8.1 – As all gifts and income on gift funds are to be disbursed through the University general ledger system, the University agrees to assume the responsibility of monitoring the expenditures of income disbursements from both non-endowed gift accounts and endowed spending accounts to ensure that any and all donor-imposed restrictions are maintained.

### **Consolidated Investment Policy**

The Consolidated Investment Policy (CIP) governs the investment of gifts and donations to the University or the Foundation. All endowment funds of the University and the Foundation are managed through the CIF, and participating endowment funds in the CIF receive units in the pooled fund. The CIP has been amended several times over the years, with the most recent revision in July, 2010. The more significant provisions of the CIP are summarized below:

- The CIP has a long-term investment philosophy. The objectives are to earn a return sufficient to preserve the purchasing power of the CIF, as well as to provide for current endowment spending needs. The CIP considers the risk level, return goals, and asset allocation models in achieving its objectives. The assets will be managed on a total return basis which includes interest, capital gains, dividends and distributions realized over a given evaluation period.
- Assets in the CIF shall be invested within the following maximum and minimum ranges for each asset class:

#### **Percent of Total Assets**

<u>Asset Class</u>	<u>Minimum</u>	<u>Maximum</u>
Domestic equity	10%	50%
International equity	10%	40%
Fixed Income/Cash	10%	50%
Illiquid real assets*	0%	0%
Private equity*	0%	0%
Marketable alternatives	5%	20%

- The CIP also contains certain restrictions on types of assets and categories of asset managers. The combined maximum allocation to domestic and international equities shall not exceed 70% at any point in time, and does not allow new commitments to either illiquid real assets or private equity investments. All actively managed accounts shall be limited to no more than 5% of total assets. The CIF asset allocations for FY 2011 are domestic equity - 20%, international equity - 21%, fixed income/cash - 22%, real assets - 10%, private equity - 10%, and marketable alternatives - 17%.

\* Although the CIF has investments in illiquid real assets and private equity, the policy's intent is to not allow for any "new" commitments to either illiquid real assets or private equity, which would result in no allocation to either asset class in the long term as these investments mature. However, the policy recognizes that existing commitments to these asset classes will require additional "capital calls" in the short term, resulting in some allocation to these asset classes. The policy was changed in July 2010 by the UNM Board of Regents to reflect a more conservative investment approach.

Prior to fiscal year 2010, the Foundation committed to investments in real assets and private equity securities for \$38,000,000 and \$61,000,000, respectively. As of June 30, 2011, the remaining commitments on these investments were \$14,467,847 and \$26,362,424, respectively.

- The CIP requires a quarterly spending distribution based on a percentage of the average market value of the CIF over the previous 20 quarters. The spending distribution shall not exceed 6%, nor be less than 4% of the average market value. It is generally paid regardless of whether the fair market value of an individual account exceeds its historic gift value. This practice is consistent with the Uniform Prudent Management of Institutional Funds Act, and recognizes that not spending from an endowment is likely to be contrary to a donor's intent to provide current benefits for the designated purpose. The Investment Committee reviews the spending distribution requirements and sets the spending distribution at its first meeting of the calendar year.
- Development Funding Allocation (DFA): The UNM Board of Regents and the Foundation Board of Trustees have agreed that a fair and reasonable uniform basis point fee applicable to all endowment accounts is an appropriate means to assist the operations of the Foundation. The DFA does not provide support for any direct costs of investing and administering the CIF, such as investment consultant fees, custodial fees, and investment manager fees. These costs are assigned directly to the CIF. The DFA is subject to review and approval by the Foundation Board of Trustees and the UNM Board of Regents annually and at other intervals as required by the UNM Board of Regents.

- The CIP sets the authority and responsibilities of each of the parties responsible for managing the CIF, including the UNM Board of Regents, Foundation Board of Trustees, Investment Committee, Foundation Chief Financial Officer, Investment Consultant, Investment Managers, and the Investment Custodian.
- The Foundation Board of Trustees and the UNM Board of Regents must jointly approve the CIP, the DFA, and the engagement of an investment consultant.

### **Treasury Operations Agreement**

The Treasury Operations Agreement sets forth the understanding between the Foundation and UNM concerning the management of gift monies received by the Foundation, short-term investment income on gift balances held by the University, the transfer of the endowed spending distribution and the Development Funding Allocation, and payment or reimbursement of expenses. The principal provisions of the Treasury Operations Agreement are set forth below.

- All endowment gifts are deposited into the Foundation's bank account. The Foundation records and acknowledges the gifts, and transfers the funds to the custodian of the CIF.
- Non-endowment gifts are deposited into the Foundation's bank account. The Foundation records and acknowledges the gifts. All non-endowed gifts, with the exception of gifts received for the benefit of the Foundation and the UNM Hospitals, are transferred to the University's bank account.
- All investment income on unexpended non-endowment gift balances is transferred to the Foundation's bank account for use in its normal course of business.
- All investment income on unexpended endowment spending distributions is transferred to the Foundation's bank account for use in its normal course of business. Once the spending distribution is transferred to UNM, the funds are no longer part of the CIF endowments, and short term interest income is allocable to the Foundation.
- The Endowment spending distribution is transferred directly from the CIF to the University's bank account on a quarterly basis.
- The Development Funding Allocation is transferred directly from the CIF to the Foundation's bank account for use in its normal course of business. All transfers are reported to the University Controller's Office.
- The Foundation administers payroll and employee benefit programs for its employees which are paid from the Foundation's bank account. The University administers payroll and employee benefit programs for UNM employees assigned to the Foundation and they are paid from the University's bank account.

- All expenditures from non-endowed gift funds for the benefit of the University or its affiliated organizations, with the exception of UNM Hospitals, are disbursed through the University's general ledger and bank account. Expenditures from non-endowed gift funds for the benefit of UNM Hospitals are disbursed through the UNM Hospital's bank account.

### **Foundation Operations and Business Policies**

The Foundation has developed and adopted internal operating and business policies to govern its day-to-day operations. The policies are segregated into four sections: Governance Policies, Employment Policies, Gift Policies, and Fiscal & Business Policies. Foundation management and in-house counsel worked with a Foundation Board of Trustees' working group to develop necessary policies for the Foundation. The policies were implemented in early 2009.

*Governance* – Section 1 of the Foundation's policies is Governance. It covers the responsibilities of the Foundation's Board of Trustees, responsibilities of the President, conflict of interest policy, Foundation records and record retention policy, harassment policy, and code of conduct policy. In addition, governance policies contain guidance on operations of the seven standing Committees of the Foundation's Board of Trustees.

*Employment Policies* – The Foundation has policies on hiring and recruiting, terms of employment, equal opportunity and diversity, educational benefits policy, and a whistleblower policy. In addition, there is a review of compensation policy, which covers chief executives, officers, and key employees. The Executive Committee of the Foundation Board of Trustees sets the compensation for covered employees using criteria set forth in the policy.

*Gift Policies* – The Foundation has two gift policies: 1) planned giving policy, and 2) gift acceptance policy, which are mandated by section 1.5 of the MOA.

*Planned Giving* – Planned gifts are gifts by trust, will or charitable remainder trusts, charitable lead trusts, charitable annuities, life insurance or retirement plans. The Foundation is authorized to solicit and accept planned gifts, but is not allowed to provide legal advice or accounting advice to donors. If the gift is in any form other than cash, check, electronic transfer, or securities, the gift must be approved by the Gift Acceptance Committee.

*Gift Acceptance Policy* – This policy governs acceptance of endowed and restricted gifts, establishes the Gift Acceptance Committee, and sets forth criteria for acceptance of personal property, real property, and intangible property.

*Fiscal & Business Policies* – These policies govern Foundation debts and disbursements, preparation of the Foundation's operating budget, policy on political lobbying, insurance, and support of other charitable organizations, and reimbursement for cell phone use, business travel and entertainment.



### **Compliance with Governing Instruments**

The Foundation appears to be in compliance with the governing instruments except for the following:

- The MOA has been modified numerous times since its inception and contains references to old organizational structures that changed after the separation from UNM. References to the Development Office should be revised, and the MOA should refer to the Foundation by its proper legal name.
- The Consolidated Investment Fund has two actively managed accounts exceeding 5% of total assets for two consecutive quarters in FY 2011. The two actively managed investment funds were 5.2% and 5.6% of total assets. Under the CIP, actively managed accounts are limited to no more than 5% of total assets.
- The MOA and the Bylaws have inconsistent provisions regarding the voting and membership of University officials on the Foundation Board of Trustees. According to the MOA section 1.1.1 and 1.1.2, both the University's President and Chief Financial Officer shall be included as voting members of the Foundation Board of Trustees. The Bylaws, Article 5, Section 5.2.2 list the UNM President as a non-voting member. Neither the UNM President or Chief Financial Officer are currently voting members of the Foundation Board of Trustees.
- The Bylaws, Article V, section 5.2.2 indicate that the President of the University's Alumni Association shall serve as a non-voting member of the Foundation Board of Trustees. The President of the University Alumni Association is not currently a member of the Foundation Board of Trustees.

### **Recommendation 1**

The University and the Foundation should review the issues noted above, and either amend the appropriate instrument, or conform existing practice to the documented corporate policy.

### **Response from the President and CEO of the University of New Mexico Foundation**

<b>Action Items:</b> Compliance with Governing Instruments
<b>Targeted Completion Date:</b> 12/31/2012 pending approval by governing bodies.
<i>Assigned to: Bullet 1, 3, 4: Interim Senior Associate University Counsel is reviewing the MOA. Bullet 2: Foundation staff liaison to the Investment Committee will report on the Investment Committee's actions. All changes noted above will be completed when UNM Board of Regents and UNMF Board of Trustees approve.</i>

***Corrective Action Planned:*** *We concur. Bullet 1, 3, 4: The University and the Foundation have already begun the process of reviewing the MOA and the Bylaws to ensure conformity. Bullet 2: The Foundation's Investment Committee will review the CIP provision regarding a 5% maximum allocation to actively managed accounts and consider amending the CIP to allow for minor, temporary deviations due to normal quarter-to-quarter changes in market valuations.*

## **FINANCIAL ANALYSIS**

### **Audited Financial Statements and Income Tax Returns**

The Foundation is required to have an annual independent audit of its financial statements, and file a federal tax return on Form 990. The financial statements are prepared using GAAP promulgated by the Governmental Accounting Standards Board (GASB). The independent accounting firm issued an unqualified opinion on the financial statements in each of the FYs 2006-2011, attesting that the financial statements are fairly presented according to GAAP. The financial statements and Form 990 both use the accrual method of accounting; however, there are significant differences in the information presented on each report due to differing accounting principles, rules, regulations and purposes of each report. The purpose of the financial statements is to present fairly the financial position, results of operations, and cash flows of the organization according to GAAP. Form 990 is an annual information return required to be filed with the Internal Revenue Service, and solicits information verifying compliance with rules for tax-exempt organizations. Other differences between the financial statements and Form 990 are presented below:

#### **Information included in the Form 990 but not required for audited financial statements:**

- Information on officers, directors and compensation.
- Description of mission and program services.
- Reconciliation of differences in revenue recognition and changes in net assets between Form 990 and audited financial statements.
- Responses to questions regarding compliance with various tax and legal requirements.
- Analysis of income-producing activities.
- Ownership information on taxable subsidiaries.
- Certain revenues or gains, and expenses or losses, may be recognized differently on Form 990 than they are for audited financial statements.

#### **Information presented in audited financial statements but not on Form 990:**

- Independent Auditor's qualified or unqualified opinion.
- Summary of accounting principles used to prepare the statements.
- Notes to financial statements.
- Cash flow statement.
- Amounts, timing and conditions associated with restricted funds.
- Certain revenues or gains, and expenses or losses, may be recognized for financial statement purposes but not on Form 990.

The tax accounting principles used to prepare Form 990 differ from the GAAP used in audited financial statements. Exhibit 1 shows the reconciliation of Form 990 with the audited financial statements for FYs 2006-2011. The main reconciling item is unrealized Gain (Loss) on Investments, which is not recognized in income for tax purposes but is recognized under GAAP for audited financial statements.

### **Analysis of Foundation Operations for FYs 2006-2011**

#### **Methodology and Limitations of Analysis**

For FYs 2006-2008, the audited financial statements and Form 990 included only development activity in Banner indexes for the Foundation and the Office of Vice President for Institutional Advancement. Although the reports accurately reflect the activity of the Foundation, they do not present a complete financial picture of development and fundraising activity prior to FY 2009. Significant development activity and fundraising for these prior years was integrated and embedded within the University's operations. The University directly paid many costs associated with development activity and fundraising as part of normal operations of UNM departments, schools, and colleges. Such development and fundraising costs include:

- Costs associated with development offices that are embedded in the schools and colleges.
  - Salaries and benefits of development directors and officers.
  - Travel, office supplies and other development costs.

In addition, administrative costs in support of development activities were also incurred by the University, including:

- Cost of administrative services in support of development activity.
  - Legal services provided to the Foundation by the Office of University Counsel.
  - Human Resources, Information Technology, and Accounting services provided by UNM.
- Facilities costs, such as rent on office space, utilities, maintenance, and other overhead not allocated to the development activity.

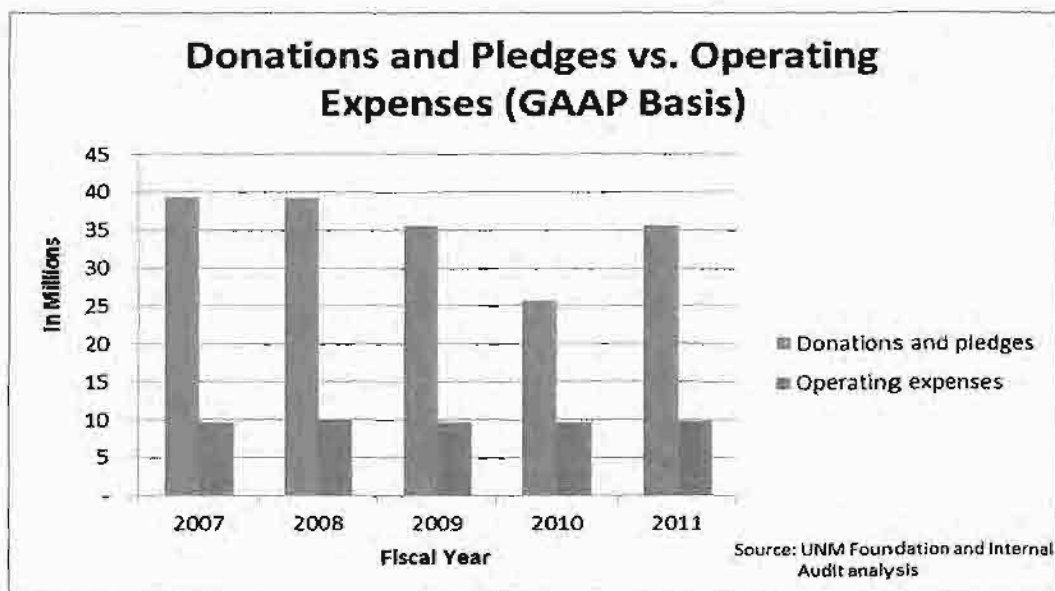
Prior to FY 2009, UNM attempted to recover the cost of administrative expenses associated with development by charging certain development units a fee for administrative services. An administrative fee was charged to UNM organizations with development activity if the unit was not funded by I&G revenues. If UNM organizations with development activity were funded through I&G revenue they were not charged the administrative fee. We considered the administrative fee in compiling the estimated operating costs of the development activity for FYs 2006-2008; however, the full impact may not be reflected in the analysis.



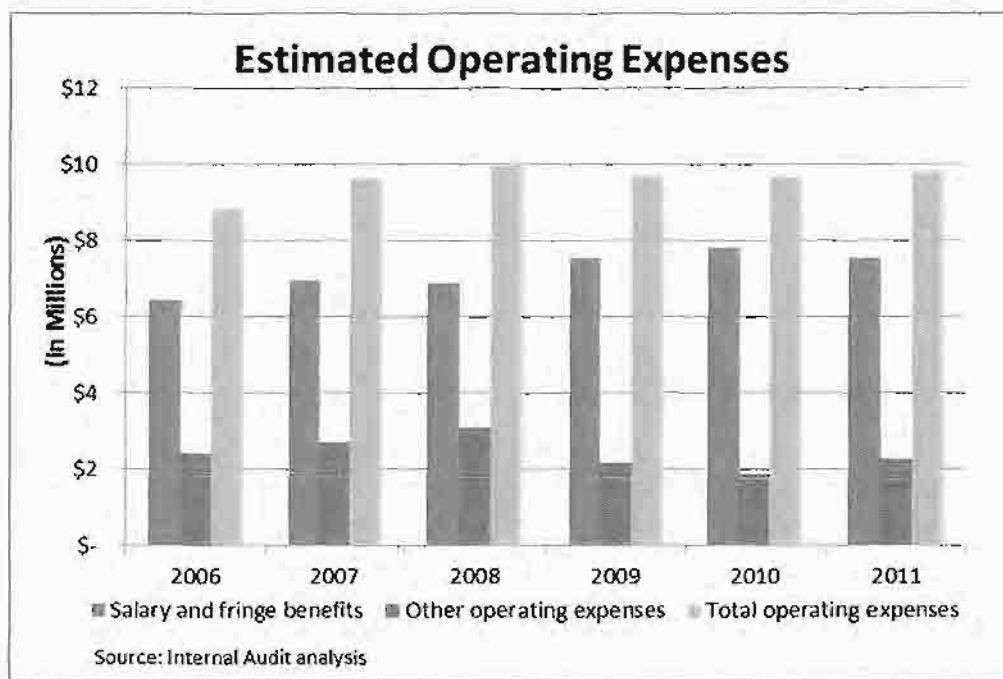
The analysis of operating costs for FYs 2006-2008 is estimated, based on the following methodology:

- Identification of development activities that were embedded throughout various UNM departments, schools and colleges.
- Determination of which departments were not included in the Foundation's financial reporting.
- Identification of University employees and departments engaged in development activities:
  - Compiled lists of employees engaged in development and fundraising.
  - Compiled Banner indexes of all departments engaged in development and fundraising.
- Estimated operating costs were calculated based on relevant salary and fringe benefits and other operating expenses for each employee and department.

Operating costs for FYs 2006-2008 are estimates based on the above methodology (see Exhibit 10), while the costs for FYs 2009-2011 reflect actual costs on the Foundation's books, adjusted for benefits of UNM employees assigned to the Foundation. The funding source of the operating costs was derived from analysis of Foundation records and Banner indexes. The DFA and short term interest are actual revenues. The other revenues for FYs 2009-2011 are actual revenues and for FYs 2006-2008 they are estimated. The Instructional & General (I&G) funding is estimated for FYs 2006-2008, and I&G for FYs 2009-2011 is actual, adjusted for benefits of UNM employees assigned to the Foundation. Pledges and donations (GAAP Basis) and operating expenses are shown in the following graph. The graph corresponds with the current campaign; therefore, FY 2006 is not included.



The analysis of UNM development and fundraising costs, including the Foundation, for FYs 2006-2011 is presented in Exhibit 2. The estimated cost for FYs 2006-2008 is based on the aforementioned methodology, and the costs for FYs 2009-2011 reflect actual development and fundraising costs as accounted for by the Foundation. The analysis also shows the estimated number of employees engaged in development and fundraising for FYs 2006-2008, and actual employees of the Foundation for FYs 2009-2011. The number of employees of the Foundation for FYs 2009-2011 includes 17 UNM employees that are permanently assigned to the Foundation. The total operating expenses of the Foundation are presented in the graph below.



As part of the transition to separate operations, UNM employees that were engaged in development and fundraising activity were given the option to remain as UNM employees or become Foundation employees. Approximately 25 (17 currently remain) employees chose to remain as UNM employees, primarily so they could retain years of service vested in the ERB retirement plan, and to receive the tuition remission benefit for family members of UNM employees.

Payroll for these employees is processed through the UNM payroll and benefits system and the cost is allocated to a Foundation agency account that is set up in Banner. The rent on the Foundation's office space is also charged to the agency account and is funded by support from the University. For FYs 2009-2011, the University transferred I&G funds to the agency account to pay for the cost of the employees and the rent. Employee benefits are not assessed against the agency account. In FYs 2009-2011, benefits for the UNM employees assigned to the Foundation were paid out of UNM's benefits pool. The cost of the UNM employees (with the exception of

the benefits) is recorded on the Foundation's books, and the funding is recorded as direct support revenue from the University. All other Foundation employees' salaries and benefits are paid directly by the Foundation.

The analysis included a comparison of the Foundation's employee benefits to the University's, including employer payroll taxes, unemployment, and worker's compensation. The Foundation offers a 403(b) retirement plan, group insurance, incentive compensation, UNM ticket discounts, employee tuition remission, and auto and phone allowances. The University's employee benefits include the New Mexico ERB plan, group insurance, sick leave, tuition remission (employee and family), retiree benefits program, employee health program, and employee counseling and referral services. There are differences in the types of benefits offered, with UNM's benefits running approximately 31% of payroll and the Foundation's at approximately 25% of payroll.

### **UNM Foundation Funding Sources**

The Foundation and the University are interdependent organizations relying on each other for funding of various activities. The University provides support to the Foundation to fund administrative and fundraising activities, while the Foundation provides the University with investment management services and fundraising activities, and facilitates funding of scholarships, faculty, and program support through the endowment spending distribution.

The fundraising and administrative costs of the Foundation are funded through the DFA, short term interest on non-endowment gift balances and unexpended spending distribution balances, unrestricted gifts to the Foundation, cost sharing agreements with UNM affiliated organizations, institutional support from the University, and when required, reserve fund balances.

Development Funding Allocation (DFA) – By joint approval of the UNM Board of Regents and the Foundation Board of Trustees, the Foundation charges the CIF a fee which is used in funding Foundation operations. The UNM Board of Regents has increased the rate several times over the past couple of years. The meeting minutes of the UNM Board of Regents and the Foundation Board of Trustees indicate the increases occurred at the following dates.

<b>Prior to 2006</b>	90 basis points
<b>April 2006</b>	98 basis points
<b>November 2007</b>	110 basis points
<b>June 2008</b>	115 basis points
<b>May 2009</b>	185 basis points

In November 2007, the DFA increased from 98 basis points to 110 basis points in anticipation of costs associated with implementation of the *Changing Worlds: The Campaign for UNM*. The decrease in the value of the CIF from the 2008 economic downturn adversely affected the DFA funding to the Foundation, and coupled with decreases in institutional support necessitated further increases in DFA basis points. Exhibit 3 shows the historical amount charged for FYs

2006-2011, along with the impact of a hypothetical decrease to 150 basis points for FYs 2010-2011. The DFA currently provides the majority of funding for Foundation operations; therefore, any decrease in the DFA would have to be made up from other sources.

*Short Term Interest Allocation* – The University holds approximately \$50 million in unexpended non-endowment gifts and unexpended spending distributions. Under provisions of the MOA and the Treasury Operations Agreement, short-term interest monies earned on these balances are allocated to the Foundation for use in operations. Short-term interest transferred to the Foundation for use in operations for FYs 2006-2011 is shown in Exhibit 2.

*Institutional Support* – This includes transfers of funds from the University to the Foundation, or payment of certain Foundation expenses by transfer of funds to Agency accounts set up by the University for the benefit of the Foundation. It also includes I&G or Auxiliary funds deposited in agency accounts for payment of Foundation costs (primarily to pay the costs of the UNM employees assigned to the Foundation and rent on the Foundation building).

*Unrestricted Gifts to the Foundation* – Gifts that are not designated by the donor for a specific use. Such gifts support the Foundation by agreement with the UNM Board of Regents.

*Cost Sharing Agreements* – Agreements with certain UNM affiliate organizations such as UNM Athletics and UNM Hospital to reimburse the Foundation for costs associated with fundraising. The reimbursements are mostly for personnel costs (salaries and benefits), Health Sciences Center (HSC) expenses for cultivation of relationships, and billings for expenses related to *Children's Miracle Network* campaigns.

*Net Asset Fund Balance Reserves* – On occasion, the Foundation has used reserve fund balances to help pay for operations. When Foundation operations were separated from UNM in 2009, it was anticipated that the Foundation would occasionally use reserves to fund operations.

From FYs 2006-2008, University funding provided the largest amount of revenue to the Foundation budget. However, given the impact of economic conditions on University funds over the intervening years, the DFA has become the largest source of revenue for FYs 2009-2011. See Exhibit 2.

## **FUNDRAISING AND DEVELOPMENT ACTIVITIES**

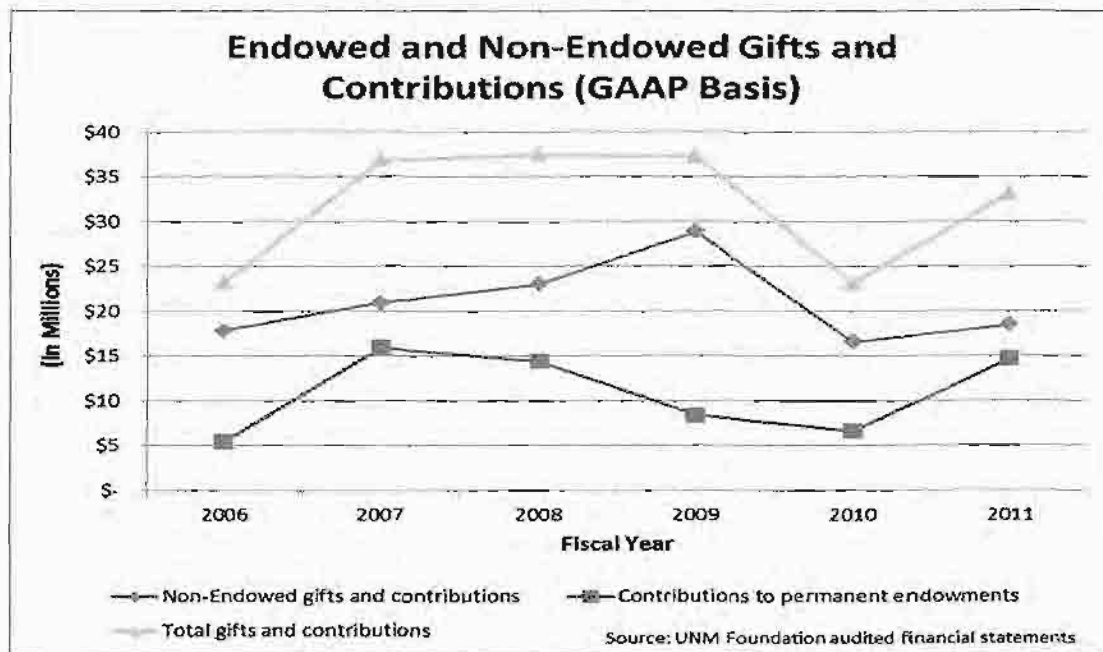
In FY 2007, the Foundation began the fundraising campaign *Changing Worlds: The Campaign for UNM*. The goal is to raise \$675 million during the campaign that is scheduled to end in FY 2014 in conjunction with the University's 125<sup>th</sup> anniversary. The campaign focuses on donor support needed in four areas: Student Success and Opportunity; Faculty Support and Research; Campus Programs; and Capital Projects and Facilities. Exhibit 6 shows the reconciliation of the campaign totals and the Foundation's general ledger for FYs 2007-2011. For the *Changing Worlds* campaign as of June 30, 2011, the Foundation reported \$406.5 million in donations and

pledges in the Annual Report of Giving (CASE basis), and recorded \$175.3 million in donations and pledges in the audited financial statements (GAAP basis).

### **Donations Process**

The Foundation is authorized to accept all gifts made to or for the benefit of the University in the form of cash, checks, electronic funds transfers, credit or debit card transactions, and securities. The Gift Acceptance Committee of the Foundation, established pursuant to the joint Gift Acceptance Policy, reviews all other gifts. When the Foundation receives a gift, the donor's intended use of the gift is documented in an executed gift agreement signed by an authorized individual for the Foundation, the donor, and the appropriate University official. All donors are advised to secure guidance from independent legal and/or tax counsel in all matters pertaining to the planned gift to the University, including tax requirements.

Donations are posted daily to the Foundation's accounting system, where a separate general ledger account is created for each restricted purpose. All donations received in UNM departments are forwarded to the Foundation for processing. Once the Foundation receives the necessary paperwork for donations, a journal voucher is prepared to record the deposit, and an entry is made into the gift processing system. All non-endowed gifts, with the exception of gifts received for the benefit of the Foundation and the UNM Hospitals are transferred to the University's bank account in accordance with the Treasury Operations Agreement. The following graph shows the trends in endowed and non-endowed gifts and contributions on the Foundation's financial statements for FYs 2006-2011 prepared in accordance with Generally Accepted Accounting Principles (GAAP).





### **Pledges Receivable**

Pledges receivable are recorded as revenue only when the initial pledge is greater than \$5,000 and when a signed "Statement in Intent of Gift Support" is received from the donor. The statement must specify the frequency and amount of payment that is expected to be paid by the donor. The pledge is also recorded in the Foundation's gift processing system. The pledges receivable are reported net of allowances and discounts. The contributions to permanent endowments include donations and pledges to endowments.

The Foundation monitors and reconciles the pledge activity with the general ledger and the gift processing system on a monthly basis. The Foundation takes steps to ensure that pledges are paid when scheduled in the pledge agreement. Steps include mailed reminders prior to pledge due dates for all pledges, as well as holding on-going meetings with development officers for larger pledges. An initial pledge reserve of 5% is established for all pledges. Pledges are reviewed individually twice a year to determine if the pledge reserve should be increased, or if a pledge should be written off. See Exhibit 4 for a 5-year analysis (FYs 2007-2011) of pledges receivable, including collections and write-offs.

### **Report of Giving Analysis**

Each year, the Foundation produces its Annual Report of Giving, which is a celebration of the Foundation's success in fundraising for the year. The report highlights the fundraising efforts and progress toward fundraising goals. Exhibit 5 shows the total donations and contributions for FYs 2006-2011. A key measurement of success and effectiveness in fundraising is the "cost of raising one dollar" calculation. For 2011, the Foundation's cost to raise one dollar was 12 cents. The cost to raise one dollar is considered to be efficient and effective fundraising if it is under 20 cents. Also reporting in the Annual Report of Giving, and presented in Exhibit 5 for FYs 2006-2011, are the total market value and returns for the Consolidated Investment Fund, and the spending distributions that the Foundation transfers to UNM for scholarships, faculty and program support.

The fundraising campaign uses a different set of rules for counting gifts and pledges than are used for accounting under Generally Accepted Accounting Principles (GAAP). For *Changing Worlds: The Campaign for UNM*, the Foundation uses the national standards promulgated by the Council for Advancement and Support of Education (CASE). CASE is a professional association serving educational institutions and the advancement professionals who work on their behalf in alumni relations, communications, development, marketing and allied areas. CASE helps its members build stronger relationships with their alumni and donors, raise funds for campus projects, produce recruitment materials, market their institutions to prospective students, diversify the profession, and foster public support of education. The Foundation tracks the fundraising campaign totals with specialized gift tracking software, and uses the same gift counting rules when the Foundation is not actively engaged in a capital campaign. Although the Foundation Board of Trustees has approved the use of the CASE campaign counting rules, it has not explained the campaign counting basis used in its Annual Report of Giving.

The following are the differences between the CASE campaign counting rules and revenue recognition under GAAP.

*Gift - Bequest* – Bequests can be counted for the campaign when pledged if they meet certain criteria, but cannot be recorded as revenue on the financial statements until realized. Bequests realized and recorded as revenue in the current fiscal year for the financial statements are sometimes counted in a prior fiscal year in the campaign.

*Gift - Cash (Reported Gifts)* – Certain contributions made to UNM are not recorded on the Foundation financial statements. Examples include grants received and accounted for at UNM's Contracts and Grants Department, and contributions given directly to KNME, KUNM, the Lobo Club, and the Anderson Foundation. These contributions are counted for the campaign but are not shown as revenue on the Foundation's financial statements.

*Gift - In-Kind (Reported Gifts)* – In-kind gifts are contributions of equipment or services. The in-kind gifts are received directly by UNM and the Foundation does not take title to the equipment. Therefore, the donated assets are not recorded as revenue for the Foundation's financial statements, but are included in the campaign total.

*Pledge - Annual* – Annual pledges greater than \$5,000 are recorded on the Foundation's financial statements when pledged. Annual pledges under \$5,000 are recorded on the Foundation's financial statements when received. Annual pledges are counted in the campaign total when pledged if they meet CASE criteria.

*Pledge - Bequest* – Bequest pledges are recorded on the Foundation's financial statements when realized, not when pledged. Bequest pledges are counted in the campaign total when pledged if they meet CASE criteria.

*Pledge - Major* – For revenue recognition under GAAP, pledges must be for a specified amount greater than \$5,000, and be accompanied by a written and signed pledge agreement that includes a payment schedule. Pledges that are greater than the \$5,000 threshold, but do not meet the other criteria, are not recorded in the financial statements until received. Under the CASE standards, such pledges are counted in the campaign total when pledged.

## **Recommendation 2**

The Foundation should explain the campaign counting standards in the Annual Report of Giving and also discuss differences to amounts reported in the GAAP financial statements.

## Response from the President and CEO of the University of New Mexico Foundation

<b>Action Items:</b> Report of Giving Analysis
<b>Targeted Completion Date:</b> 11/30/2012 (corresponding with next Annual Report of Giving).
<b>Assigned to:</b> Foundation Senior Director of Marketing/Communication
<b>Corrective Action Planned:</b> We concur. A narrative and table will be included in the Annual Report of Giving explaining the differences.

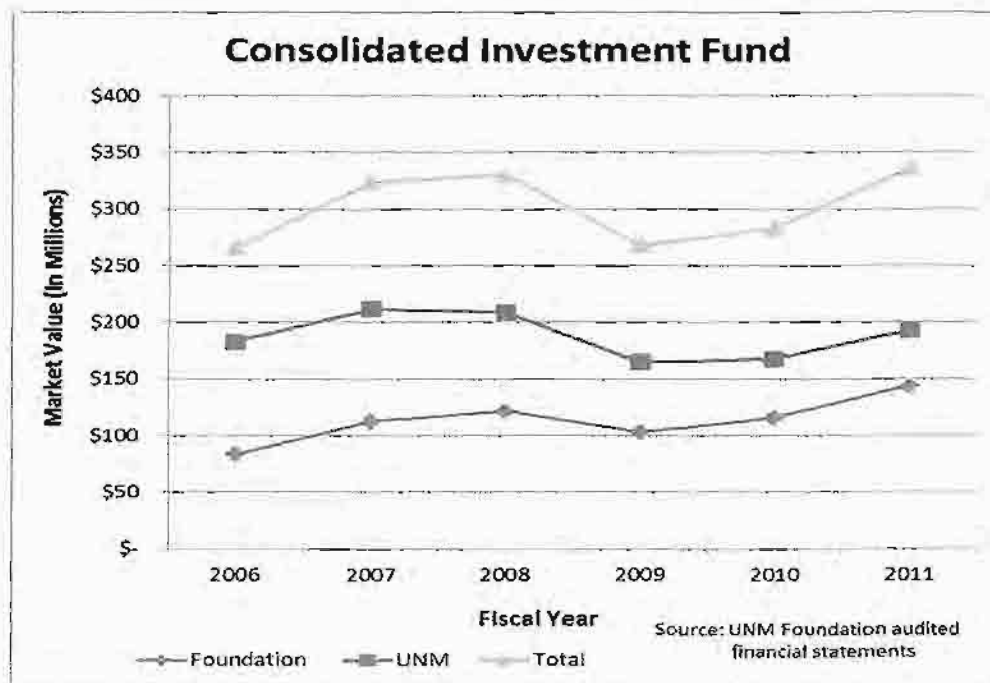
## CONSOLIDATED INVESTMENT FUND

The UNM Board of Regents delegated authority to the UNM Foundation Investment Committee to oversee and manage the endowment assets of the University and the Foundation. The pooled assets are combined for investment purposes and operated as a unitized pool known as the Consolidated Investment Fund. The CIF is managed in accordance with the Consolidated Investment Policy, which is approved by both the UNM Foundation Board of Trustees and the UNM Board of Regents.

The endowments in the CIF are split between University Endowments and Foundation Endowments. The UNM Board of Regents designated all endowments received prior to 1979 as owned by the University, and all endowments received subsequent to 1979 as owned by the Foundation, even though the University is the beneficiary of all endowments. Some endowments established after 1979 are still designated as owned by UNM, including quasi-endowments established by the UNM Board of Regents with University funds. Based on this designation, the CIF investments are split between the University and the Foundation in the annual audited financial statements.

For FY 2011, the CIF contained 1,342,175 units with a market value of \$335,977,115. The UNM designated endowments consisted of 769,344 units with a market value of \$192,584,392, and the Foundation had 572,831 units with a market value of \$143,392,723. Exhibit 7 shows the activity of the CIF for FYs 2006-2011, including investment income, distributions to UNM, additions to principal, and the total asset allocation of the CIF. The following graph provides the market values of the Consolidated Investment Fund.





### **Investment Fund Management**

Under the terms of the MOA and CIP, the UNM Board of Regents delegated the management of the CIF to the Investment Committee of the Foundation Board of Trustees. The Investment Committee has fiduciary responsibility for directing and monitoring the investment of the CIF, and is authorized to retain and solicit recommendations of qualified professionals, including the CFO, Investment Consultant, and Investment Managers. The Investment Committee works with the institutional investment consultant to structure the portfolio and hire independent investment managers. The investment managers are responsible for specific asset categories and management styles.

In accordance with the applicable State of New Mexico statutes (Section 21-1-38, NMSA 1978; Sections 46-9A-2 through 46-9A-5, NMSA 1978), the UNM Board of Regents has adopted a Consolidated Investment Policy for investing its endowments. The statutes include provisions for establishing an Investment Advisory Committee comprised of individuals with special skills or expertise to manage and invest the CIF.

The Foundation's Investment Committee has 17 members and is comprised of individuals from the local professional community, including three investment professionals, two Certified Public Accountants, two attorneys, a banker, and two corporate Chief Executive Officers. The Investment Committee also has one UNM Board of Regents member, two UNM finance officials, and four Foundation staff members, including the Foundation President and the Foundation Chief Financial Officer.

### **Investment Fees**

The Foundation and the CIF incur investment management fees in the normal course of business, including custodial fees charged by the financial institution holding the CIF investments, consulting and advisory fees to the Investment Consultant, and investment management fees to the individual fund managers. The investment fees are either direct or indirect. Direct fees are paid by the Foundation from its bank account, and indirect fees are paid to individual fund managers from the revenues of the fund. Direct fees include amounts paid to the CIF custodian (Northern Trust), the Investment Consultant (currently Hewitt), and a few of the individual fund managers. The bulk of the investment fees are indirect fees paid to the individual managers of the funds that make up the CIF.

The fees to the individual fund managers vary depending upon the type of investment and level of management provided. Passively managed funds have the lowest fees. The next highest fees are paid to actively managed funds, while alternative investment funds have the highest fees since they require more intensive management. For FY 2011, fees for the individually managed funds in the CIF ranged from a low of .20% (20 basis points) for a large capitalization stock fund, to 1.35% (135 basis points) for a marketable alternative investment fund. For FY 2011, the investment fees for the Investment Consultant were \$383,477 (.12% or 12 basis points) of the weighted average value of the CIF. The total weighted average fees to the fund managers were \$2.5 million (.72% or 72 basis points), and the total portfolio weighted average fees were \$3.1 million (.84% or 84 basis points). The fees categories and amounts paid by the Foundation are common for all institutional funds of this type.

### **UNM Endowments**

There are three primary UNM endowment funds that are managed by the Foundation's Investment Committee within the Consolidated Investment Fund: the Regents Endowment, the Winrock Endowment, and the [REDACTED] Endowment. The Regents Endowment includes the Mesa del Sol property sale, which added \$8,045,923 in proceeds to that endowment in FY 2006. As of June 30, 2012, it has a balance of \$5,372,448. The [REDACTED] Endowment is a true endowment. The Regents and Winrock Endowments are quasi-endowments, and the UNM Board of Regents may expend the principal and income at their discretion. Exhibit 8 presents the three main UNM endowments for FYs 2006-2011, showing the change in market value, yield, and spending distribution of each fund. The market value of the UNM Endowment totaled \$192.6 million (57% of the \$336 million CIF) as of June 30, 2011.

The market value of each endowment experienced losses in FYs 2008 and 2009, primarily from the economic downturn. The poor economic conditions had the biggest impact on the endowments in FY 2009, as they suffered losses ranging from \$6.5 million (Winrock Endowment) to \$8 million ([REDACTED] Endowment). These investment losses resulted in market value decreases in the Endowments ranging from \$8.3 million (Winrock Endowment) to \$9.9 million (Regents Endowment). In addition to investment losses, the development funding allocation and spending distributions also contribute to decreases in the endowments. In FYs

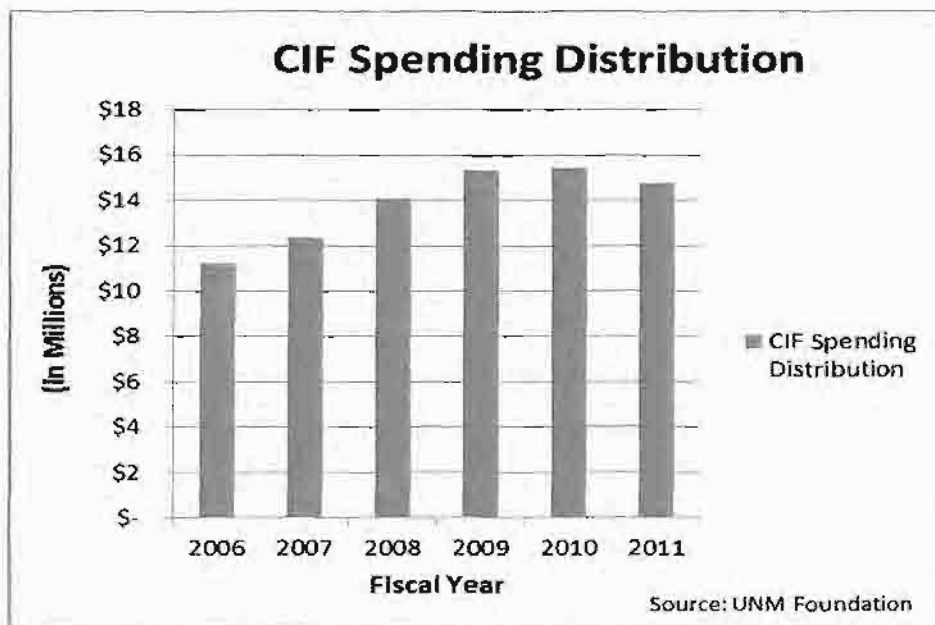
2010 and 2011, investment earnings began to rebound as the economic market conditions improved, resulting in significant increases in market values of the endowments over the last two years. The spending distribution for the three main UNM endowment funds is included in Exhibit 8.

### **Spending Distribution**

The CIP establishes the endowment spending distribution policy. The Foundation's Investment Committee determines the spending rate at its first meeting of the calendar year in order to allow for timely communication to UNM beneficiaries in advance of UNM's annual budget process. The CIP provides that the spending rate shall not exceed 6% nor be less than 4%. In accordance with the Uniform Prudent Management of Institutional Funds Act, the Investment Committee considers a number of items, including but not limited to:

- The net rate of return earned by the CIF in each of the five most recent fiscal years.
- The net real (after adjusting for inflation as measured by the CPI-U) rate of return earned by the CIF in each of the five most recent fiscal years.
- Payout rates established by other University endowments.
- Other resources available to the University, and any unusual or extraordinary circumstances impacting these resources (tuition revenues, State appropriations, etc.).
- The spending distribution in effect at the time of deliberations.
- General economic conditions.
- The expected total return of the CIF per the most recent asset allocation study.

The spending distribution is calculated using the approved spending rate applied to average market value of the CIF for the past 20 quarters. The Consolidated Investment Policy was amended in 2010 to increase the averaging period from 12 quarters to 20 quarters to smooth out the effect of the economic downturn. The spending distribution rates set by the Investment Committee were 4.86% for FY 2006 and 4.65% for FYs 2007 – 2011. For FY 2012 it is 4.50%. The spending distribution is made quarterly to approximately 1,500 spending accounts throughout UNM. The final distribution for the year is trued up to reflect spending distribution rate approved by the Investment Committee. Any unexpended spending distribution balances are invested by UNM on a continual basis, and the short term interest earned on the balances is allocated to the Foundation for use in operation. The Foundation provides donor intent information to UNM departments, colleges and schools, and to the UNM General Accounting department, each of which are responsible for ensuring that spending from endowed accounts complies with donor intent. The spending distribution for FYs 2006-2011 for the combined Consolidated Investment Fund is shown in the following graph, and the annual totals are presented as a line item in Exhibit 7.



#### **Supplemental Operating and Investment Expenses Data**

The Foundation has two different but related functions: fundraising and development efforts in the support of the University, and fiduciary duties related to its stewardship of the Consolidated Investment Fund. The majority of the salaries, fringe benefits, and other operating expenses are incurred in the Foundation's fundraising operations. Investment management fees are associated with the stewardship aspect of the Foundation's management of the CIF.

A supplementary analysis is presented in Exhibit 9, showing total estimated operating expenses and investment management fees. Investment expenses are not paid from the Foundation's operating budget and are presented in the audited financial statements as non-operating expenses. Investment fees are expenses of the Consolidated Investment Fund and are reported as a reduction of investment income. In addition, investment returns are reported net of investment management fees, which is standard for the industry. The value of the CIF for FY 2011 was \$335,977,115, with \$192,584,392 designated as endowments owned by UNM (57%), and \$143,392,723 designated as endowments owned by the Foundation (43%). The total investment expenses for FY 2011 were \$3.1 million, of which \$1.8 million could be attributed to the UNM endowments and \$1.3 million to the Foundation endowments. Exhibit 9 is provided for informational purposes only.

#### **Tracking Donor Intent**

The Foundation transfers endowment spending distributions to approximately 1,500 endowment spending accounts at the University on a quarterly basis. Endowment spending accounts are primarily for scholarships, faculty support, and program support. Scholarship endowments have

specific requirements, as students must meet certain eligibility requirements in order to be awarded a scholarship from endowed funds. Departments typically have committees that review student applications and determine which students may be awarded scholarships based on specific eligibility factors.

Faculty support and program support endowments have a broader purpose. Expenditures from faculty support endowments can be for any job-related purpose. Expenditures from program support endowments can be for any purpose that is for the benefit of the department. The departments selected for review each have an approval process for disbursements from endowed accounts. Each department also has procedures in place to track available endowment balances and spending activity.

Internal Audit selected three colleges/schools within the University on which to perform a review for donor intent compliance on disbursements from endowed spending accounts. We judgmentally selected a sample of transactions from each department and completed test work to ensure compliance. We did not note any instances of non-compliance. Internal Audit will work with the Foundation and the University to implement a process for verifying endowed spending distribution expenditures comply with donor intent. The process will be designed to test UNM colleges and departments on an annual rotation.

### **Foundation Business Plan**

As noted previously, prior to FY 2009, UNM Foundation operations and development activities were integrated with and embedded within UNM operations. The University did not prepare a business plan or cost analysis prior to implementing the separation of the development activities and Foundation operations from UNM operations.

A high-level strategy, business plan and cost analysis should address the following:

- Funding sources of future Foundation operations, including contingency planning should funding sources evaporate or prove inadequate.
- Detailed analysis of how Foundation operations would be paid for/supported by the institution.
  - Cost analysis of development activities and Foundation operations prior to separation from UNM.
  - Five-year forecast of development activities and administrative costs subsequent to separation.
- Resources needed, including employees, IT resources, and professional services (legal, benefit contractors, etc.).
- Fundraising campaign resources, staffing, marketing and other costs related to fundraising, and annual targets for gifts, donations, and pledges.

### Recommendation 3

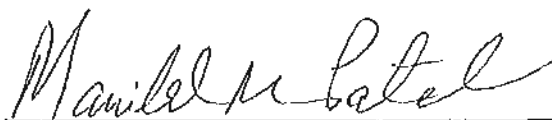
The Foundation should work with the UNM President to prepare a business plan in anticipation of upcoming fundraising campaigns. The plan should include forecasts for future administrative and fundraising costs, revenue sources to pay for such costs, and annual targets for the fundraising campaign.

#### Response from the President and CEO of the University of New Mexico Foundation

<b>Action Items:</b> Foundation Business Plan
<b>Targeted Completion Date:</b> <i>As required by the UNM President's decision to initiate a new campaign.</i>
<b>Assigned to:</b> <i>UNM Foundation President and CEO</i>
<b>Corrective Action Planned:</b> <i>We concur. The Foundation will work with the UNM President to prepare a business plan in anticipation of future fundraising campaigns.</i>

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## APPROVALS



Manilal Patel, CPA  
Director, Internal Audit Department

Approved for Publication



Chair, Audit Committee



	Pre-Separation			Post Separation		
	2006	2007	2008	2009	2010	2011
<b>Total revenue on form 990</b>	\$43,204,649	\$51,312,648	\$53,537,179	\$43,165,150	\$31,147,880	\$44,141,717
<b>Expenses and transfers</b>						
Non-endowed gifts and spending distribution to UNM	20,627,196	23,262,131	32,183,259	22,871,171	26,807,949	25,344,455
Other transfers (3)	-	-	-	-	-	28,102,461
* General and administrative expenses per form 990	4,303,840	4,978,275	5,757,506	8,801,698	9,699,341	10,174,197
<b>Total expenses and transfers on form 990</b>	24,931,036	28,240,406	37,940,765	31,672,869	36,507,290	63,621,113
<b>Excess or (deficit) for the year on form 990</b>	18,273,613	23,072,242	15,596,414	11,492,281	(5,359,410)	(19,479,396)
<b>Adjustments &amp; reconciling items</b>						
Unrealized gain (loss) on Investments - form 990 (2)	(5,099,516)	10,097,899	(7,786,375)	(21,788,781)	10,179,706	18,939,438
Actuarial adjustment for annuities payable	(292,210)	(110,900)	(174,656)	(208,015)	372,590	164,798
Unrelated business income book tax adjustment				(109,162)	(44,225)	
<b>Total adjustments</b>	(5,391,726)	9,986,999	(7,961,031)	(22,105,958)	10,508,071	19,104,236
<b>Change in net assets per audited financial statements (1)</b>	<b>12,881,887</b>	<b>33,059,241</b>	<b>7,635,383</b>	<b>(10,613,677)</b>	<b>5,148,661</b>	<b>(375,160)</b>
<b>*Reconciliation of G&amp;A expenses</b>						
<b>Total G&amp;A expenses per financial statements</b>	3,939,371	4,586,956	5,259,189	8,354,242	9,393,340	9,517,512
Rent and fundraising expenses not on form 990	-	(9,118)	(4,993)	(48,697)	(28,278)	(56,559)
Invest exp and pymts to annuitants on form 990	364,469	400,437	503,310	496,153	334,279	713,244
<b>General and administrative expenses per form 990</b>	<b>4,303,840</b>	<b>4,978,275</b>	<b>5,757,506</b>	<b>8,801,698</b>	<b>9,699,341</b>	<b>10,174,197</b>

Note 1: This schedule reconciles the Surplus or (Deficit) on the Form 990 with the Change in Net Assets on the Audited Financial Statements. Unrealized Gain (Loss) on investments are not recognized for tax purposes but are included in the audited financial statements. Actuarial adjustment for annuities payable is included on the audited financial statements but not recognized in income on the Form 990.

Note 2: The Unrealized Gain (Loss) represents only the gain or loss on the UNM Foundation's investment assets and does not include the realized gain or loss on the UNM Endowments managed by the Foundation in the Consolidated Investment Fund.

Note 3: Other Transfers to UNM for 2011 was due to the separation of the Foundation's treasury functions from UNM based on the treasury operating agreement dated July 1, 2010. As a result of the agreement, unexpended funds on deposit with UNM, but previously reflected as assets on the Foundation's financial statements, were recorded as distributions to the University during the year ended June 30, 2011.



Estimated revenues by funding source	Pre-Separation			Post Separation		
	2006	2007	2008	2009	2010	2011
Short-term interest	\$ 466,853	\$ 913,197	\$ 2,555,885	\$ 1,334,619	\$ 807,805	\$ 852,179
Development funding allocation	2,228,191	2,814,982	3,636,725	3,246,093	5,353,803	5,726,764
Instruction and general	5,566,308	5,281,594	3,064,639	4,183,289	1,486,255	2,349,984
Other	576,352	634,756	702,090	920,321	2,015,477	858,585
Total revenues	8,837,704	9,644,529	9,959,339	9,684,322	9,663,340	9,787,512
<u>Estimated expenses</u>						
Salary and fringe benefits	\$ 6,432,284	\$ 6,948,475	\$ 6,878,245	\$ 7,529,751	\$ 7,807,015	\$ 7,533,371
Other operating expenses	2,405,420	2,696,054	3,081,094	2,154,571	1,856,325	2,254,141
Total operating expenses	\$ 8,837,704	\$ 9,644,529	\$ 9,959,339	\$ 9,684,322	\$ 9,663,340	\$ 9,787,512
Estimated FTE's	95	96	94	95	92	84

Note: FYs 2006 - 2008 include estimated revenues and expenses for all of the University's development activities prior to the separation. Other revenues primarily consist of miscellaneous program income, cost sharing sources, and fund balance reserves.

FY 2009 was the post-separation transition year, and expenses in UNM accounts only include activity for the first quarter of the year, after which development costs are accounted for by the Foundation. Total operating expenses per financial statements for FYs 2010 and 2011 were adjusted for estimated employee benefits (approximately \$270,000) of UNM employees working for the Foundation.

Fiscal Year	CIF (in millions)	Actual DFA	Basis Points	DFA per Basis Point	DFA @ 150 Basis Points	Difference
2006	\$266.1	\$2,228,191	90	\$24,757.68	N/A	
2007	\$323.1	\$2,814,982	98	\$28,724.31	N/A	
2008	\$330.5	\$3,636,725	110	\$33,061.14	N/A	
2009	\$258.9	\$3,246,093	115	\$28,226.90	N/A	
2010	\$283.2	\$5,353,803	185	\$28,939.48	\$4,340,921	\$1,012,882
2011	\$336.0	\$5,726,764	185	\$30,955.48	\$4,643,322	\$1,083,442

	Pre-Separation		Post Separation		5-Year Pledge Activity
	2007	2008	2009	2010	2011
Pledges receivable, beginning of year	\$ 4,558,179	\$ 4,194,192	\$ 5,004,002	\$ 7,870,318	\$ 7,080,794
New Pledges	-	3,260,000	4,570,000	967,900	1,688,000
Sub-total	\$ 4,558,179	\$ 7,454,192	\$ 9,574,002	\$ 8,838,218	\$ 8,768,794
Collections	(277,987)	(2,365,140)	(2,103,684)	(1,757,423)	(1,771,500)
Write-offs	(86,000)	(85,050)	-	-	(3,420,037)
Pledges receivable, end of year	\$ 4,194,192	\$ 5,004,002	\$ 7,870,318	\$ 7,080,794	\$ 3,577,257
Allowance and discounts	(566,622)	(402,993)	(448,773)	(2,276,809)	(908,427)
Pledges receivable, net of allowance and discounts	\$ 3,627,570	\$ 4,601,009	\$ 7,421,545	\$ 4,803,985	\$ 2,668,830

Collections to pledge ratio, total 54%  
Write-off to pledge ratio, total 23%

Note 1: The above schedule presents a five year pledge receivable roll forward for fiscal years 2007-2011 including beginning of year pledges receivable, new pledges, collections and allowances and discounts. The ending pledges receivable, net of allowances and discount balances are reported in the audited financial statements for each year. The pledges receivable and collection percentages do not include pledges under \$5,000 that are not recognized under Generally Accepted Accounting Principles (GAAP). Collections for the 5-year period are 54% of total pledges, which include outstanding balances and new pledges, while write-offs were 23% of the total pledges.

Note 2: The Foundation recognizes non-endowed pledges as revenue upon receipt of a signed pledge commitment if collection is deemed probable and when all applicable eligibility requirements are met. Endowed pledges are recognized as revenue when the following eligibility requirements are met:

- Pledge must be greater than \$5,000
- Pledge is supported by written and signed pledge agreement
- Pledge amount must be specified in the pledge agreement
- A payment schedule must be specified in the pledge agreement
- Pledge must be for a non-endowed fund
- If the pledge is conditional, all of the conditions of the pledge must be met
- If the donor will receive something in return, the present value of the cost of goods/services given to donor must be determinable and deducted from total pledge to determine net present value
- Pledge must be for cash. Pledge services will not be recorded as receivable, but will be recorded as in-kind revenue when services are received.

**UNM Foundation**  
**Report of Giving Financial Highlights Analysis**  
**Fiscal Years Ended June 30, 2006 - 2011**

	Pre-Separation			Post Separation		
	2006	2007	2008	2009	2010	2011
Total donations and contributions	\$ 48,600,000	\$ 72,500,000	\$ 85,500,000	\$ 90,100,000	\$ 75,100,000	\$ 83,000,000
Number of donors	18,000	19,750	20,330	16,700	17,000	17,000
Operating costs	\$ 8,800,000	\$ 9,600,000	\$ 10,000,000	\$ 9,700,000	\$ 9,700,000	\$ 9,800,000
Cost to raise \$1	\$0.18	\$0.13	\$0.12	\$0.11	\$0.13	\$0.12
CIF market value	\$ 266,100,000	\$ 323,100,000	\$ 330,500,000	\$ 258,900,000	\$ 283,200,000	\$ 336,000,000
Rate of return	11.90%	19.90%	0.70%	-20.50%	10.40%	19.00%
CIF spending distribution	\$ 11,100,000	\$ 12,300,000	\$ 14,100,000	\$ 15,200,000	\$ 15,400,000	\$ 14,900,000
Distribution rate	4.86%	4.65%	4.65%	4.65%	4.65%	4.65%
Development Funding Allocation	\$ 2,200,000	\$ 2,800,000	\$ 3,600,000	\$ 3,200,000	\$ 5,400,000	\$ 5,700,000
DFA Rate	0.90%	0.98%	1.10%	1.15%	1.85%	1.85%

Note: The operating costs from Exhibit 2 and the DFA from Exhibit 3 are rounded to the nearest \$100,000.

Note: The low rates of return in FY's 2008 and 2009 are due to the economic downturn, which had a significant impact on the market during those years.

Note: The cost to raise one dollar is a common benchmark used to evaluate an organization's fundraising effectiveness. It is calculated by dividing operating costs by total donations and contributions.

	Pre-Separation		Post-Separation			Total
	2007	2008	2009	2010	2011	
DONATIONS & PLEDGES UPLOADED TO GENERAL LEDGER (1)						
Gift - Annuity	\$ 123,666	\$ 99,483	\$ 59,876	\$ 69,077	\$ 90,371	\$ 442,473
Gift - Bequest	6,404,674	5,832,306	6,372,524	4,540,314	16,782,513	39,932,331
Gift - Cash/Cash Equivalents	30,795,827	29,473,905	27,019,607	20,121,501	17,086,905	124,497,746
Gift - In-Kind	-	702,060	550,000	-	-	1,252,060
Pledge - Major	1,983,000	3,093,500	1,576,250	906,400	1,643,000	9,202,150
Totals	\$39,307,167	\$39,201,253	\$35,578,258	\$25,637,292	\$35,602,789	\$175,326,759
DONATIONS & PLEDGES NOT UPLOADED TO GENERAL LEDGER (2)						
Gift - Annuity	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Gift - Bequest (3)	(3,546)	-	(242,423)	(1,033,437)	(10,775,383)	(12,054,789)
Gift - Cash (Reported Gifts)	16,004,743	13,130,193	16,034,228	21,921,557	20,570,514	87,661,234
Gift - In-Kind	4,874,462	3,714,309	8,253,410	4,496,109	4,393,701	25,731,992
Pledge - Annual	325,100	299,270	126,450	79,750	26,505	857,075
Pledge - Bequest	-	21,545,860	19,057,489	20,670,765	23,797,500	85,071,614
Pledge - Major	12,123,949	7,664,830	11,238,530	3,348,801	9,518,055	43,894,165
Totals	\$33,324,709	\$46,354,462	\$54,467,684	\$49,483,544	\$47,530,892	\$231,161,291
TOTAL DONATIONS & PLEDGES (CAMPAIGN TOTALS)						
	\$72,631,876	\$85,555,715	\$90,045,942	\$75,120,836	\$83,133,681	\$406,488,050

(1) Donations and pledges uploaded to the general ledger are accounted for under Generally Accepted Accounting Principles (GAAP).

(2) Total donations and pledges not uploaded to the general ledger are not included in financial statements under GAAP, but are counted in the campaign totals under CASE counting standards.

(3) An adjustment is made when pledge bequests counted under CASE rules are subsequently realized under GAAP; the result is a negative balance.

UNM Foundation  
Consolidated Investment Fund  
Fiscal Year Ended June 30, 2006 - 2011

	Pre-Separation				Post Separation				6 - Year Summary as of 06/30/2011
	2006	2007	2008	2009	2010	2011			
BEGINNING MARKET VALUE:	\$ 234,796,410	\$ 286,102,429	\$ 323,071,904	\$ 330,514,043	\$ 258,857,967	\$ 283,246,187	\$	\$	234,796,410
Adjustments to beginning balance									
ADJUSTED BEGINNING MARKET VALUE:	234,796,410	286,102,429	323,071,904	330,514,043	258,857,967	283,246,187			234,796,410
INVESTMENT INCOME/EXPENSES:									
DIVIDENDS/INTEREST	6,702,264	6,645,503	7,188,357	8,377,155	4,520,547	4,888,858			35,323,304
INVESTMENT MANAGEMENT EXPENSES (2)	(941,556)	(1,135,738)	(1,197,233)	(932,160)	(828,062)	(958,926)			(6,094,675)
NET CURRENT YIELD	6,760,728	5,510,165	5,991,124	4,444,995	3,692,585	3,929,932			29,228,629
Current Yield %	2.90%	2.00%	2.00%	1.50%	1.50%	1.50%			
REALIZED GAIN/(LOSS)	39,832,741	17,532,888	14,806,754	(12,733,705)	(2,260,186)	5,820,825			63,107,315
UNREALIZED GAIN/(LOSS)	(17,031,851)	29,181,866	(19,507,109)	(58,287,041)	25,957,483	43,877,467			5,180,665
NET INVESTMENT INCOME	28,591,489	52,224,919	2,290,768	(68,574,751)	27,290,650	53,720,324			97,536,808
Net Investment Return %	12.19%	18.97%	0.71%	(20.44%)	10.54%	19.57%			
DISTRIBUTION TO UNM	11,184,106	12,328,504	14,085,403	15,284,359	15,403,398	14,755,539			85,067,422
Spending Distribution %	4.83%	4.33%	4.36%	4.63%	5.83%	5.19%			
DEVELOPMENT FUNDING ALLOCATION	2,228,191	2,814,892	3,636,725	3,246,093	5,353,803	6,726,764			23,006,558
Development Funding Basis Percent	1.00%	1.00%	1.15%	1.00%	2.07%	2.37%			
NET CHANGE	18,138,189	37,081,404	(15,431,449)	(85,116,214)	6,526,656	33,253,031			(8,547,379)
UNADJUSTED MARKET VALUE	249,875,598	303,183,833	307,640,455	245,307,829	265,394,636	318,499,198			226,249,040
WITHDRAWALS FROM PRINCIPAL	(4,062,710)	(240,266)	(555,313)	(1,100,696)	(175,890)	(317,463)			(6,482,310)
ADDITIONS TO PRINCIPAL	20,229,540	20,128,337	23,426,901	14,960,807	18,037,421	18,795,390			116,180,385
NET ADDITIONS TO PRINCIPAL	16,166,830	19,868,071	22,871,588	13,860,130	17,861,531	18,477,917			109,728,075
ENDING MARKET VALUE	\$ 266,102,429	\$ 323,071,904	\$ 330,514,043	\$ 258,857,967	\$ 283,246,187	\$ 335,977,115	\$	\$	335,977,115

	Pre-Separation				Post Separation			
	2006	2007	2008	2009	2010	2011		
CFR Asset Allocation (1)								
Marketable alternatives	\$ 37,254,000	\$ 61,389,000	\$ 66,100,000	\$ 56,858,000	\$ 82,020,800	\$ 55,440,000	17%	17%
Fixed income and cash	47,688,000	58,148,000	62,795,000	59,547,000	65,960,600	72,576,000	22%	22%
International equity	74,508,000	87,237,000	69,405,000	54,368,000	50,578,000	71,332,000	21%	21%
U.S. equity	71,847,000	77,544,000	69,405,000	49,191,000	61,359,200	67,100,000	20%	20%
Real assets (3)	31,952,000	32,310,000	42,965,000	20,712,000	25,485,000	34,944,000	9%	10%
Private equity (2)	2,951,000	6,862,000	19,830,000	18,123,000	27,479,400	34,609,000	10%	10%
ENDING MARKET VALUE	\$ 266,100,000	\$ 323,100,000	\$ 330,500,000	\$ 258,900,000	\$ 283,200,000	\$ 336,000,000	100%	100%

(1) The CFR allocation represents approximate values based on the CFR asset allocation, rounded to the nearest whole percent, in the Foundation's Annual Report of Giving.

(2) The investment management expenses are listed investment fees paid by the Foundation. Indirect investment management fees are listed with investment revenue.

(3) Prior to fiscal year 2010, the Foundation committed to investments in real assets and private equity securities for \$38,000,000 and \$61,000,000, respectively. As of June 30, 2011, the remaining commitment on these investments was \$14,457,847 and \$29,392,424.

Regents Endowment	Pre-Separation			Post Separation		
	2006	2007	2008	2009	2010	2011
Market value, end of year	\$32,325,235	\$36,674,360	\$35,018,525	\$25,165,952	\$25,889,070	\$ 28,836,764
\$ change		4,349,125	(1,655,835)	(9,852,573)	723,118	2,947,694
% change		13.45%	-4.51%	-28.14%	2.87%	11.39%
Investment earnings	\$ 2,789,695	\$ 6,123,941	\$ 284,643	\$ (7,060,716)	\$ 2,659,659	\$ 4,759,412
Yield	9.48%	17.75%	0.79%	-23.46%	10.42%	17.39%
Spending distribution	\$ (1,170,486)	\$ (1,445,081)	\$ (1,542,062)	\$ (1,576,006)	\$ (1,431,065)	\$ (1,304,603)

Winrock Endowment	Pre-Separation			Post Separation		
	2006	2007	2008	2009	2010	2011
Market value, end of year	\$29,879,837	\$33,899,952	\$32,369,380	\$24,076,065	\$24,767,866	\$ 27,587,901
\$ change		4,020,115	(1,530,572)	(8,293,315)	691,801	2,820,035
% change		13.45%	-4.51%	-25.62%	2.87%	11.39%
Investment earnings	\$ 3,359,665	\$ 5,660,666	\$ 263,110	\$ (6,526,574)	\$ 2,544,475	\$ 4,553,291
Yield	11.59%	17.75%	0.79%	-23.13%	10.42%	17.39%
Spending distribution	\$ (1,311,277)	\$ (1,335,761)	\$ (1,425,406)	\$ (1,456,782)	\$ (1,369,089)	\$ (1,248,103)

Endowment	Pre-Separation			Post Separation		
	2006	2007	2008	2009	2010	2011
Market value, end of year	\$34,085,743	\$40,007,783	\$39,456,138	\$30,698,789	\$32,422,374	\$ 37,282,002
\$ change		5,922,040	(551,645)	(8,757,349)	1,723,585	4,859,628
% change		17.37%	-1.38%	-22.20%	5.61%	14.99%
Investment earnings	\$ 3,784,368	\$ 6,566,424	\$ 283,085	\$ (7,962,327)	\$ 3,238,163	\$ 6,040,036
Yield	11.65%	17.72%	0.71%	-22.70%	10.26%	17.33%
Spending distribution	\$ (1,482,578)	\$ (1,550,463)	\$ (1,714,852)	\$ (1,806,341)	\$ (1,768,603)	\$ (1,661,606)

	% of CIF	\$ Amount
Regents, Winrock, [REDACTED] Endowments	28%	\$93,706,667
Other UNM Endowments	29%	\$98,877,725
Total UNM Endowments	57%	\$192,584,392
UNM Foundation Endowments	43%	\$143,392,723
Total Endowments (CIF) as of June 30, 2011	100%	\$335,977,115

Note: The above endowments are the three largest of the UNM owned endowed funds in the Consolidated Investment Fund. These three funds make up 28% of the Consolidated Investment Fund.

Note: The for FY 2006, the Regent's Endowment includes the Mesa Del Sol property sale, which added \$8,045,923 from the sales proceeds to the Endowment, and a \$2,000,000 withdrawal for the Anderson School of Management student investment program. The 2006 yield on the Regents Endowment is affected by the unusual additions and withdrawals from the fund.

	2009 <sup>(4)</sup>	2010	2011
Investment expenses:			
Fund manager direct fees	\$ 418,187	\$ 332,198	\$ 303,683
Custodial fees	231,121	255,624	272,766
Consulting fees	282,852	340,240	383,477
Total direct fees paid by Foundation <sup>(2)</sup>	\$ 932,160	\$ 928,062	\$ 959,926
Total indirect fees to fund managers <sup>(3)</sup>	3,709,627	3,944,135	2,147,531
Total investment expenses <sup>(1)</sup>	\$ 4,641,787	\$ 4,872,197	\$ 3,107,457
Operating expenses:			
Salary and fringe benefits	\$ 7,529,751	\$ 7,807,015	\$ 7,533,371
Other operating expenses	2,154,571	1,856,325	2,254,141
Total operating expenses	9,684,322	9,663,340	9,787,512
Total estimated operating and investment expenses	\$ 14,326,109	\$ 14,535,537	\$ 12,894,969
Total weighted average fee for CIF	1.46%	1.51%	0.72%
Investment consulting fees	0.10%	0.12%	0.12%
Portfolio weighted total of management fees	1.56%	1.63%	0.84%

<sup>(1)</sup> Investment expenses are not paid from the Foundation's operating budget and are presented in the audited financial statements as non-operating expenses. Investment fees are expenses of the the Consolidated Investment Fund and are reported as a reduction of Investment Income. The above supplemental schedule is presented for additional analysis only.

<sup>(2)</sup> Direct fees are investment manager fees that are paid directly out of the CIF, and represent fees paid to the Investment Consultant, the Consolidated Investment Fund custodian, and certain individual fund managers.

<sup>(3)</sup> Indirect fees are investment management fees to individual fund managers that are paid out of the Consolidated Investment Fund as a reduction of Investment Income and result in a reduction of net asset value of the fund. Notes: this is a common fee arrangement for investment management industry.

<sup>(4)</sup> Fee information on indirect fund manager fees was available only for FY 2010 & 2011. Fee information for 2009 is as of September 2009. In addition, the Investment Consultant provided a fee schedule for calendar year ended December 31, 2008 with total fees of \$4,063,559; however, there is no break out for direct and indirect fees for this period, and no fee analysis was prepared for any prior periods.



	Pre-Separation		Post-Separation	
	2006	2007	2008	2009 (1)
Expenses reported in 990	4,303,840	4,978,275	5,757,506	8,801,698
Expenses included in UNM accounts:				
Institutional Advancement (2)	896,808	946,669	995,504	270,000
Library Development	156,767	41,130	33,128	1,600
School of Medicine Development	408,768	451,982	604,312	106,500
Cancer Treatment Research Center Development	591,697	940,659	905,494	117,218
Health Sciences Center Development	589,346	491,998	411,957	96,843
School of Engineering Development	218,177	339,768	443,511	117,963
College of Education Development	54,978	275,539	219,308	22,308
Nursing Development	92,240	64,431	65,148	9,272
College of Fine Arts Development	100,507	104,144	122,361	26,826
College of Arts and Sciences Development	115,338	144,443	111,514	20,312
Athletics Development	89,599	113,400	44,329	7,640
Anderson School of Management Development	279,221	335,001	245,267	61,317
Other UNM Departments	940,418	417,090	-	24,825
Total expenses included in UNM accounts	4,533,864	4,666,254	4,201,833	882,624
Total operating expenses	8,837,704	9,644,529	9,959,339	9,684,322

(1) FY 2009 was the post-separation transition year, and expenses in UNM accounts only include activity for the first quarter of the year, after which development costs are accounted for by the Foundation.

(2) These expenses include employee benefits which were not reported in the Foundation's audited financial statements. The UNM employee benefits were reported as part of the employee benefit pool within UNM's audited financial statements.



**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

Financial Statements

June 30, 2015 and 2014

(With Independent Auditors' Report Thereon)

**EXHIBIT**  
**C**

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

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**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

**Official Roster**

June 30, 2015

**Officers**

Carl Alongi	Chair
Henry Nemcik	UNM Foundation President and CEO
Michelle Coons	Vice Chair/Chair Elect
Randy Velarde	National Vice Chair
Rodney Harder	Treasurer of the Board
Dorothy Rainosek	Secretary of the Board

**Members**

Carl Alongi	Anthony Pachelli
Gary Beal	Sherry Parsons
Brian Colon	Kimberly Peña
Michelle Coons	Steven Petranovich
Geraldine Forbes-Isais	Dorothy Rainosek
Jack Fortner	Nancy Ridenour
Edward Foster	Tommy Roberts
Robert Frank	Kurt Roth
Henry Nemcik	David Salazar
Stephen Mitchell	Randy Velarde
Lynn Mosher	Linda Warning
Laurie Moye	Judy Zanotti
Ryan Mummert	Orcilia Zuniga-Forbes



**KPMG LLP**  
Two Park Square, Suite 700  
6565 Americas Parkway, N.E.  
Albuquerque, NM 87110-8179

## **Independent Auditors' Report**

The Board of Trustees  
University of New Mexico Foundation, Inc.  
and  
Mr. Tim Keller  
New Mexico State Auditor:

### **Report on the Financial Statements**

We have audited the accompanying financial statements of the University of New Mexico Foundation, Inc. (the Foundation), a component unit of the University of New Mexico, as of and for the years ended June 30, 2015 and 2014, and the related notes to the financial statements, which collectively comprise the Foundation's basic financial statements as listed in the table of contents.

### ***Management's Responsibility for the Financial Statements***

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

### ***Auditors' Responsibility***

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.



### ***Opinion***

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the University of New Mexico Foundation, Inc. as of June 30, 2015 and 2014, the respective changes in financial position, and cash flows thereof for the year then ended in accordance with U.S. generally accepted accounting principles.

### ***Other Matters***

#### ***Required Supplementary Information***

U.S. generally accepted accounting principles require that the management's discussion and analysis on pages 5–9 and the financial analysis by account group on page 33 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

#### ***Supplementary and Other Information***

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the Foundation's basic financial statements. The statement of net position information by account group, statement of revenues, expenses, and changes in net position information by account group, and notes to supplemental information as of and for the year ended 2015 on pages 34–36 are presented for purposes of additional analysis and are not a required part of the basic financial statements.

The statement of net position information by account group, statement of revenues, expenses, and changes in net position information by account group, and notes to supplemental information are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the statement of net position information by account group, statement of revenues, expenses, and changes in net position information by account group, and notes to supplemental information are fairly stated in all material respects in relation to the basic financial statements as a whole.



**Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated November 18, 2015 on our consideration of the Foundation's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Foundation's internal control over financial reporting and compliance.

**KPMG LLP**

Albuquerque, New Mexico  
November 18, 2015



**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)  
Management's Discussion and Analysis (Unaudited)  
June 30, 2015 and 2014

As a component unit of the University of New Mexico (UNM or the University) and governmental not-for-profit, the University of New Mexico Foundation, Inc. (the Foundation) applies the provisions of Governmental Accounting Standards Board (GASB) Statement No. 34, *Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments*.

**Overview of the Basic Financial Statements**

The Foundation's annual report consists of the Management's Discussion and Analysis, which provides a broad narrative overview of its financial statements for the fiscal years ended June 30, 2015 and 2014 and the following, which comprise the basic financial statements:

1. Statements of net position, which present information on the Foundation's assets and liabilities and resulting net position.
2. Statements of revenues, expenses, and changes in net position, which provide information on the results of operations for the fiscal years.
3. Statements of cash flows, which present information on changes in cash balances and identify the source of cash flows resulting in those changes.
4. Notes to financial statements, which provide additional information that is essential to a full understanding of the data provided in the financial statements.

**Condensed Financial Information**

*Condensed Assets, Liabilities, and Net Position*

	<u>2015</u>	<u>2014</u>	<u>2013</u>
Current assets	\$ 44,007,051	13,669,752	7,813,748
Noncurrent assets	208,918,116	215,460,937	173,274,768
Total assets	<u>252,925,167</u>	<u>229,130,689</u>	<u>181,088,516</u>
Current liabilities	48,587,055	23,895,099	6,188,961
Noncurrent liabilities	6,376,241	6,888,379	4,901,603
Total liabilities	<u>54,963,296</u>	<u>30,783,478</u>	<u>11,090,564</u>
Net position:			
Unrestricted	2,131,929	2,396,794	2,109,091
Investment in capital assets	87,930	112,632	137,335
Restricted	195,742,012	195,837,785	167,751,526
Total net position	<u>\$ 197,961,871</u>	<u>198,347,211</u>	<u>169,997,952</u>

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

Management's Discussion and Analysis (Unaudited)

June 30, 2015 and 2014

*Condensed Summary of Revenues, Expenses, and Changes in Net Position*

	2015	2014	2013
Operating revenues:			
Donations and pledges, net	\$ 18,183,206	22,829,875	21,129,198
Direct support from the University of New Mexico	5,641,345	5,969,202	3,659,715
Development funding allocation – Consolidated Investment Fund	2,515,480	2,294,731	2,804,303
Nongift revenue	803,838	464,794	731,996
Total operating revenues	<u>27,143,869</u>	<u>31,558,602</u>	<u>28,325,212</u>
Operating expenses:			
Distributions to UNM	26,224,604	30,455,098	27,897,237
General and administrative	12,213,276	12,134,671	10,128,821
Total operating expenses	<u>38,437,880</u>	<u>42,589,769</u>	<u>38,026,058</u>
Operating loss	(11,294,011)	(11,031,167)	(9,700,846)
Investment (loss) income, net	<u>(794,918)</u>	<u>31,649,155</u>	<u>17,383,587</u>
Income (loss) before changes in term and permanent endowments	(12,088,929)	20,617,988	7,682,741
Changes in term and permanent endowments	<u>11,703,589</u>	<u>7,731,271</u>	<u>9,543,766</u>
Decrease (increase) in net position	(385,340)	28,349,259	17,226,507
Net position, beginning of year	<u>198,347,211</u>	<u>169,997,952</u>	<u>152,771,445</u>
Net position, end of year	<u>\$ 197,961,871</u>	<u>198,347,211</u>	<u>169,997,952</u>

**Financial Analysis**

- At June 30, 2015, the Foundation's total assets were \$252.9 million, which represents an increase of 10.4% over June 30, 2014 total assets of \$229.1 million. At June 30, 2014, the Foundation's total assets were \$229.1 million, which represents an increase of 26.5% over June 30, 2013 total assets of \$181.1 million.
- Net position decreased to \$198.0 million at June 30, 2015, a decrease of \$385 thousand, or 0.2%, over the net position of \$198.3 million at June 30, 2014. Net position increased during the year ended June 30, 2014, by \$28.3 million, or 16.6%, over the net position of \$170.0 million at June 30, 2013.
- The increase in total assets during the year ended June 30, 2015 was primarily due to an increase in the Short-Term Investment fund as a result of a change in the Treasury Operating Agreement, dated October 1, 2013. The agreement allows the Foundation to invest nonendowed gifts and endowed spending distributions until spent by UNM.
- The decrease in net position during the year ended June 30, 2015 was primarily due to the investment loss during the fiscal year.

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**

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June 30, 2015 and 2014

- The increase in total assets and net position during the year ended June 30, 2014 was due to investment income and donations to endowment funds in excess of distributions from endowments.
- The market value of the Consolidated Investment Fund (CIF) at June 30, 2015 was \$405.8 million, a decrease of \$9.4 million from the June 30, 2014 market value of \$415.2 million. Realized gains for the entire CIF were \$19 million and unrealized losses were \$24 million during the year ended June 30, 2015. The market value of the Consolidated Investment Fund (CIF) at June 30, 2014 was \$415.2 million, an increase of \$56.8 million from the June 30, 2013 market value of \$358.4 million. Realized gains for the entire CIF were \$24.6 million and unrealized gains were \$3.6 million during the year ended June 30, 2014. The fair value and ownership units of the CIF as of June 30, 2015, 2014, and 2013 are as follows:

		<b>Consolidated Investment Fund</b>		
		<b>2015</b>	<b>2014</b>	<b>2013</b>
Fair value (in millions):				
Foundation	\$	189.0	189.1	162.2
University of New Mexico		216.8	226.1	196.2
Total fair value of CIF	\$	<u>405.8</u>	<u>415.2</u>	<u>358.4</u>
Units:				
Foundation		570,951	568,158	579,131
University of New Mexico		655,318	679,611	700,367
Total units of CIF		<u>1,226,269</u>	<u>1,247,769</u>	<u>1,279,498</u>

- Additions to endowment principal for the CIF, during the year ended June 30, 2015, were \$14.4 million; a increase of \$4.5 million from the prior year. Additions to endowment principal for the CIF, during the year ended June 30, 2014, were \$9.9 million; a decrease of \$3.6 million from the year ended June 30, 2013.
- CIF investment performance showed a net rate of return in the current year of 0.5% compared with the 16.7% and 11.3% net investment return earned during the fiscal years ended June 30, 2014 and 2013, respectively.
- During the year ended June 30, 2015, the CIF had a return of 0.5%, underperforming the CIF policy benchmark return of 1.6%. Domestic equities returned 7.4%, international equities returned negative 6.3%, fixed income returned negative 2.9%, real assets returned negative 12.6%, private equities returned 9.4%, and marketable alternatives returned 5.4%.
- During the year ended June 30, 2014, the CIF had a return of 16.7%, outperforming the CIF policy benchmark return of 16.3%. Domestic equities returned 24.4%, international equities returned 22.6%, fixed income returned 4.4%, real assets returned 19.7%, private equities returned 23.7%, and marketable alternatives returned 7.9%.
- Approximately 75% of the Foundation's assets were held as endowments in the CIF as of June 30, 2015, compared to 83% and 90% at June 30, 2014 and 2013, respectively.

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
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- The approved spending distribution from the CIF to UNM departments was \$15.0 million during fiscal year 2015, an increase of \$1.2 million from the approved distribution of \$13.8 million during fiscal year 2014, primarily due to an increase in trailing twenty-quarter average market value per unit of the CIF. Of fiscal year 2015's distribution, \$7.0 million was distributed from Foundation endowments and \$8.0 million was distributed from UNM endowments. The spending distribution for fiscal year 2014 of \$13.8 million increased by \$300 thousand from the fiscal year 2013 approved distribution of \$13.5 million, due to an increase in the trailing twenty-quarter average market value per unit of the CIF at June 30, 2014.
- Total liabilities at June 30, 2015 were \$55.0 million, an increase of \$24.2 million over June 30, 2014 total liabilities of \$30.8 million. Total liabilities at June 30, 2014 increased \$19.7 million over June 30, 2013 total liabilities of \$11.1 million. The increases were due to an increase in the amount due to University of New Mexico as a result of a change in the Treasury Operating Agreement, dated October 1, 2013.
- Total operating revenue was \$27.1 million for the fiscal year ended June 30, 2015, a decrease of \$4.5 million, or 14.2%, from the previous year total of \$31.6 million, primarily due to a decrease in nonendowed gifts. Total operating revenue was \$31.6 million for the fiscal year ended June 30, 2014, an increase of \$3.3 million, or 11.7%, from the previous year total of \$28.3 million, primarily due to an increase in nonendowed gifts.
- Changes in term and permanent endowments totaled \$11.7 million during the year ended June 30, 2015; an increase of 4.0 million, or 51.9%, from the previous year total of \$7.7 million, primarily due to an increase in donations to permanent endowments. Changes in term and permanent endowments totaled \$7.7 million during the year ended June 30, 2014; a decrease of \$1.8 million, or 18.9%, from the previous year total of \$9.5 million, primarily due to a decrease in donations to permanent endowments.
- Distributions to UNM are endowed spending distributions and nonendowed expenditures and were \$26.2, \$30.5 and \$27.9 million for the years ended June 30, 2015, 2014 and 2013, respectively.
- Investment (loss) income comprises interest, dividends, gains, and losses. Investment (loss) income is presented net of fees and was a net loss of \$794.9 thousand for the year ended June 30, 2015; a decrease of \$32.4 million over the year ended June 30, 2014. The decrease was the result of a decrease in the rate of return for the CIF from 16.7% in the year ended June 30, 2014 to 0.5% in the year ended June 30, 2015. Investment income, net of fees, was \$31.6 million and \$17.4 million for the years ended June 30, 2014 and 2013, respectively.
- The primary funding sources for the Foundation's operating costs in the year ended June 30, 2015, were institutional support from UNM (50.5%), unrestricted gifts and other revenue (3.0%), and a development funding allocation (DFA) (46.5%) based on the market value of the CIF. The DFA rate was 1.4% for the first three quarters of fiscal year 2015 and 1.6% for the fourth quarter of fiscal year 2015. The DFA rate was 1.4% for fiscal years 2014 and 2013.
- Direct support from UNM decreased to \$5.6 million in the year ended June 30, 2015, a 5.5% decrease from the \$6.0 million of direct support received in the year ended June 30, 2014. In 2014, direct support from UNM increased 62.2% from the \$3.7 million of direct support received in the year ended June 30, 2013.

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
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- General and administrative expenses for the operating account group totaled \$11.3 million, \$11.4 million, and \$9.8 million for the years ended June 30, 2015, 2014, and 2013, respectively. The Foundation's budgeted operating general and administrative expenses totaled \$11.5 million, \$11.3 million, and \$9.9 million for the years ended June 30, 2015, 2014, and 2013, respectively. Using the unrounded amounts, operating general and administrative expenses were 2% under budget for the year ended June 30, 2015 and 0.3% over budget for the year ended June 30, 2014.

**Factors Impacting Future Periods**

The continued uncertainty of the economy and its effect on donor contributions could have a significant impact on the Foundation.

UNM has made a one-year operating budget commitment of \$4.3 million to fund the Foundation in fiscal year 2016. The fee charged to the CIF (DFA) will remain at 1.6% for fiscal year 2016. UNM has not made an operating budget commitment to fund the Foundation beyond fiscal year 2016.

**Contacting the Foundation's Financial Management**

If you have questions about this report or need additional financial information, please contact the UNM Foundation's Chief Financial Officer, Rodney Harder, or the Foundation's Controller, Kenny Stansbury, at Two Woodward Center, 700 Lomas Boulevard NE, Suite 203, Albuquerque, New Mexico 87131 or (505) 277-4503.

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

Statements of Net Position

June 30, 2015 and 2014

Assets	2015	2014
Current assets:		
Cash and cash equivalents – unrestricted	\$ 2,357,462	2,011,949
Cash and cash equivalents – restricted	40,243,562	8,940,778
Pledges receivable, net of allowance and discounts	1,186,756	833,215
Other current assets	219,271	1,883,810
Total current assets	44,007,051	13,669,752
Noncurrent assets, restricted:		
Investments held in Consolidated Investment Fund	188,958,673	189,073,515
Investments held by the University of New Mexico Foundation, Inc.	14,116,497	20,073,326
Pledges receivable, net of allowance and discounts	1,352,042	1,642,502
Artwork	2,717,902	2,738,236
Real estate	1,685,072	1,820,726
Capital assets, net	87,930	112,632
Total noncurrent assets	208,918,116	215,460,937
Total assets	\$ 252,925,167	229,130,689
<b>Liabilities and Net Position</b>		
Current liabilities:		
Accounts payable	\$ 124,496	128,429
Accrued payroll	1,258,914	1,021,180
Current portion of annuities payable	340,768	345,046
Advances from the University of New Mexico	92,550	266,719
Due to the Consolidated Investment Fund	460,988	1,746,737
Due to the University of New Mexico	46,309,339	20,386,988
Total current liabilities	48,587,055	23,895,099
Noncurrent liabilities:		
Annuities payable	2,308,853	2,503,129
Due to the University of New Mexico	4,067,388	4,385,250
Total noncurrent liabilities	6,376,241	6,888,379
Total liabilities	54,963,296	30,783,478
Net position:		
Unrestricted	2,131,929	2,396,794
Invested in capital assets	87,930	112,632
Restricted, expendable	21,145,692	20,794,512
Restricted, nonexpendable	174,596,320	175,043,273
Total net position	197,961,871	198,347,211
Total liabilities and net position	\$ 252,925,167	229,130,689

See accompanying notes to financial statements.

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)  
**Statements of Revenues, Expenses and Changes in Net Position**  
**Years ended June 30, 2015 and 2014**

	<u>2015</u>	<u>2014</u>
Operating revenues:		
Donations and pledges, net of provision for allowance and discounts of \$11,727 and \$31,331 for the years ended June 30, 2015 and 2014, respectively	\$ 18,183,206	22,829,875
Direct support from the University of New Mexico	5,641,345	5,969,202
Development funding allocation – Consolidated Investment Fund	2,515,480	2,294,731
Nongift revenue	803,838	464,794
Total operating revenues	<u>27,143,869</u>	<u>31,558,602</u>
Operating expenses:		
Distributions to the University of New Mexico	26,224,604	30,455,098
General and administrative expenses	12,213,276	12,134,671
Total operating expenses	<u>38,437,880</u>	<u>42,589,769</u>
Operating loss	(11,294,011)	(11,031,167)
Nonoperating revenue:		
Investment (loss) income, net	(794,918)	31,649,155
(Loss) income before changes in term and permanent endowments	<u>(12,088,929)</u>	<u>20,617,988</u>
Changes in term and permanent endowments:		
Donations	10,323,705	6,614,247
Institutional transfers to Consolidated Investment Fund	1,492,654	646,477
Nongift revenue	26,981	60,773
Adjustment of actuarial liability for annuities payable	198,555	783,416
Expenditure for payments to annuitants and beneficiaries	(338,306)	(373,642)
Total changes in term and permanent endowments	<u>11,703,589</u>	<u>7,731,271</u>
(Decrease) increase in net position	(385,340)	28,349,259
Net position, beginning of year	<u>198,347,211</u>	<u>169,997,952</u>
Net position, end of year	<u>\$ 197,961,871</u>	<u>198,347,211</u>

See accompanying notes to financial statements.



**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

Statements of Cash Flows

Years ended June 30, 2015 and 2014

	<u>2015</u>	<u>2014</u>
Cash flows from operating activities:		
Cash received from donors and other sources	\$ 17,334,747	19,654,294
Cash received from the University of New Mexico	7,131,715	5,192,809
Cash received from the Consolidated Investment Fund	2,515,480	1,082,622
Cash paid to employees	(8,830,893)	(8,657,310)
Cash paid to vendors	(2,751,146)	(3,274,183)
Cash distributed to the University of New Mexico	(620,115)	(10,163,550)
Net cash flows from operating activities	<u>14,779,788</u>	<u>3,834,682</u>
Cash flows from noncapital financing activities:		
Donations and pledges	8,921,719	5,796,547
Institutional transfers to Consolidated Investment Fund	1,492,654	646,477
Payments to annuitants and beneficiaries	(338,306)	(319,086)
Net cash flows from noncapital financing activities	<u>10,076,067</u>	<u>6,123,938</u>
Cash flows from investing activities:		
Proceeds from sale of investments	102,162,771	25,770,052
Purchases of investments	(96,324,881)	(33,130,499)
Interest and dividends received	954,552	1,285,692
Net cash flows from investing activities	<u>6,792,442</u>	<u>(6,074,755)</u>
Net increase in cash and cash equivalents	31,648,297	3,883,865
Cash and cash equivalents, beginning of year	10,952,727	7,068,862
Cash and cash equivalents, end of year	<u>\$ 42,601,024</u>	<u>10,952,727</u>
Cash and cash equivalents, unrestricted	\$ 2,357,462	2,011,949
Cash and cash equivalents, restricted	40,243,562	8,940,778
Total	<u>\$ 42,601,024</u>	<u>10,952,727</u>

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

Statements of Cash Flows

Years ended June 30, 2015 and 2014

	<u>2015</u>	<u>2014</u>
Reconciliation of operating loss to net cash from operating activities:		
Operating loss	\$ (11,294,011)	(11,031,167)
Adjustments to reconcile operating loss to net cash flows from operating activities:		
Depreciation expense	27,810	24,703
Donations of investments	(1,013,905)	(838,520)
Donations of artwork	(144,685)	(2,730,236)
Donation of real estate	(61,000)	—
Changes in assets and liabilities:		
Due to the University of New Mexico	25,604,489	20,291,548
Other current assets	1,664,539	(1,777,234)
Pledges receivable	(63,081)	(71,619)
Accounts payable	(3,933)	(23,670)
Accrued payroll	237,734	202,145
Advances from the University of New Mexico	(174,169)	(211,268)
Total adjustments	<u>26,073,799</u>	<u>14,865,849</u>
Net cash from operating activities	<u>\$ 14,779,788</u>	<u>3,834,682</u>
Supplemental disclosures of noncash investing, noncapital, and financing activities:		
Change in fair value of investments	\$ (11,329,933)	1,032,467
Donations of investments to permanent endowments	1,428,968	507,473
Donations of real estate to permanent endowments	—	371,000

See accompanying notes to financial statements.

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

Notes to Financial Statements

June 30, 2015 and 2014

**(1) Nature of Business**

The University of New Mexico Foundation, Inc. (the Foundation) was organized on May 3, 1979, as a New Mexico not-for-profit corporation to solicit, receive, distribute, invest, and manage private gifts and donations given for the benefit of the University of New Mexico (UNM or University). By managing funds, identifying and developing new sources of private support, encouraging the adoption of common goals, and nurturing cooperation toward meeting those goals, the Foundation allows UNM to focus more clearly on its mission to engage in comprehensive educational, research, and service programs.

In accordance with the amended Memorandum of Agreement (Memorandum) between the Foundation and the Regents of the University of New Mexico, dated September 25, 2012, UNM will continue to provide the Foundation sufficient administrative support to allow the Foundation to conduct its business and fulfill its responsibilities to the University. In return for this support, the Foundation guarantees that all private gifts and donations it receives, records, and reflects in the accompanying financial statements are for the exclusive benefit of UNM. These financial statements only reflect private support received directly by the Foundation. In addition, the Foundation provides solicitation assistance, consultation, and other related services, including investment oversight responsibilities associated with UNM's ownership of Consolidated Investment Fund (CIF) endowments. The Foundation has no component units.

The Memorandum further stipulates that the expenditure of gift funds and income on gift funds for the benefit of any unit of the University or affiliated organization will be disbursed through the University's general ledger system, unless specifically approved by the University President or his/her designee, and that the Foundation will provide the University appropriate documentation regarding any donor-imposed gift restrictions to assist the University in following the donor directives. The University is responsible for monitoring all disbursements through the University's general ledger system from both nonendowed gift accounts and endowed spending accounts to ensure that any and all donor-imposed restrictions are honored.

**(2) Summary of Significant Accounting Policies**

**(a) Measurement Focus, Basis of Accounting, and Financial Statement Presentation**

As a component unit of UNM and governmental not-for-profit, the Foundation presents its financial statements in accordance with U.S. generally accepted accounting standards as established by the Governmental Accounting Standards Board (GASB).

The Foundation applies business-type activity accounting and the Foundation's basic financial statements are reported using a flow of economic resources measurement focus and the accrual basis of accounting. Accordingly, revenues are recognized when they are earned and expenses are recognized as soon as the liability is incurred.

The significant accounting policies utilized by the Foundation in the preparation of the financial statements are described below.

**(b) Cash and Cash Equivalents**

Cash and cash equivalents include cash on deposit at financial institutions and do not include Foundation investments held by the CIF.

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
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Notes to Financial Statements

June 30, 2015 and 2014

Restricted cash and cash equivalents are donor restricted to use for a particular UNM program or purpose.

**(c) *Investments, Real Estate, and Artwork***

Investments, real estate, and artwork are generally reported at fair value. Short-term investments are carried at cost, which approximates fair value. All real estate and artwork reflected in the accompanying statements of net position were contributed to the Foundation. Donated real estate and artwork are recorded at fair value at the date of the gift less an estimated reserve for selling costs. Periodic appraisals and market analyses are performed to determine the appropriateness of fair value.

The basis of determining the fair value of investments is the readily determinable sales price or current exchange rate of the investments based on prices or quotations from over-the-counter markets. In the case of mutual funds, the fair value is determined as the number of units held in the fund multiplied by the price per unit share as publicly quoted. As the CIF is not publically quoted, the value is based on the total estimated value of the underlying investments within the CIF. Within the CIF, the alternative investments are valued as reported by the general partners and fund managers. Management reviews and evaluates the valuation received from third parties and believes the carrying amount to be a reasonable estimate of fair value. As limited partnership investments are not readily marketable, their estimated value is subject to uncertainty and, therefore, may differ from the value that would have been used had a ready market for such investments existed.

Investments held by the Foundation have been classified as current and noncurrent based on the nature of the underlying investment. Investment in the CIF has been classified as noncurrent due to restrictions limiting the Foundation's ability to use these investments.

*Donated Investments* – It is the Foundation's policy to liquidate donated investments as soon as possible following receipt.

**(d) *Due to the Consolidated Investment Fund***

Amounts due to the CIF represent funds transferred from the University to be invested in the endowment and held temporarily by the Foundation. The funds are transferred to the CIF on a monthly basis.

**(e) *Due to the University of New Mexico and Distributions to the University of New Mexico***

The current amount due to UNM represents nonendowed, restricted assets held by the Foundation.

The noncurrent amount due to UNM represents nonendowed assets held by the Foundation, primarily cash and pledges receivable, which are expected to be distributed to UNM in a subsequent fiscal year. Generally, the noncurrent cash due to UNM is restricted by donors as to the time period in which they may be transferred to UNM. The amount and timing of the transfers are defined in the Treasury Operating agreement dated October 1, 2013.

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

Notes to Financial Statements

June 30, 2015 and 2014

**(f) *Annuities Payable***

Annuities payable represents the liability established for donations whereby a specified amount of funds are to be paid to the donor for the duration of his or her life. The Foundation uses annuity rates, including the discount and remainder factors, based on the American Council on Gift Annuities guidelines to establish the estimated liability. Significant factors of the estimate include the donor's age, amount of donation, and the discount rate, and are updated annually to adjust the liability.

**(g) *Net Position***

To ensure observance of limitations and restrictions placed on the use of reserves available to the Foundation, net positions are classified as follows, based on the existence or absence of donor-imposed restrictions:

*Unrestricted net position* – resources that are not subject to donor-imposed restrictions. The Board of Trustees designates a portion of this net position as nonexpendable reserves for annuities payable.

*Investment in capital assets* – represents the Foundation's total investment in capital assets, net of accumulated depreciation.

*Restricted net position* – resources that, because of donor-imposed restrictions, must be used for a specified purpose, generally UNM programs, or maintained for a specified time period.

- *Restricted, expendable* – resources that are contributions designed by donors for use by particular entities or programs or for specific purposes or functions of UNM. Resources include term endowments with donor-imposed time restrictions for spending or transferring the funds to UNM. These funds also include quasi-endowments, of which the corpus can be invaded. Investment income on endowment investments are classified as restricted, expendable net position unless otherwise specified by the donor.
- *Restricted, nonexpendable* – resources that are permanent endowments. Such funds are generally subject to donor restrictions requiring that the principal be invested in perpetuity for the purpose of producing income and appreciation that may be expended or added to the principal in accordance with the donor's wishes.

When both restricted and unrestricted funds are available, the Foundation expends restricted funds first in accordance with donor-imposed restrictions. The expenditure of unrestricted funds requires approval by the Board of Trustees.

**(h) *Classification of Revenues and Expenses***

Operating loss reported in the financial statements includes revenues and expenses related to the continuing operations of the Foundation. Principal operating revenues include nonendowed donations and pledges, direct support from the University, and the development funding allocation received from the CIF. Principal operating expenses include distributions to the University and general and administrative expenses.

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
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Notes to Financial Statements

June 30, 2015 and 2014

Nonoperating revenues include investment (loss) income.

Changes in term and permanent endowments include donations to permanent endowments and annuities, actuarial adjustments to annuities payable, payments to annuitants, and institutional transfers to the CIF.

**(i) Revenue Recognition**

*Donations* – The Foundation recognizes revenue on donations when all applicable eligibility requirements are met. Donations to permanent endowments or term endowments, as defined in note 6, are reported as changes to term and permanent endowments.

*Pledges* – The Foundation recognizes nonendowed pledges as increases in assets and revenue upon receipt of a signed pledge commitment, so long as collectibility is probable, and when all applicable eligibility requirements are met. An allowance for doubtful pledges is recorded when the pledge is recorded. The allowance is based on past pledge loss experience and other factors that management considers necessary in estimating pledge losses.

*Nongift* – Includes the dollar value of any benefit provided to a donor making a charitable contribution.

*Wills and Bequests* – Contributions resulting from wills and bequests are recognized as revenue in the reporting period during which the respective estates are probated and all applicable eligibility requirements are met. These contributions are reported as donations and pledges, net in the accompanying statements of revenues, expenses, and changes in net position.

*Direct support from UNM* – The University provides support to the Foundation to fund administrative and fundraising activities, while the Foundation provides the University with investment management services and fundraising activities, and facilitates funding of scholarships, faculty, and program support through distributions to UNM.

*Development funding allocation (DFA) – Consolidated Investment Fund* – A percentage of the market value of the CIF is allocated, annually, to the Foundation for general support of its operations. The allocation is used by the Foundation to cover the employment of its staff and other operating costs. The DFA rate was 1.4% for the first three quarters of fiscal year 2015 and 1.6% for the fourth quarter of fiscal year 2015. The DFA rate was 1.4% for fiscal year 2014. The allocation does not provide support for third-party investment consultant fees, custodial fees, and investment manager fees. These costs are assigned directly to the CIF and revenue is recognized when earned.

*Investment (loss) income, net* – Investment (loss) income, net includes interest, dividends, unrealized gains or losses, and realized gains or losses. Investment interest and dividends are recognized when earned. Changes in the estimated fair value of investments are reported as unrealized gains and losses. Realized gains and losses are recognized as the difference between the sales proceeds and amortized costs when realized (sold), calculated independently of the unrealized loss.



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**(j) Institutional Transfers to CIF**

Institutional transfers to CIF represent transfers of nonendowed and endowed spending funds from the University to the CIF.

**(k) Income Taxes**

The Foundation is an organization described in Internal Revenue Code (IRC) Section 501(c)(3) and as such is exempt from federal and state income tax on its related income under Section 501(a) of the IRC. Furthermore, as a publicly supported organization it is classified as a public charity and not a private foundation under IRC Section 509(a)(1). The Foundation had no material unrelated business income; therefore, no provision for income taxes is included in the financial statements.

As of June 30, 2014, the most recent filing date, the Foundation had a net operating loss carryforward of approximately \$2.8 million, as a result of cumulative losses from underlying partnership investments within the CIF. The deferred tax asset associated with this loss carryforward of approximately \$1 million is not recognized on the accompanying statements of net position due to the uncertainty of future income that would be necessary to realize the benefit. The Foundation estimates that the change in the deferred tax asset for the year ended June 30, 2015 is immaterial.

**(l) Estimates**

Management uses estimates and assumptions in preparing the accompanying financial statements. Those estimates and assumptions affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities, and the reported revenues and expenses. Actual results could differ from those estimates.

**(3) Cash and Cash Equivalents**

The Foundation has a carrying value of \$24,615 and \$765 on deposit in pooled accounts with UNM at June 30, 2015 and 2014, respectively. The UNM deposits are held in demand and time accounts at local financial institutions and in a fixed income portfolio managed by Morgan Stanley. New Mexico statutes require financial institutions to pledge qualifying collateral to UNM to cover at least 50% of the uninsured deposits. All collateral is held by third parties in safekeeping.

The Foundation is at risk to the extent that UNM's funds are uninsured or uncollateralized.

Risk disclosure information relating to the cash and cash equivalents held at UNM may be obtained by reference to the annual financial report of the University of New Mexico. That report may be obtained by contacting the Controller's office at 1 University of New Mexico, MSC01 1300, University of New Mexico, Albuquerque, New Mexico 87131.

The Foundation also holds cash outside of the University. These cash balances, including deposits in transit, had a carrying value of \$42,576,409 and \$10,951,962 at June 30, 2015 and 2014, respectively.

The Foundation's operating accounts (Operating and Development) at Wells Fargo had deposits totaling \$40,972,228 and \$3,617,274 at June 30, 2015 and 2014, respectively. The Foundation also held deposits at NUSENDA Credit Union totaling \$118,503 and \$150,143 at June 30, 2015 and 2014, respectively. These



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amounts are invested in overnight sweep accounts and are collateralized at 101% and 96% of the invested balance for June 30, 2015 and 2014, respectively. At June 30, 2015 and 2014, these funds were collateralized by government-backed securities held in the Foundation's name. Below is a summary of the Federal Deposit Insurance Corporation (FDIC) insured, National Credit Union Administration (NCUA) insured and collateralized accounts:

	2015	2014
Wells Fargo operating account balance	\$ 37,220,620	972,872
Wells Fargo development account balance	3,751,608	2,644,402
NUSENDA Credit Union balance	118,503	150,143
	<u>\$ 41,090,731</u>	<u>3,767,417</u>
FDIC insurance	\$ 250,000	250,000
NCUA insurance	118,503	150,143
Collateralization:		
<b>CUSIP</b>	<b>Maturity Date</b>	<b>Type of Security</b>
31419AQ83	11/1/2040	FN-30
3138Y9RH3	1/1/2045	FN-30
3138WAGS0	11/1/2043	FN-30
3132JQKC3	11/1/2043	FN-30
36179NVN5	12/1/2043	FN-30
	\$ 3,612,965	—
	23,281,223	—
	14,556,309	—
	—	2,405,543
	—	826,623
Total collateralization	<u>\$ 41,450,497</u>	<u>3,232,166</u>
Uninsured and under collateralized balance	\$ —	135,108

A detail of the cash accounts at June 30, 2015 is included below:

Name of depository	Account name	Account type	Bank balance	Reconciling items	Reconciled balance
University of New Mexico	Operating	Cash	\$ 24,615	—	24,615
Wells Fargo	Operating	Cash	37,220,620	(35,952)	37,184,668
Wells Fargo	Development	Cash	3,751,608	1,018,835	4,770,443
NUSENDA	General Fund	Cash	118,503	—	118,503
Southwest Securities	Charitable Trust Fund	Money Market	22,310	—	22,310
Bank of America	Scholarship Trust 1	Money Market	28,143	—	28,143
Bank of America	Scholarship Trust 2	Money Market	48,164	—	48,164
Wells Fargo	Irrevocable Trust Fund	Money Market	58,918	—	58,918
UBS Financial Services	Endowed Chair	Money Market	309,777	—	309,777
UBS Financial Services	Endowed Professorship	Money Market	35,483	—	35,483
			<u>\$ 41,618,141</u>	<u>982,883</u>	<u>42,601,024</u>

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A detail of the cash accounts at June 30, 2014 is included below:

Name of depository	Account name	Account type	Bank balance	Reconciling items	Reconciled balance
University of New Mexico	Operating	Cash	\$ 765	—	765
Wells Fargo	Operating	Cash	972,872	(109,730)	863,142
Wells Fargo	Development	Cash	2,644,402	627,801	3,272,203
New Mexico Educator's FCU	General Fund	Cash	150,143	—	150,143
Southwest Securities	Charitable Trust Fund	Money Market	16,834	—	16,834
Bank of America	Scholarship Trust 1	Money Market	30,147	(1)	30,146
Bank of America	Scholarship Trust 2	Money Market	84,973	(3)	84,970
Wells Fargo	Irrevocable Trust Fund	Money Market	89,293	—	89,293
Morgan Stanley Smith Barney	UNM Foundation, Inc.	Money Market	—	—	—
Morgan Stanley Smith Barney	Short Term Investments	Money Market	4,911,153	—	4,911,153
UBS Financial Services	Endowed Chair	Money Market	180,923	—	180,923
UBS Financial Services	Endowed Professorship	Money Market	57,367	—	57,367
Vanguard Investments	Operating	Money Market	1,295,788	—	1,295,788
			<u>\$ 10,434,660</u>	<u>518,067</u>	<u>10,952,727</u>

**(4) Investments**

Investments reported by the Foundation represent investments contributed to the Foundation that are held outside of the CIF and the Foundation's share of the CIF. Foundation endowment funds are pooled with endowment funds owned by the University in the CIF. The CIF is a unitized investment portfolio, a consolidated internal investment pool of the University.

*Consolidated Investment Fund* – The investment of the CIF endowment funds is in accordance with the laws of 1991, Chapter 69 of the State of New Mexico. In accordance with UNM and the Foundation's Memorandum, the endowment assets of the Foundation and UNM are commingled for investment purposes whenever possible in the CIF. The investment of UNM and Foundation endowment funds is in accordance with Sections 6-8-10 and 46-9-1 through 46-9-12, New Mexico Statutes Annotated (NMSA) 1978.

At June 30, 2015 and 2014, the Foundation held approximately 93% and 90%, respectively, of its investments in the CIF. Under the terms of an agreement with the UNM Board of Regents, the Foundation provides management oversight for the entire CIF. The Foundation Investment Committee works with an institutional investment consultant to structure the portfolio and hire independent investment managers. The investment managers are then responsible for specific asset categories and management styles.

Investments in the CIF are diversified with the intention of minimizing the risk of investment losses. Consequently, the target portfolio allocations are 20% domestic equity, 20% international equity, 18% fixed income, 2% cash, 10% real assets, 10% private equity, and 20% marketable alternative investments.

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The fair value and ownership units of the CIF as of June 30 are as follows:

	Consolidated Investment Fund			
	2015	Percentage	2014	Percentage
Fair value (in millions):				
Foundation	\$ 189.0	47%	\$ 189.1	46%
University of New Mexico	216.8	53	226.1	54
Total fair value	<u>\$ 405.8</u>		<u>\$ 415.2</u>	
Units:				
Foundation	570,951	47%	568,158	46%
University of New Mexico	655,318	53	679,611	54
Total units	<u>1,226,269</u>		<u>1,247,769</u>	

The investments held in the CIF, by type, comprise the following at June 30:

	2015	Percentage	2014	Percentage
Money market	\$ 3,403,867	2%	\$ 808,498	—%
Exchange traded funds	5,832,389	3	7,852,250	4
Mutual funds, equity	80,749,943	43	83,396,932	44
Mutual funds, fixed	32,637,179	17	27,385,010	15
Illiquid real assets	8,900,183	5	11,677,419	6
Private equity	19,655,253	10	22,636,422	12
Marketable alternatives	37,779,859	20	35,316,984	19
Total investments	<u>\$ 188,958,673</u>		<u>\$ 189,073,515</u>	

At June 30, 2015 and 2014, the Foundation had commitments for future contributions to private equity investments totaling \$5,268,956 and \$7,399,511, respectively.

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*Investments Held by the Foundation* – A detail of the investment accounts at June 30 is as follows:

Depository/account name	Account type	2015	2014
Bank of America:			
Scholarship Fund Trust 1	Mutual funds, fixed	\$ 163,308	145,672
Scholarship Fund Trust 1	Mutual funds, equity	457,940	464,280
Scholarship Fund Trust 1	Real estate	39,988	—
Scholarship Fund Trust 1	Other	50,649	—
Scholarship Fund Trust 2	Mutual funds, fixed	293,769	244,274
Scholarship Fund Trust 2	Mutual funds, equity	837,999	866,245
Scholarship Fund Trust 2	Real estate	64,043	107,463
Scholarship Fund Trust 2	Other	88,870	148,066
Wells Fargo:			
Charitable Trust Fund	Mutual funds, fixed	315,068	375,153
Charitable Trust Fund	Mutual funds, equity	1,137,078	1,107,373
Charitable Trust Fund	Real estate	215,299	226,349
Charitable Trust Fund	Other	219,878	254,342
Morgan Stanley Smith Barney:			
Short term investments	Mutual funds, fixed	1,910,616	—
Short term investments	Mutual funds, equity	3,643,513	—
Short term investments	U.S. treasury notes	—	410,078
Short term investments	U.S. agency bonds	—	232,826
Short term investments	Domestic corporate bonds	—	10,588,112
Short term investments	Other	3,304	1,034,985
UBS Financial services:			
Endowed Chair	Municipal bonds	2,783,767	2,936,625
Endowed Chair	Other	22,667	—
Endowed Professorship	Municipal bonds	388,877	368,433
SWS Financial services:			
Charitable Trust Fund	Mutual funds, fixed	12,800	—
Charitable Trust Fund	Mutual funds, equity	224,073	390,270
Charitable Trust Fund	Domestic corporate stock	235,266	172,780
NUSENDA Credit Union:			
Operating Fund	Certificate of Deposit	1,007,725	—
		<u>\$ 14,116,497</u>	<u>20,073,326</u>

*Custodial Credit Risk* – For an investment, custodial credit risk is the risk that, in the event of the failure of the counter party, the Foundation will not be able to recover the value of its investment or collateral securities that are in the possession of an outside party. Mutual funds and external investment pools are not exposed to custodial credit risk.

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At June 30, 2015, the Foundation did not have a policy to limit its exposure to custodial credit risk; however, as of June 30, 2015 and 2014, the investments that were subject to custodial credit risk were 2.1% and 7.6% of total investments at June 30, 2015 and 2014, respectively.

The investments held in the CIF are not subject to custodial credit risk. A summary of the investments held by the Foundation and the exposure to custodial credit risk at June 30 is as follows:

	<u>2015</u>	<u>2014</u>
Custodial credit risk:		
U.S. Treasury notes	\$ —	410,078
U.S. agency bonds	—	232,826
Certificate of deposit	1,007,725	—
Municipal bonds	3,172,644	3,305,057
Domestic corporate bonds	—	10,588,112
Other bonds	—	1,034,985
Domestic corporate stock	—	172,780
Total securities held by custodians	<u>4,180,369</u>	<u>15,743,838</u>
Investments not subject to custodial credit risk:		
Mutual funds	9,231,430	3,593,269
Real estate	319,330	333,811
Other	385,368	402,408
Total investments held by the Foundation	<u>14,116,497</u>	<u>20,073,326</u>
Investments held in CIF – not subject to custodial credit risk	<u>188,958,673</u>	<u>189,073,515</u>
Total investments	<u>\$ 203,075,170</u>	<u>209,146,841</u>

*Concentration of Credit Risk* – Concentration of credit risk is the risk of loss attributed to the magnitude of the Foundation's investment in a single issuer. Investments in any one issuer that represent 5% or more of total investments are considered to be exposed to concentrated credit risk and are required to be disclosed. Investments issued and explicitly guaranteed by the U.S. government and investments in mutual funds, external investment pools, and other pooled investments are excluded from this requirement.

At June 30, 2015, the Foundation did not have a policy to limit its exposure to concentrated credit risk; however, as of June 30, 2015 and 2014, the Foundation did not have any investments in one issuer that represented more than 5% of total investments.

*Interest Rate Risk* – Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. Currently, the Foundation does not have a policy to limit its exposure to interest rate risk.

The Foundation Investment Committee manages credit risk and interest rate risk with the assistance of third-party investment advisors.

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A summary of the investments and the respective maturities at June 30, 2015 and 2014 and the exposure to interest rate risk is as follows:

		2015 Investment maturities			
		Fair value	Less than one year	1-5 years	More than 10 years
At interest rate risk:					
Municipal bonds	\$	3,172,644	319,987	933,076	1,319,996
Certificates of deposit		1,007,725	1,007,725	—	—
		<u>4,180,369</u>	<u>1,327,712</u>	<u>933,076</u>	<u>1,319,996</u>
Not subject to interest rate risk:					
Domestic corporate stock		—			
Mutual funds		9,231,430			
Real estate		319,330			
Other		385,368			
Investments held in CIF		<u>100,958,672</u>			
Total investments	\$	<u>203,075,170</u>			

		2014 Investment maturities			
		Fair value	Less than one year	1-5 years	More than 10 years
At interest rate risk:					
U.S. Treasury notes	\$	410,078	—	410,078	—
U.S. agency bonds		232,826	—	—	232,826
Municipal bonds		3,305,057	128,415	1,078,682	1,270,220
Certificates of deposit		—	—	—	—
Domestic corporate bonds		10,588,112	100,706	9,473,909	1,013,497
Other bonds		1,034,985	—	—	834,401
		<u>15,571,058</u>	<u>\$ 229,121</u>	<u>10,962,669</u>	<u>3,118,118</u>
Not subject to interest rate risk:					
Domestic corporate stock		172,780			
Mutual funds		3,593,269			
Real estate		333,811			
Other		402,408			
Investments held in CIF		<u>189,073,315</u>			
Total investments	\$	<u>209,146,841</u>			

**Credit Risk** – Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. The Foundation is required to disclose credit ratings of its investments in order to assess credit risk.

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A summary of the Foundation's investments at June 30, 2015 and 2014 that are subject to credit risk is as follows:

June 30, 2015							Percentage of bond portfolio
Credit rating (Moody's)	U.S. Treasury	U.S. Agency	Municipal	Domestic corporate	Other	Total	
Aaa	\$ —	—	797,087	—	—	797,087	25.1%
Aa1	—	—	380,230	—	—	380,230	12.0
Aa2	—	—	1,108,922	—	—	1,108,922	35.0
Aa3	—	—	436,746	—	—	436,746	13.8
A1	—	—	106,217	—	—	106,217	3.3
A2	—	—	57,454	—	—	57,454	1.8
A3	—	—	64,662	—	—	64,662	2.0
Baa1	—	—	—	—	—	—	—
Baa2	—	—	—	—	—	—	—
Baa3	—	—	—	—	—	—	—
Not rated	—	221,326	—	—	—	221,326	7.0
Total	\$ —	221,326	2,951,318	—	—	3,172,644	100%

June 30, 2014							Percentage of bond portfolio
Credit rating (Moody's)	U.S. Treasury	U.S. Agency	Municipal	Domestic corporate	Other	Total	
Aaa	\$ 410,078	—	919,072	—	—	1,329,150	8.5%
Aa1	—	—	395,452	399,351	—	794,803	5.1
Aa2	—	—	1,116,166	363,614	—	1,479,780	9.5
Aa3	—	—	443,023	618,985	—	1,062,008	6.8
A1	—	—	109,385	2,141,964	—	2,251,349	14.5
A2	—	—	59,173	2,159,738	—	2,218,911	14.3
A3	—	—	59,805	2,199,005	—	2,258,810	14.5
Baa1	—	—	5,894	1,272,708	—	1,278,602	8.2
Baa2	—	—	—	1,223,973	211,493	1,435,466	9.2
Baa3	—	—	—	208,774	—	208,774	1.3
Not rated	—	232,826	197,087	—	823,492	1,253,405	8.0
Total	\$ 410,078	232,826	3,305,057	10,588,112	1,034,985	15,571,058	100%

*Foreign Currency Risk* – None of the investments are subject to foreign currency risk.



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**Artwork**

Artwork activity for the years ended June 30, 2015 and 2014 is as follows:

	<u>2015</u>	<u>2014</u>
Artwork:		
Beginning balance	\$ 7,692,089	12,000
New donations received	144,685	7,680,089
Sales	<u>(145,389)</u>	<u>—</u>
Balance at June 30	7,691,385	7,692,089
Reserve for selling costs	<u>(4,973,483)</u>	<u>(4,953,853)</u>
Artwork, at fair value as of June 30	<u><u>\$ 2,717,902</u></u>	<u><u>2,738,236</u></u>

The Foundation received a major gift of artwork on June 25, 2014, consisting of over 1,000 works of art created by Beatrice Mandelman and Louis Ribak. The artwork was recorded at an amount approximating fair value (\$7,680,089) along with a reserve for estimated selling costs (\$4,949,853). The Foundation intends to sell the artwork with the net proceeds benefiting UNM's art programs, collections, and museums. The Foundation expects the sales to be completed over many years, given the desire to preserve the market value of the artwork.

**Real Estate**

The Foundation also has investments in real estate. The real estate activity for the years ended June 30, 2015 and 2014 is as follows:

	<u>2015</u>	<u>2014</u>
Real estate, values as of date of original receipt:		
Beginning balance	\$ 2,671,801	2,302,526
New donations received	61,000	371,000
Sales	<u>(327,284)</u>	<u>(1,725)</u>
Balance at June 30	2,405,517	2,671,801
Fair value adjustment, at June 30 net	<u>(720,445)</u>	<u>(851,075)</u>
Real estate, at fair value as of June 30	<u><u>\$ 1,685,072</u></u>	<u><u>1,820,726</u></u>

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***All Investments -- Investment Income***

During the years ended June 30, 2015 and 2014, the Foundation recognized realized and unrealized gains (losses) on investments held as outlined below:

	<u>CIF</u>	<u>Foundation</u>	<u>Real estate</u>	<u>Short-term investments</u>	<u>Total</u>
2015:					
Realized gains	\$ 8,779,893	86,094	141,326	(426,505)	8,580,808
Unrealized (losses) gains	(11,099,920)	(323,030)	70,337	22,680	(11,329,933)
Other investment income	1,316,476	364,922	—	272,809	1,954,207
Total investment (loss) income	<u>\$ (1,003,551)</u>	<u>127,986</u>	<u>211,663</u>	<u>(131,016)</u>	<u>(794,918)</u>
2014:					
Realized gains	\$ 24,580,803	83,884	8,275	47,470	24,720,432
Unrealized gains (losses)	3,571,558	382,261	(153,743)	9,901	3,809,977
Other investment income	1,935,527	291,726	—	891,493	3,118,746
Total investment income (loss)	<u>\$ 30,087,888</u>	<u>757,871</u>	<u>(145,468)</u>	<u>948,864</u>	<u>31,649,155</u>

**(5) Pledges Receivable**

Pledges receivable consisted of the following at June 30, 2015 and 2014:

	<u>2015</u>	<u>2014</u>
Amounts receivable in less than one year	\$ 1,186,756	833,215
Amounts receivable in more than one year	1,643,391	2,052,078
Total pledges receivable	2,830,147	2,885,293
Discounts to net present value	(97,967)	(261,752)
Allowance for doubtful pledges	(193,382)	(147,824)
Pledges receivable, net	<u>\$ 2,538,798</u>	<u>2,475,717</u>

Noncurrent pledges receivable are discounted at the Internal Revenue Service discount rate 2.0% and 2.2% for the years ended June 30, 2015 and 2014, respectively. All pledges are for nonendowed gifts.

**(6) Endowments**

*Permanent Endowments.* Permanent endowments are those funds subject to restrictions in gift instruments permitting only the income be used as specified by the donor and that the principal be held in perpetuity.

*Term Endowments.* Term endowments are funds similar to true endowment funds except that upon the passage of a stated period of time or a particular occurrence, all or part of the principal may be expended at any time.

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*Quasi-endowments.* Quasi-endowment funds are subject to donor restrictions in gift instruments permitting the donation only be used for a specified purpose, generally for UNM programs. Any portion of the principal of quasi-endowment funds may be expended for the donor specified purpose at any time.

At June 30, 2015 and 2014, endowments comprised the following:

	<u>2015</u>	<u>2014</u>
Permanent endowment	\$ 174,126,914	174,037,555
Term endowment	441,924	500,320
Quasi-endowment (designated as endowment by the Board of Trustees)	<u>20,703,768</u>	<u>20,294,192</u>
	<u>\$ 195,272,606</u>	<u>194,832,067</u>

If a donor has not provided specific instructions, state law permits the Board of Trustees to authorize for expenditure the interest, dividends, and net appreciation (realized and unrealized) of the investments of endowment funds. Distributions are made from the CIF to UNM entities that benefit from the endowment funds.

The endowment spending policy aims to distribute on an annual basis a percentage of the average market value of the CIF, at the calendar year-end, of the previous 20 quarters. The spending distribution shall not exceed 6% nor be less than 4% of the average market value. The endowment spending policy allows for the spending distribution regardless of whether the fair market value of an individual account exceeds its historic gift value, unless otherwise precluded by the donor or by law. This practice is consistent with the Uniform Prudent Management of Institutional Funds Act.

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June 30, 2015 and 2014

**(7) Composition of Net Position**

Net position consisted of the following at June 30:

	<u>2015</u>	<u>2014</u>
Permanent endowments, nonexpendable	\$ 174,126,914	174,037,555
Annuity gifts, nonexpendable	469,406	1,005,718
Total nonexpendable	174,596,320	175,043,273
Term endowments, expendable after specified time	441,924	500,320
Quasi-endowments, expendable for specified purpose	20,703,768	20,294,192
Total restricted	195,742,012	195,837,785
Designated reserve for annuities payable	1,000,000	1,000,000
Other unrestricted	1,131,929	1,396,794
Total unrestricted	2,131,929	2,396,794
Investment in capital assets	87,930	112,632
Total net position	<u>\$ 197,961,871</u>	<u>198,347,211</u>

**(8) Annuities Payable**

During the years ended June 30, 2015 and 2014, the Foundation had the following annuities payable activity:

	<u>2015</u>	<u>2014</u>
Balance due at beginning of year	\$ 2,848,175	3,577,035
(Reductions) additions to deferred annuities payable	(58,649)	54,556
Net change in actuarial liability	(139,905)	(783,416)
Balance due at end of year	\$ 2,649,621	2,848,175
Amount due in one year	<u>\$ 340,768</u>	<u>345,046</u>

**(9) Wills and Bequests**

The Foundation has been newly named as a beneficiary in wills and bequests totaling \$16,010,674 and \$16,940,397 during the fiscal years ended June 30, 2015 and 2014, respectively.

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

Notes to Financial Statements

June 30, 2015 and 2014

**(10) Operating Expenses**

Operating expenses consisted of the following for the year ended June 30, 2015:

	Operating accounts	General accounts	Endowment accounts	Life income accounts	Total
Staff salaries	\$ 7,190,337	21,004	—	—	7,211,341
Fringe benefits	1,389,326	1,634	—	—	1,390,960
Payroll taxes	488,964	1,700	—	—	490,664
General and administrative	307,501	195,611	57,619	5,295	566,026
Professional services	371,728	51,670	13,959	1,876	439,233
Office lease and building	299,610	9,920	42,379	—	351,909
Donor relations	261,372	314,599	750	—	576,721
Computer equipment and software	256,335	—	—	—	256,335
Travel	218,021	18,481	607	426	237,535
Insurance	62,762	78,167	(565)	—	140,364
Dues and subscriptions	128,257	204	—	—	128,461
Printing, fund-raising, and promotional material	90,652	5,761	—	—	96,413
Postage and mailing	63,080	11,869	10	—	74,959
Audit fees	65,813	4,280	—	—	70,093
Furniture, office equipment, and property	10,165	1,050	18,599	20,151	49,965
Professional development	48,342	—	—	—	48,342
Meeting expense	32,721	—	—	—	32,721
Depreciation	24,703	—	—	3,107	27,810
Property taxes	—	1,173	13,463	8,788	23,424
	<u>\$ 11,309,689</u>	<u>717,123</u>	<u>146,821</u>	<u>39,643</u>	<u>12,213,276</u>

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

Notes to Financial Statements

June 30, 2015 and 2014

Operating expenses consisted of the following for the year ended June 30, 2014:

	Operating accounts	General accounts	Endowment accounts	Life income accounts	Total
Staff salaries	\$ 7,123,250	—	—	—	7,123,250
Fringe benefits	1,294,580	—	—	—	1,294,580
Professional services	607,815	148,403	6,676	315	763,209
Donor relations	290,328	278,741	—	—	569,069
Payroll taxes	441,624	—	—	—	441,624
General and administrative	236,634	88,504	52,922	6,459	384,519
Office lease and building	299,610	—	—	—	299,610
Travel	243,388	27,989	127	—	271,504
Computer equipment and software	255,259	—	—	—	255,259
Printing, fund-raising, and promotional material	147,153	135	—	—	147,288
Insurance	59,315	61,840	3,322	—	124,477
Dues and subscriptions	111,519	—	—	—	111,519
Professional development	78,103	—	—	—	78,103
Audit fees	67,247	—	—	—	67,247
Furniture, office equipment, and property	5,474	9,374	12,844	26,683	54,377
Postage and mailing	50,660	500	—	—	51,160
Property taxes	—	579	33,506	8,353	42,438
Meeting expense	30,735	—	—	—	30,735
Depreciation	24,703	—	—	—	24,703
	<u>\$ 11,367,397</u>	<u>616,065</u>	<u>109,397</u>	<u>41,812</u>	<u>12,134,671</u>

The Foundation leases space in an office building from UNM, under a three-year lease term expiring in fiscal year 2016 and a storage space in Taos, NM expiring in fiscal year 2016. Lease expense in fiscal years 2015 and 2014 was \$313,295 and \$299,610, respectively. The expected lease payment for fiscal years 2015 and 2016 is \$313,470 per year.

**(11) Contingencies**

The Foundation is exposed to various risks of loss from torts; theft of, damage to, and destruction of assets; business interruption; and errors and omissions and natural disasters. The Foundation is insured through private carriers for liability, casualty, and director and officer liability insurance. There have been no significant reductions in coverage from the prior year and settlements have not exceeded coverage in the years ended June 30, 2015 and 2014.

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

Notes to Financial Statements

June 30, 2015 and 2014

**(12) Pension Plan**

Beginning in fiscal year 2009, the Foundation created a defined-contribution 403(b) retirement plan. The plan is available to all full-time employees, beginning with the first day of service. The Foundation administers the plan and contributes the sum of (a) 5% of gross salary for employees who do not contribute to the plan and (b) up to an additional 4% match for employees who do contribute to the plan. The Foundation's contributions to the plan for the years ended June 30, 2015 and 2014 were \$520,000 and \$512,773, respectively.



## **SUPPLEMENTAL INFORMATION**

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

Financial Analysis by Account Group (Unaudited)

June 30, 2015

**Operating Account Group**

The operating account group is used to account for the operating revenues and expenses of the Foundation.

The net position of the operating account group decreased from \$2.5 million at June 30, 2014 to \$2.2 million at June 30, 2015. The decrease was primarily the result of lower investment revenue for the year ended June 30, 2015. Net investment loss in the operating account group totaled negative \$131 thousand for the fiscal year ended June 30, 2015 compared to \$929 thousand for the year ended June 30, 2014. The net investment loss was due to increasing bond interest rates during fiscal year ended June 30, 2015, which caused lower market values for bond investments.

**General Account Group**

The general account group is used to account for current or nonendowed gifts that are expendable by UNM for purposes designated by the donor. Interest earned on nonendowed gifts is transferred to the operating account group. As new gifts are received and all applicable eligibility requirements are met, the Foundation recognizes an asset and revenue and also accrues a payable to the University until the gift funds are transferred to UNM.

Distributions from the general account group to the University decreased from \$18.6 million for the year ended June 30, 2014 to \$16.7 million for the year ended June 30, 2015, a decrease of \$1.9 thousand. The decrease was primarily due to a decrease in nonendowed gifts in the general account group for the year ended June 30, 2015.

**Endowment and Quasi-Endowment Account Group**

Permanent endowments are those funds subject to restrictions in gift instruments requiring that only the income be used as specified by the donor and that the principal be held in perpetuity. Term endowment funds are funds similar to true endowment funds except that upon the passage of a stated period of time or a particular occurrence, all or part of the principal may be expended. Quasi-endowment funds are funds designated by the donor. The principal of quasi-endowment funds may be expended for the donor specified purpose of the endowment at any time.

The spending distribution shall not exceed 6% nor be less than 4% of the average market value. The endowment spending policy allows for the spending distribution regardless of whether the fair market value of an individual account exceeds its historic gift value, unless otherwise precluded by the donor or by law. This practice is consistent with the Uniform Prudent Management of Institutional Funds Act.

The net position of the endowment account group increased from \$194.8 million at June 30, 2014 to \$195.3 million at June 30, 2015, an increase of \$0.5 million, or 0.2%. The majority of this increase is due to donations to permanent endowments.

**Life Income Account Group**

The life income account group is used to account for charitable gift annuities and charitable remainder trusts. Charitable gift annuities require that a portion of the income earned on the fund assets be paid to the donor or other designated beneficiaries during their lifetime. When the gift is received, a liability is recorded that represents an actuarial calculation of the present value of future amounts due under the gift agreement. This liability is adjusted annually. The majority of life income account group assets is invested with endowment account group assets in the CIF and as a result, exhibits similar return characteristics.

UNIVERSITY OF NEW MEXICO FOUNDATION, INC.  
(A Component Unit of the University of New Mexico)

Statement of Net Position Information by Account Group

June 30, 2015

Assets		Operating account group	General account group	Endowment and quasi- endowment account group	Life income account group	Combined total
<b>Current assets</b>						
Cash and cash equivalents - unrestricted		\$ 2,357,462	—	—	—	2,357,462
Cash and cash equivalents - restricted		—	39,571,774	1,224,079	(552,291)	40,243,562
Pledges receivable		—	1,186,756	—	—	1,186,756
Other current assets		213,856	4,940	475	—	219,271
<b>Total current assets</b>		<b>2,571,318</b>	<b>40,763,470</b>	<b>1,224,554</b>	<b>(552,291)</b>	<b>44,007,051</b>
<b>Noncurrent assets</b>						
Investments held in Consolidated Investment Fund		—	—	(86,829,173)	2,129,500	188,958,673
Investments held by the University of the New Mexico Foundation, Inc.		1,007,725	5,557,433	7,079,201	472,138	14,116,497
Pledges receivable		—	1,352,042	—	—	1,352,042
Artwork		—	2,709,002	8,000	—	2,717,002
Real estate		—	5,444	599,310	1,080,318	1,685,072
Capital assets, net		87,930	—	—	—	87,930
<b>Total noncurrent assets</b>		<b>1,095,655</b>	<b>9,624,821</b>	<b>194,515,684</b>	<b>3,681,956</b>	<b>208,918,116</b>
<b>Total assets</b>		<b>\$ 3,666,973</b>	<b>\$0,388,291</b>	<b>\$195,740,238</b>	<b>\$3,129,665</b>	<b>\$252,925,167</b>
<b>Liabilities and Net Position</b>						
<b>Current liabilities</b>						
Accounts payable		\$ 106,531	7,327	—	10,638	124,496
Accrued payroll		1,254,677	4,237	—	—	1,258,914
Amortization payable		—	—	—	340,768	340,768
Advances from the University of New Mexico		92,556	—	—	92,550	92,550
Due to (from) the Consolidated Investment Fund		(6,644)	—	467,632	—	460,988
Due to the University of New Mexico		—	46,309,339	—	—	46,309,339
<b>Total current liabilities</b>		<b>1,447,114</b>	<b>46,320,903</b>	<b>467,632</b>	<b>351,406</b>	<b>48,587,059</b>
<b>Noncurrent liabilities</b>						
Amortization payable		—	—	—	2,308,853	2,308,853
Due to the University of New Mexico		—	4,667,388	—	—	4,667,388
<b>Total noncurrent liabilities</b>		<b>—</b>	<b>4,667,388</b>	<b>—</b>	<b>2,308,853</b>	<b>6,376,241</b>
<b>Total liabilities</b>		<b>1,447,114</b>	<b>\$0,388,291</b>	<b>467,632</b>	<b>2,660,259</b>	<b>\$4,963,296</b>
<b>Net position</b>						
Unrestricted		1,131,929	—	—	—	1,131,929
Designated reserve for annuities payable		1,000,000	—	—	—	1,000,000
Invested in capital assets		87,930	—	—	—	87,930
Restricted		—	—	195,272,606	469,406	195,742,012
<b>Total net position</b>		<b>2,219,859</b>	<b>—</b>	<b>195,272,606</b>	<b>469,406</b>	<b>197,961,871</b>
<b>Total liabilities and net position</b>		<b>\$ 3,666,973</b>	<b>\$0,388,291</b>	<b>\$195,740,238</b>	<b>\$3,129,665</b>	<b>\$252,925,167</b>

See accompanying notes to supplemental information.

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

Statement of Revenues, Expenses and Changes in Net Position Information by Account Group

Year ended June 30, 2015

	Operating account group	General account group	Endowment and quasi- endowment account group	Life income account group	Combined total
<b>Operating revenues:</b>					
Donations and pledges, net	\$ 219,070	16,734,760	1,229,376	—	18,183,206
Direct support from the University of New Mexico	5,641,345	—	—	—	5,641,345
Development funding allocation - Consolidated Investment Fund	2,515,480	—	—	—	2,515,480
Nongift revenue	15,534	684,552	32,934	70,818	803,838
<b>Total operating revenues</b>	<b>8,391,429</b>	<b>17,419,312</b>	<b>1,262,310</b>	<b>70,818</b>	<b>27,143,869</b>
<b>Operating expenses:</b>					
Distributions to the University of New Mexico	—	16,721,819	9,453,789	48,996	26,224,604
General and administrative expenses	11,309,689	717,123	146,821	39,643	12,213,276
<b>Total operating expenses</b>	<b>11,309,689</b>	<b>17,438,942</b>	<b>9,600,610</b>	<b>88,639</b>	<b>38,437,880</b>
<b>Operating (loss) income</b>	<b>(2,918,260)</b>	<b>(19,630)</b>	<b>(8,338,300)</b>	<b>(17,821)</b>	<b>(11,294,011)</b>
<b>Investment (loss) income</b>	<b>(151,016)</b>	<b>98,490</b>	<b>(689,101)</b>	<b>(73,291)</b>	<b>(794,918)</b>
<b>(Loss) income before changes in term and permanent endowments</b>	<b>(3,049,276)</b>	<b>78,860</b>	<b>(9,027,401)</b>	<b>(91,112)</b>	<b>(12,088,929)</b>
<b>Changes in term and permanent endowments:</b>					
Donations	—	—	10,323,705	—	10,323,705
Institutional transfers to CIF	—	—	1,492,654	—	1,492,654
Nongift revenue	—	—	26,981	—	26,981
Adjustment of actuarial liability for annuities payable	—	—	—	198,555	198,555
Expenditure for payments to annuitants and beneficiaries	—	—	—	(338,306)	(338,306)
<b>Total changes in term and permanent endowments</b>	<b>—</b>	<b>—</b>	<b>11,843,340</b>	<b>(139,751)</b>	<b>11,703,589</b>
<b>Transfers:</b>					
Transfers to (from)					
Development funding allocation - Consolidated Investment Fund	2,668,570	—	(2,634,751)	(33,819)	—
Other transfers	91,139	(78,860)	259,351	(271,630)	—
<b>Total transfers</b>	<b>2,759,709</b>	<b>(78,860)</b>	<b>(2,375,400)</b>	<b>(305,449)</b>	<b>—</b>
<b>(Decrease) increase in net position</b>	<b>(289,567)</b>	<b>—</b>	<b>440,539</b>	<b>(536,312)</b>	<b>(385,340)</b>
<b>Net position, beginning of year</b>	<b>2,509,426</b>	<b>—</b>	<b>194,832,067</b>	<b>1,005,718</b>	<b>198,347,211</b>
<b>Net position, end of year</b>	<b>\$ 2,219,859</b>	<b>—</b>	<b>195,272,606</b>	<b>469,406</b>	<b>197,961,871</b>

See accompanying notes to supplemental information.

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

Notes to Supplemental Information

June 30, 2015

**(1) Measurement Focus and Financial Information**

To ensure observance of limitations and restrictions placed on the use of resources available to the Foundation, the assets, liabilities, and net position are reported internally in four self-balancing funds as follows:

*Operating Account Group.* Funds of the Foundation consisting of unrestricted resources and interest and dividends transferred from the general account group as further discussed below.

*General Account Group.* Expendable funds for conveyance to UNM for scholarships, academic and administrative departments, building projects, and other university-related activities. Currently, the interest and dividends earned on assets in this fund are transferred to the operating account group and retained by the Foundation to provide a portion of the operating budget revenue. Cash held in this fund is restricted for the purpose of distributions to UNM.

*Endowment and Quasi-Endowment Account Group.* Permanent endowments are those funds subject to restrictions in gift instruments requiring that only the income be used as specified by the donor and that the principal be held in perpetuity. Term endowment funds are funds similar to true endowment funds except that upon the passage of a stated period of time or a particular occurrence, all or part of the principal may be expended. Quasi-endowment funds are funds designated by the donor. The principal of quasi-endowment funds may be expended for the donor specified purpose of the endowment at any time.

*Life Income Account Group.* Account groups subject to the requirement that part of the income earned on the fund assets be paid periodically to donor-designated beneficiaries. Such income payments terminate at a time specified in the agreements, at which time the principal reverts to the Foundation and equivalent revenue is recognized. Annually, any net residual income or loss is credited/charged to the liability account, "annuities payable." This payable is adjusted annually, through the account group balance, to represent the present value of the aggregate liability for amounts estimated to be paid to beneficiaries based upon the actuarially determined expected lives of the designated beneficiaries.

**(2) Transfers**

Transfers among these account groups are the result of gifts whose restrictions have been satisfied, donors' requests to amend their initial gift restrictions, actions of the Board of Trustees, or payment of the development funding allocation.



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**Independent Auditors' Report on Internal Control over Financial Reporting and on Compliance  
and Other Matters Based on an Audit of Financial Statements Performed in Accordance with  
*Government Auditing Standards***

The Board of Trustees  
University of New Mexico Foundation, Inc.  
and  
Mr. Tim Keller  
New Mexico State Auditor:

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, the financial statements of the University of New Mexico Foundation, Inc. (the Foundation), which comprise the statements of financial position as of June 30, 2015 and 2014, and the related statements of activities and cash flows for the years then ended, and the related notes to the financial statements, and have issued our report thereon dated November 18, 2015.

**Internal Control over Financial Reporting**

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

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

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.



### **Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the Foundation's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

### **Purpose of this Report**

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

**KPMG LLP**

Albuquerque, New Mexico  
November 18, 2015



**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

Schedule of Findings and Responses

June 30, 2015

**Prior Year Findings**

None

**Current Year Findings**

None

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**  
(A Component Unit of the University of New Mexico)

Exit Conference

June 30, 2015

An exit conference was conducted on September 14, 2015, in which the contents of this report were discussed with the following:

**For the University of New Mexico Foundation, Inc.**

Audit Committee Members:

Kimberly Peña, Committee Chair  
Michelle Coons, Board Member  
Nancy Ridenour, Board Member  
Gary Gordon, Board Member

Foundation Management:

Rodney Harder, Chief Financial Officer  
Kenny Stansbury, Controller

**For KPMG LLP**

Suzette Longfellow, Managing Director  
Nicholas Williams, Manager



# THE UNIVERSITY *of* NEW MEXICO FOUNDATION

**UNM Foundation, Inc.  
UNM Regent's Advisor Report  
December 2014**

## *Changing Worlds 2020: The Campaign for UNM*

The University of New Mexico launched *Changing Worlds: The Campaign for UNM* in 2006. Since then, nearly 62,818 generous donors have made this campaign the largest campaign in UNM history, with more than \$688 million in gifts in support of scholarships, patient care, research, and more.

Building on the UNM 2020 goals, but with the same emphasis on student success and opportunity, faculty support and research, campus programs, and capital projects and facilities, President Robert G. Frank has announced that the campaign has been refreshed and extended. *Changing Worlds 2020: The Campaign for UNM* will continue to energize alumni and friends to make meaningful gifts.

Folding in the current campaign results, the goal has been set to strive for a total of \$1 billion in private support by the end of 2020.

### **Specific fundraising highlights:**

**UNM Athletics** received a gift of \$1.7 million.

**The Center on Alcoholism, Substance Abuse & Addictions** received a gift of \$530,000.

**School of Medicine's Department of Pediatrics** received a gift of \$500,000.

**University Hospital** received a gift of \$350,000.

**Children's Miracle Network** received a gift of \$145,000.

**HSC Units (Various- Cancer, Pediatrics, Cardio and Lupus Research)** received a gift of \$96,000.

**EXHIBIT  
D**



## Fundraising Performance Report

FY 14/15, September 30, 2014

Changing Worlds 2020 Campaign	CASE Campaign Standards			VSE Standards
	Campaign to Date	GOAL	% OF GOAL	To Date
Gift Commitments	\$ 681,645,807	\$1,000,000,000	68.2%	\$ 503,014,449
- Cash/Cash Equivalents	396,307,068	N/A	N/A	503,014,449
- In-Kind	67,734,852	N/A	N/A	N/A
- Pledges	90,160,859	N/A	N/A	N/A
- Testamentary	127,443,028	N/A	N/A	N/A
Pledges Due	26,681,857	N/A	N/A	N/A
Testamentary Gifts Due	108,064,105	N/A	N/A	N/A

Council for Advancement and Support of Education (CASE) reporting is on an "accrual basis" and Voluntary Support of Education (VSE) reporting is on a "cash basis".

Gift Commitments (Fiscal Year)	This Quarter	FYTD 14/15	GOAL	FY 13/14
<b>Main Campus</b>				
- Cash/Cash Equivalents	\$ 3,101,272	\$ 3,101,272	N/A	\$ 9,333,205
- In-Kind	2,160,415	2,160,415	N/A	6,206,755
- Pledges	1,055,000	1,055,000	N/A	1,766,851
- Testamentary	27,500	27,500	N/A	5,825,867
Sub-Total	\$ 6,344,187	\$ 6,344,187	\$ 21,600,000	\$ 23,132,678
<b>HSC</b>				
- Cash/Cash Equivalents	\$ 7,859,087	\$ 7,859,087	N/A	\$ 14,191,281
- In-Kind	545,668	545,668	N/A	2,269,989
- Pledges	45,000	45,000	N/A	2,039,834
- Testamentary	108,000	108,000	N/A	8,689,881
Sub-Total	\$ 8,557,755	\$ 8,557,755	\$ 24,175,000	\$ 27,190,985
<b>Athletics</b>				
- Cash/Cash Equivalents	\$ 729,273	\$ 729,273	N/A	\$ 5,409,133
- In-Kind	66	66	N/A	3,423,728
- Pledges	-	-	N/A	915,000
- Testamentary	-	-	N/A	1,806,946
Sub-Total	\$ 729,339	\$ 729,339	\$ 10,750,000	\$ 11,554,807
<b>Other Campus Units *</b>				
- Cash/Cash Equivalents	\$ 5,237,401	\$ 5,237,401	N/A	\$ 14,276,837
- In-Kind	-	-	N/A	7,854,410
- Pledges	5,000	5,000	N/A	3,028,100
- Testamentary	2,322,500	2,322,500	N/A	592,703
Sub-Total	\$ 7,564,901	\$ 7,564,901	\$ 23,475,000	\$ 25,752,050
<b>Total</b>	<b>\$ 23,196,182</b>	<b>\$ 23,196,182</b>	<b>\$ 80,000,000</b>	<b>\$ 87,630,520</b>

\* Other campus units include KNME, KUNM, UNM Branch Campuses, President's Office, Provost's Office, Enrollment Services, Student Affairs and numerous other units not classified as main campus, HSC or athletics.

Gift Destinations	This Quarter	FYTD 14/15	FY 13/14	FY 12/13
UNM Foundation	\$ 9,394,772	\$ 9,394,772	\$ 51,480,258	\$ 48,385,834
Reported Gifts *	\$ 13,801,410	\$ 13,801,410	\$ 36,150,262	\$ 33,212,783
<b>Total</b>	<b>\$ 23,196,182</b>	<b>\$ 23,196,182</b>	<b>\$ 87,630,520</b>	<b>\$ 81,598,617</b>

\* Reported Gifts = gifts made directly to KNME, KUNM, Lobo Club, and OVPR, but reported by UNM Foundation per MOA.

## Fundraising Performance Report

FY 14/15, September 30, 2014

Gift Commitments (Fiscal Year)	FYTD 14/15	FY 13/14	FY 12/13
Cash/Cash Equivalents	\$ 16,927,033	\$ 43,210,456	\$ 49,811,524
Pledges			
- Beginning Balance Pledges Receivable	\$ 27,119,237	\$ 28,290,140	28,115,352
- Add: New Pledges	\$ 1,177,000	\$ 7,843,202	5,034,503
- Less: Pledge Payments	\$ (1,542,380)	\$ (8,920,688)	\$ (4,771,965)
- Less: Pledges Modified/Written Off	\$ (72,000)	\$ (93,417)	(87,750)
- Ending Balance Pledges Receivable	\$ 26,681,857	\$ 27,119,237	28,290,140
In Kind	\$ 2,706,149	\$ 19,754,882	9,831,358
Testamentary	\$ 2,458,000	\$ 16,915,397	17,008,982
Total	\$ 23,196,182	\$ 87,630,520	\$ 81,598,617

Performance Measures	This Quarter	FYTD 14/15	FY 13/14	FY 12/13
Gift Commitment Income	\$ 23,196,182	\$ 23,196,182	\$ 59,905,776	\$ 81,598,617
# of Gifts	6,120	6,120	34,885	33,902
# of Donors	3,199	3,199	14,322	14,932

Efficiency Measures	FYTD 14/15	FY 13/14	FY 12/13	FY 11/12
Cost per Dollar Raised *	\$0.11	\$0.13	\$0.12	\$0.11

\* Compares UNM Foundation budget expenditures to gift commitments.

## Consolidated Investment Fund - Investment Performance

FY 14/15, September 30, 2014

Investment Performance Results	Market Value	FYTD	1-Year	3-Year	5-Year
FY 14/15 (September 30, 2014)	\$ 407,043,156	-0.50%	12.00%	12.20%	9.70%
Custom Benchmark *		-1.10%	9.70%	11.10%	8.60%
FY 13/14 (June 30, 2014)	\$ 409,136,821	N/A	16.70%	9.50%	11.50%
Custom Benchmark *		N/A	16.30%	8.50%	10.90%
NACUBO/Commonfund **		N/A	0.00%	0.00%	0.00%

\* Custom Benchmark is a blended benchmark consisting of indices for all asset classes.

\*\* NACUBO/Commonfund Endowment Study (\$101 million to \$500 million)

## Consolidated Investment Fund - Asset Allocation

FY 14/15, September 30, 2014

Investment Class	Current Allocation	Target Allocation	Investment Policy Ranges
Domestic Equity	20.4%	20%	10% - 50%
International Equity	19.6%	20%	10% - 40%
Fixed Income/Cash	19.1%	20%	10% - 50%
Real Assets - Liquid	3.8%	5%	0% - 5%
Real Assets - Illiquid	6.2%	5%	0% - 10%
Hedge Funds	19.3%	20%	0% - 20%
Private Equity	11.6%	10%	0% - 15%

### Consolidated Investment Fund - Spending Distribution

FY 14/15, September 30, 2014

CIF Spending Distribution	FY 14/15	FY 13/14	FY 12/13	FY 11/12
Spending Distribution %	4.50%	4.50%	4.50%	4.50%
Total \$ Distribution (millions)	N/A	\$ 13,843,961	\$ 13,489,948	\$ 13,984,508
Total \$ Distribution/Unit	N/A	\$10.92	\$10.47	\$10.58

### Consolidated Investment Fund - Development Funding Allocation

FY 14/15, September 30, 2014

Development Funding Allocation	Basis Points %	Dev Funding Allocation	Total Budget Expenditures	% Overall Budget
FYTD 14/15	1.40%	\$1,261,618	\$2,547,157	50%
FY 13/14	1.40%	\$4,655,028	\$11,367,397	41%
FY 12/13	1.85%	\$5,574,795	\$9,757,964	57%
FY 11/12	1.85%	\$5,906,418	\$9,106,051	65%
FY 10/11	1.85%	\$5,726,764	\$9,469,965	60%

### UNM Foundation Budget vs. Actual

FY 14/15, September 30, 2014

Sources of Budget	Budget	FYTD	% Used	Projected
UNM Support	\$ 4,821,000	\$ 1,473,992	30.57%	\$ 4,850,367
Development Funding Allocation	4,783,150	1,261,618	26.38%	5,046,475
Short-Term Investment Income	905,000	14,153	1.56%	145,000
Cost Sharing Reimbursement	719,600	186,911	25.97%	747,644
Unrestricted Gifts & Other Revenue	125,000	127,013	101.61%	156,685
<b>Total</b>	<b>11,353,750</b>	<b>3,063,687</b>	<b>26.98%</b>	<b>10,946,171</b>

Uses of Budget	Budget	FYTD	% Used	Projected
Salaries/Fringe Benefits	\$ 9,073,158	\$ 2,106,911	23.22%	\$ 9,026,212
Operating Expenditures	2,465,134	440,246	17.86%	2,455,915
<b>Total</b>	<b>11,538,292</b>	<b>2,547,157</b>	<b>22.08%</b>	<b>11,482,127</b>

Reserve Balances	Budget	FYTD	% Used	Projected
Surplus/(Deficit) from Operations	\$ (184,542)	\$ 516,530	N/A	\$ (535,956)
Beginning Reserve Balances	1,561,441	1,561,441	N/A	1,561,441
Ending Reserve Balances	1,376,899	2,077,971	N/A	1,025,485

THE UNIVERSITY OF NEW MEXICO  
MR. AND MRS. HUGH B. AND HELEN K. WOODWARD ENDOWMENT  
FUNDED BY THE SANDIA FOUNDATION

	2009-10	2010-11	2011-12	2012-13	
<b><u>PRINCIPAL/CORPUS</u></b>					
BEGINNING MARKET VALUE, JULY 1:	\$ 30,698,788	\$ 32,422,373	\$ 37,282,001	\$ 36,545,942	\$
ADDITIONS	877,500	1,125,000	1,260,000	1,327,500	
INVESTMENT EARNINGS	3,238,163	6,040,038	132,283	4,119,725	
DEVELOPMENT FUNDING ALLOCATION	(623,475)	(643,802)	(603,057)	-	
SPENDING DISTRIBUTION	(1,768,603)	(1,661,606)	(1,525,285)	(1,779,428)	
ENDING MARKET VALUE, JUNE, 30:	<u>\$ 32,422,373</u>	<u>\$ 37,282,001</u>	<u>\$ 36,545,942</u>	<u>\$ 40,213,741</u>	<u>\$</u>

(1) FY 2014-15 Net Investment Earnings:	Represents the actual net investment earnings through September 30, 2014. Net investment earnings for FY 2014-15, through September 30, 2014, were 0.0%, net of manager fees.
(2) FY 2014-15 Spending Distribution:	Represents the quarterly spending distributions from July 1, 2014, through September 30, 2014.
(3) FY 2014-15 Development Funding Allocation:	The Development Funding Allocation is not assessed on the Woodward endowment.

THE UNIVERSITY OF NEW MEXICO  
WINROCK LAND SALE ENDOWMENT

	2009-10	2010-11	2011-12	2012-13
<b><u>PRINCIPAL CORPUS</u></b>				
BEGINNING MARKET VALUE, JULY 1:	\$ 24,076,066	\$ 24,767,866	\$ 27,587,901	\$ 26,069,492
ADDITIONS	-	-	-	-
INVESTMENT EARNINGS	2,544,475	4,553,291	97,208	2,900,008
DEVELOPMENT FUNDING ALLOCATION	(483,585)	(485,153)	(486,943)	(496,004)
SPENDING DISTRIBUTION	(1,369,089)	(1,248,103)	(1,128,674)	(1,053,461)
ENDING MARKET VALUE, JUNE, 30:	\$ 24,767,866	\$ 27,587,901	\$ 26,069,492	\$ 27,420,035

(1) FY 2014-15 Net Investment Earnings:	Represents the actual net investment earnings through September 30, 2014. Net investment 2014, through September 30, 2014, were 0.0% net of manager fees.
(2) FY 2014-15 Spending Distribution:	Represents the quarterly spending distributions from July 1, 2014, through September 30, 2014.



THE UNIVERSITY OF NEW MEXICO  
REGENTS' ENDOWMENT

	2006-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2
<b>PRINCIPAL CORPUS</b>								
BEGINNING MARKET VALUE, JULY 1:	\$26,548,336	\$32,325,235	\$36,674,360	\$35,018,526	\$25,165,952	\$25,899,070	\$28,836,794	\$ 2
ADDITIONS:								
MESA DEL SOL PROPERTY SALE	8,045,823	-	-	-	-	-	-	-
WITHDRAWALS:								
ASM STUDENT INVESTMENT PROGRAM	(2,000,000)	-	-	-	-	-	-	-
INNOVATE ABQ	-	-	-	-	-	-	-	-
GIBSON&JILBERRY PROPERTY PURCHASE	(1,645,435)	-	-	-	-	-	-	-
2011 CAMPUS PROPERTY PURCHASE	(240,798)	-	-	-	-	-	-	-
SCHOLARSHIP FUNDING	-	-	-	(880,628) (3)	-	-	-	-
BASEBALL FIELD CAPITAL PROJECT	-	-	-	-	-	-	-	-
INVESTMENT EARNINGS	2,789,585	6,123,941	284,843	(7,080,716)	2,859,859	4,759,412	101,609	-
DEVELOPMENT FUNDING ALLOCATION	-	(329,734)	(306,416)	(335,328)	(505,476)	(507,115)	(508,986)	-
SPENDING DISTRIBUTION	(1,170,485)	(1,445,061)	(1,542,092)	(1,576,008)	(1,431,066)	(1,304,603)	(1,178,768)	-
ENDING MARKET VALUE, JUNE 30:	\$32,325,235	\$36,674,360	\$35,916,526	\$25,165,952	\$25,899,070	\$28,836,794	\$27,249,619	\$ 2

(1) FY 2014-15 Net Investment Earnings:	Represents the actual net investment earnings through September 30, 2014. Net investment earnings for the period of July 1, of manager fees.
(2) FY 2014-15 Spending Distribution:	Represents the quarterly spending distributions from July 1, 2014, through September 30, 2014.
(3) FY08-09 Withdrawal for scholarship funding:	\$1,000,000 was authorized to be withdrawn from the Regents' Endowment for FY08-09 scholarship funding. Of the authorized endowment.
(4) Mesa Del Sol Property Sale:	The Regents' Endowment includes proceeds from the "Mesa del Sol" property sale. Total proceeds of this sale were \$8,045,823; endowment in June of 2006. The Mesa del Sol contribution is not tracked separately, but an estimated value based on net investment withdrawals, and development funding allocations for the Regents' Endowment since fiscal year 2006, is \$4,887,770.

THE UNIVERSITY OF NEW MEXICO  
REGENTS' ENDOWMENT - MESA DEL SOL ADDITION

	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
<b>PRINCIPAL CORPUS</b>							
BEGINNING MARKET VALUE, JULY 1:	\$ -	\$ 8,045,923	\$ 9,128,444	\$ 8,716,297	\$ 6,483,107	\$ 6,689,392	\$ 7,428,780
ADDITIONS:							
MESA DEL SOL PROPERTY SALE	8,045,923	-	-	-	-	-	-
WITHDRAWALS:							
MERIT-BASED SCHOLARSHIPS	-	-	-	-	-	-	-
INNOVATE ABQ	-	-	-	-	-	-	-
GIBSON/MULBERRY PROPERTY PURCHASE	-	-	-	-	-	-	-
2811 CAMPUS PROPERTY PURCHASE	-	-	-	-	-	-	-
BASEBALL FIELD CAPITAL PROJECT	-	-	-	-	-	-	-
INVESTMENT EARNINGS	-	1,524,281	70,849	(1,757,450)	685,188	1,226,092	26,176
DEVELOPMENT FUNDING ALLOCATION	-	(82,073)	(99,188)	(83,484)	(130,218)	(130,840)	(131,122)
SPENDING DISTRIBUTION	-	(359,686)	(383,827)	(392,276)	(368,883)	(336,084)	(303,925)
ENDING MARKET VALUE, JUNE 30:	\$ 8,045,923	\$ 9,126,444	\$ 8,716,297	\$ 6,483,107	\$ 6,689,392	\$ 7,428,780	\$ 7,019,889

(1) FY 2014-15 Net Investment Earnings:	Represents the actual net investment earnings through September 30, 2014. Net investment earnings for the 2014, were 0.0%, net of manager fees.
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(2) FY 2014-15 Spending Distribution:	Represents the quarterly spending distributions from July 1, 2014, through September 30, 2014.
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(4) Mesa Del Sol Property Sale:	The Regents' Endowment includes proceeds from the "Mesa del Sol" property sale. Total proceeds of this sale added to the Regents' endowment in June of 2006. The Mesa del Sol contribution is not tracked separately, but earnings, spending distributions, withdrawals, and development funding allocations for the Regents' Endowment
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# Columbia Journalism Review.

ANNOUNCING THE **2017 Whiting Creative Nonfiction Grant** FOR BOOKS IN PROGRESS

## How university foundations try to avoid public scrutiny—and what reporters can do

**IN 2012**, College of DuPage President Robert Breuder paid (<http://www.chicagotribune.com/news/watchdog/cod/ct-college-of-dupage-foundation-expenses-20150701-story.html#page=1>) \$185 to taxidermize a cock pheasant. He gave the bird, mounted on an oak stand, to an upscale campus restaurant, where it serves as a decorative piece.

A year later, Breuder bought (<http://www.chicagotribune.com/news/watchdog/cod/ct-college-of-dupage-foundation-expenses-20150701-story.html#page=1>) a black-powder rifle as a gift for the outgoing president of the college's foundation board. The rifle and its case, supplied by a Pennsylvania dealer, cost \$610.

In 2014, Breuder spent (<http://www.chicagotribune.com/news/watchdog/cod/ct-college-of-dupage-foundation-expenses-20150701-story.html#page=1>) \$1,292 on a hunting excursion at an exclusive game reserve one hour from the college's Glen Ellyn, Ill., campus. He hosted three guests, and the tab covered their meals and wine, gun rental and ammunition, and hunting licenses.

**EXHIBIT  
E**

Breuder expensed (<http://www.chicagotribune.com/news/watchdog/cod/ct-college-of-dupage-foundation-expenses-20150701-story.html#page=1>) each bill to the College of DuPage Foundation, whose main mission is to raise funds for student scholarships at the college. The bills came to light because the *Chicago Tribune* in April requested, under the state public-records law, foundation and college documents related to Breuder's spending.

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Initially, the college said it didn't have responsive records, and the foundation refused to release anything—so the *Tribune* filed a lawsuit (<http://www.chicagotribune.com/news/chi-chicago-tribunes-college-of-dupage-lawsuit-20150429-htmlstory.html>) to compel disclosure. Around the same time, Breuder went on administrative leave pending the outcome of several criminal investigations of his spending. Then, this month, with new leadership in place, the college released some records from Breuder's files, 500 pages in all.

As the *Tribune* reported (<http://www.chicagotribune.com/news/watchdog/cod/ct-college-of-dupage-foundation-expenses-20150701-story.html#page=1>):

*The records show how Breuder used donor money to engage his passions for hunting, wine and fine dining. The documents also reinforce Breuder's reputation as a chief executive who lived well on the school's tab and often spent in a manner at odds with a community college's mission of providing an affordable education. ... Records show ... that Breuder only occasionally hosted potential donors. Instead, he spent the money on trustees, senior managers, foundation board members and vendors of the college.*

The paper has been investigating the College of DuPage since January, and its series (<http://www.chicagotribune.com/news/watchdog/cod/>), as of this writing, includes roughly 60 stories with contributions from reporters Jodi S. Cohen, Stacy St. Clair, and Christy Gutowski. They have reported on everything from prosecutors' interest (<http://www.chicagotribune.com/news/watchdog/cod/ct-college-of-dupage-foundation-subpoena-20150714-story.html>) in the foundation to non-competitive contracts (<http://www.chicagotribune.com/news/watchdog/cod/ct-college-of-dupage-lawyers-20150501-story.html>) awarded to foundation board members.

"[The college] is supported by taxpayer money, and taxpayers have a right to know how that money is being spent," said Mark Jacob, the *Tribune's* associate managing editor for metro news. "It's our obligation as a news organization to try to keep track of how public money is being spent."

Jacob added that when the college released the records from Breuder's files, it didn't concede that it had done anything wrong, nor did the college concede that it was releasing the records because of the lawsuit. Indeed, the lawsuit is ongoing, with the college and foundation circling their wagons. (They are separate parties, represented by different counsel.)

The *Tribune* isn't satisfied by the seemingly stopgap disclosures and is insisting that the college and foundation release all other responsive documents. For its part, the foundation claims that as a nongovernmental nonprofit corporation, it's not subject (<http://www.chicagotribune.com/news/watchdog/cod/ct-college-of-dupage-lawsuit-20150429-story.html>) to the state public-records law, and the college agrees.

In its answer (<https://www.dropbox.com/s/dfqgpnaxhi88uf/dupage%20answer%20to%20complaint.pdf?dl=0>) to the *Tribune*'s complaint, the college makes the expected arguments (e.g., the lawsuit is moot because the college has produced, or will, the responsive documents). But the answer goes further. It denies that the foundation is a public body or a subsidiary of one. It denies that the foundation is contracted with a public body to perform public functions on the college's behalf. And, thus, it denies that the foundation is subject to the public-records law.

Randall Samborn, a spokesman for the college, declined to comment.

The *Tribune* claims the college is using its foundation, housed on campus and staffed by college employees, "as an artifice to circumvent" the law: "The foundation is mostly or entirely under the control of [the college, which] has been using the existence of the foundation as an excuse or a subterfuge to shield its financial records and expenditures from public view," according to the complaint (<http://www.chicagotribune.com/news/chi-chicago-tribunes-college-of-dupage-lawsuit-20150429-htmlstory.html>).

At least one other Chicago news organization shares those concerns. The *Daily Herald*, which covers the suburbs, has (<http://www.dailyherald.com/article/20150402/news/150409608/>) reported on (<http://www.dailyherald.com/article/20150415/news/150419111/>) the DuPage controversy and to some extent backstopped the *Tribune*'s reporting by requesting from the college copies of, and responses to, every *Tribune* inquiry.

"The college's FOIA officer was under siege once the *Tribune* stories began," said Jake Griffin, the *Daily Herald*'s assistant managing editor for watchdog reporting. "We were almost automatically receiving extension requests [and then] ... waiting 10 days for the college to respond to a request that [it] literally had already responded to."

Griffin added, "What good does it serve to keep the activities of the foundation free of public scrutiny and oversight, especially considering [that it's] using the auspices of the college as the means for generating funding?"

Good question.

**'Public bodies cloaked in a thin private veneer'**

The DuPage case isn't unique—it's characteristic of efforts nationwide to define, defend, and challenge the legal status of foundations and other entities affiliated with public colleges and universities. At the University of Kansas (<http://www2.ijworld.com/news/2015/jun/09/case-headed-trial-ku-students-seeking-records-rela/>), for example, the director of the Center for Applied Economics claimed in June that he was not a public employee subject to the state public-records law, because money used to pay him is funneled through the school's private foundation. And in Connecticut, lawmakers are preparing (<http://www.courant.com/politics/capitol-watch/hc-gop-lawmakers-press-for-greater-transparency-at-uconn-20150625-story.html>) a bill to require the secretive UConn Foundation to be more transparent. The foundation drew criticism last year for spending more than \$250,000 on a Hillary Clinton lecture and for agreeing to pay \$300,000 toward an increase in the university president's compensation.

Foundations come in all shapes and sizes, but mostly they're private 501(c)(3) nonprofit corporations dedicated to serving one school or one public system. They've become critical cogs in the academic wheel as state support for higher education has waned. And they're performing essential tasks once performed only or chiefly by universities themselves, such as raising funds for scholarships and for campus construction projects, even managing institutional investment portfolios. Theirs, then, are public functions: Without the foundation, the university would have to use public resources to perform the functions itself.

Their significant responsibilities (and occasional bad behavior) have put foundations in the public eye. They're typically supported by donations rather than taxpayer money, but, as one advocacy group put it, they "live and breathe through the university umbilical cord" (<http://www.splc.org/article/2003/12/foundations-of-secrecy>) as "public bodies cloaked in a thin private veneer." ([http://s3.amazonaws.com/cdn.getsnworks.com/spl/pdf/rs\\_foundations.pdf](http://s3.amazonaws.com/cdn.getsnworks.com/spl/pdf/rs_foundations.pdf)) With that in mind, should a public university's private foundation be subject to a state public-records law?

The answer is yes, it *should* be.

"Most foundations, given what, who and how much they fund at state universities, already amount to quasi-government agencies," said Clay Calvert, a First Amendment scholar at the University of Florida. "It's only a legal fiction to suggest they are not full government agencies."

But numerous states have embraced that fiction. According to a 2015 study ([http://www.quinnipiac.edu/prebuilt/pdf/SchoolLaw/LawReviewLibrary/Vol33\\_Issue2\\_2015\\_capeloto.pdf](http://www.quinnipiac.edu/prebuilt/pdf/SchoolLaw/LawReviewLibrary/Vol33_Issue2_2015_capeloto.pdf)) by Alexa Capeloto, an assistant professor of journalism at the John Jay College of Criminal Justice, state statutes and case law have set out inconsistent standards to determine what records and types of organizations are subject to sunshine laws.

At least 20 states have tried to classify public-university foundations through legislation or case law, and in at least 11 of them, the classification favors the finding that foundations are the alter ego of their universities and subject to public-records laws. In the other nine states, foundations are exempt from such laws or generally protected from them by courts. Elsewhere, the question remains unresolved, according to Capeloto's study.

Consider state statutes. Lawmakers have been most active in states, such as Connecticut, where a foundation controversy has made (<http://www.courant.com/education/hc-uconn-foundation-transparency-0227-20150226-story.html>) headlines (<http://www.courant.com/politics/hc-uconn-foundation-transparency-0317-20150316-story.html>). California Gov. Jerry Brown, for example, signed a bill (<http://www.sandiegouniontribune.com/news/2011/sep/07/brown-signs-bill-requiring-university-disclosure/>) in 2011 extending the state public-records law to university-affiliated foundations in the two state systems—after it came out that the CSU Stanislaus Foundation had hosted a \$500-per-plate black-tie gala honoring former Alaska Governor Sarah Palin.

Notably, only seven other states have passed a law providing *clear* guidance on whether a public university's private foundation is subject to its state public-records law, according to Capeloto's study. And four of those states classify foundations as nonpublic bodies.

Now, consider case law. Courts have used three main criteria to guide their decisions: funding, function, and creation/control. Courts that focus on *funding* have said a foundation is public if it accepts university or taxpayer money. Courts that focus on *function* have said a foundation is public if it operates as an alter ego of its university. Courts that focus on *creation/control* have said a foundation is public if the university created and controls it. And, more narrowly, whether a disclosure law applies to a foundation depends on the law's precise definition of a covered body.

### **Clarify and scrutinize**

To be sure, foundations aren't without their benefits. They're usually free from state regulations on property transactions that can slow down deals, for example, and free to invest in a variety of financial markets and accounts. And, to the extent they're immune to sunshine laws, foundations offer discretion, sometimes explicitly. The University of New Mexico Foundation states (<https://www.unmfund.org/faq-category/foundation-and-university-relations/>) on its website that it offers donors "[g]reater assurance of ... confidentiality, since [it] is a separate not-for-profit corporation and not subject to open records laws."

But students, taxpayers, and donors have a legitimate interest in monitoring foundation activity, with the media serving routinely as their eyes and ears. It's probably true that foundations make universities more nimble and flexible, but it's true at the expense of transparency and accountability. Those values are supposed to distinguish an organization that performs public functions. They're baked into our system of government and more important than nimbleness and flexibility—and, dare we say, donor privacy.

Universities and foundations have claimed often that revealing any identifying information about donors would chill fundraising. But, as Capeloto and other scholars ([https://litigation-essentials.lexisnexis.com/webcd/app?](https://litigation-essentials.lexisnexis.com/webcd/app?action=DocumentDisplay&crawlid=1&srctype=smi&srcid=3B15&doctype=cite&docid=34+J.L.+%26+Educ.+389&key=c3bbaf908a99942e4aa2cd92557bd5ac)

[action=DocumentDisplay&crawlid=1&srctype=smi&srcid=3B15&doctype=cite&docid=34+J.L.+%26+Educ.+389&key=c3bbaf908a99942e4aa2cd92557bd5ac](https://litigation-essentials.lexisnexis.com/webcd/app?action=DocumentDisplay&crawlid=1&srctype=smi&srcid=3B15&doctype=cite&docid=34+J.L.+%26+Educ.+389&key=c3bbaf908a99942e4aa2cd92557bd5ac)) have noted, that's unproven.

Moreover, there's an arguable public interest in the openness of donor information.



"Whether donors are buying influence with public agencies is the information that the public needs the most," said Frank LoMonte, executive director of the Student Press Law Center. "It's ironic that the institutions that claim they'll be unable to raise money if they can't protect their donors' privacy will engrave their donors' names in 10-foot-high letters into the facades of buildings."

Fundraising is central to a public university's operations and subsistence, and it makes little sense to allow one to offload its essential functions onto an artificially separate, private entity with the purpose or effect of evading accountability. Recent years have yielded too many scandals at foundations, brought to light by journalists who scoured their financial records.

In 2005, the *Atlanta Journal-Constitution* successfully sued ([http://s3.amazonaws.com/cdn.getsnworks.com/spl/pdf/ts\\_foundations.pdf](http://s3.amazonaws.com/cdn.getsnworks.com/spl/pdf/ts_foundations.pdf)) the University System of Georgia Foundation to obtain its donor lists, which revealed that its affiliated colleges were awarding contracts to companies after they donated to a fund that supplemented the chancellor's salary. Two years earlier, an investigative audit ([http://s3.amazonaws.com/cdn.getsnworks.com/spl/pdf/ts\\_foundations.pdf](http://s3.amazonaws.com/cdn.getsnworks.com/spl/pdf/ts_foundations.pdf)) at Florida Atlantic University revealed that its foundation had allocated \$42,000 to buy a red Corvette for FAU's outgoing president.

Not every foundation is a bad actor, but that's not a precondition to public accountability in circumstances that call for it—and these do. "As state and taxpayer funding continues to dry up for public universities," Calvert said, "the foundations play ramped-up roles in helping to sustain the universities with which they are associated." Those roles deserve public scrutiny.

And the public deserves clarity in the law. Legislatures should decree that public-university foundations are subject to the same records laws as the universities they support. Courts should cut through any artifice and conclude that a university-affiliated foundation that exists for the purpose of serving the university and performing public functions is an arm of the state and accountable to its citizens.

Meanwhile, foundations should view those laws as a floor rather than a ceiling, making it a policy to release more than simply the minimum required by law. And journalists should push foundations to be transparent, and use all manner of documents to watchdog them, including annual reports and tax returns (generally, nonprofits are required to make them available, and they can be treasure troves).

Scrutiny and clarity are key. Otherwise, many foundations will continue to hide in plain sight by clinging to a legal fiction.

"If an organization is staffed by public employees, spends the public's money, or acts on behalf of the government, then the public has a right to know what is going on," said Adam Marshall, a legal fellow at the Reporters Committee for Freedom of the Press. "This is especially true at public universities, which are specially charged with increasing the knowledge and general welfare of our states."

*This post has been updated to include the names of the Chicago Tribune reporters involved in the DuPage series.*



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Jonathan W. Peters and Jackie Spinner co-wrote this piece. Peters is CJR's press freedom correspondent. An attorney, he is an assistant professor of journalism at the University of Kansas, where he teaches and researches media law and policy, with an affiliate research position exploring big data and Internet governance in the KU Information & Telecommunication Technology Center. Spinner is CJR's correspondent for Illinois and Indiana.

**From:** Paul Krebs [pkrebs@unm.edu]  
**Sent:** Tuesday, May 26, 2015 3:08 PM  
**To:** Stuart.Starner@unmfund.org  
**Cc:** Tim Cass  
**Subject:** FUNDRAISING PRIORITIES.docx  
**Attachments:** FUNDRAISING PRIORITIES.docx

Stu

Tim and I have reviewed and these are the priorities for fund raising opportunities. They are in priority order.

Paul



## FUNDRAISING PRIORITIES

1. Olympic Sports Performance Center
2. Phase 3 of Baseball Stadium
3. Football Stadium Upgrades
4. Track Locker Room
5. Sand Volleyball Courts
6. Soccer Stadium
7. Phase 2 of Tennis
8. Endowed Scholarships
9. Facility Branding Program

**From:** Paul Krebs [pkrebs@unm.edu]  
**Sent:** Wednesday, November 12, 2014 4:45 PM  
**To:** Henry Nemcik  
**Cc:** Robert Frank; Amy Wohler; Sandy Liggett  
**Subject:** RE: WisePies Gift Agreement

Henry  
Thanks for the email. I will review tonight.  
Paul

---

**From:** Henry Nemcik [mailto:Henry.Nemcik@unmfund.org]  
**Sent:** Wednesday, November 12, 2014 4:42 PM  
**To:** Paul Krebs  
**Cc:** Robert Frank; Amy Wohler; Sandy Liggett; Henry Nemcik  
**Subject:** WisePies Gift Agreement

Paul,

We have done our best to try to rewrite the changing parameters of this gift. As we discussed, one of the more difficult challenges is to make the payment schedule line up with the term of the gift and we have given you two payment schedules to address this issue. After your discussion with Steve feel free to make any changes you want and Sandy and I will reflect those changes in a revised document in time for the Regents' meeting on Friday. If you transmit the changes electronically, please send the information to Suzanne Awen at [suzanne.awen@unmfund.org](mailto:suzanne.awen@unmfund.org). (Please confirm that you have received this email and were able to open the attached gift agreement).

Thanks for your hard work on this initiative.

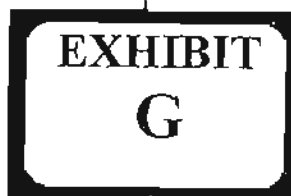
Regards,  
Henry

Henry Nemcik  
President and CEO

UNM Foundation  
700 Lomas Blvd NE  
Two Woodward Center  
Albuquerque, NM 87102

[Henry.Nemcik@unmfund.org](mailto:Henry.Nemcik@unmfund.org)

505.277.1586 fax: 505.277.8305





THE UNIVERSITY of  
NEW MEXICO FOUNDATION

## GIFT AGREEMENT

Between

UNIVERSITY OF NEW MEXICO FOUNDATION, INC.

And

WISEPIES FRANCHISE SERVICES LLC

This Gift Agreement ("Agreement") sets forth the understanding between **WisePies Franchise Services LLC**, a New Mexico domestic limited liability company (the "Donor") and The University of New Mexico Foundation, a New Mexico nonprofit corporation organized and operated exclusively for educational, scientific, literary, and charitable purposes within the meaning of Section 501(c) (3) of the Internal Revenue Code of 1986, as amended (the "Foundation"), with respect to the Donor's creation and the Foundation's administration of the **WisePies Fund** (the "Fund").

- 1. Purpose of the Gift:** After the initial establishment of the Fund, Donor hereby pledges to make and transfer a gift of \$5,000,000 over a period of ten years to create the WisePies Fund to support the UNM Athletics Department and to name the University Arena as the "WisePies Arena" for a period of up to ten years.

The Fund shall be administered by the UNM Foundation in accordance with its Articles of Incorporation and Bylaws and the laws of the State of New Mexico. The Fund shall be identified as the WisePies Fund and all expenditures from the Fund shall carry the name of the Fund.

The University of New Mexico has appointed the following named University official and his or her successors to be responsible for administering this discretionary Fund and ensuring that all expenditures made from the Fund are consistent with the Donor's intention as expressed in this Agreement.

University Official

Paul Krebs, Vice President and Athletics Director

Date: 11/19/14

The establishment of this Fund and the naming of the University Arena in honor of this contribution is also subject to the approval of the Board of Regents under Regents' Policy 2.11, "Naming University Facilities, Spaces, Endowments and Programs" and University Business Policy 1020, "Naming Facilities, Spaces, Endowments and Programs" and will be administered in accordance with these and any subsequently adopted naming rights policies.

- 2. Payment Schedule:** If approved, the naming rights shall be effective following receipt of the first payment (see Attachment A Schedule of Payments). If Donor fails to make any payment required in Attachment A by the date specified, all naming rights granted herein shall be canceled and Donor will be required to reimburse the Athletics Department for all costs incurred for the removal of the WisePies name.

EXHIBIT

H



In the event that Donor sells all or part of its business, Donor will either pay in full the remaining amount of this irrevocable commitment or assign this irrevocable Agreement to the new owner of the business. However, Donor may only assign this Agreement with the written approval of the Foundation and the assurance that the Foundation will retain all rights to enforce the terms of this Agreement. Any transfer of this Agreement that would require the University to change the name of the WisePies Arena will be subject to the approval of the Board of Regents under Regents' Policy 2.11, "Naming University Facilities, Spaces, Endowments and Programs" and University Business Policy 1020, "Naming Facilities, Spaces, Endowments and Programs" and will be administered in accordance with these and any subsequently adopted naming rights policies.

3. **Intent:** Notwithstanding that Donor intends for the annual contribution to be generated by the proceeds of the WisePies franchises, it is the intent of the parties that this Agreement shall be enforceable at law and equity, including without limitation, against the Donor and its successors and assigns. The Donor acknowledges that the University is relying, and shall continue to rely, on the Fund being fully paid and satisfied as set forth herein.
4. **Announcement of the Fund:** The initial announcement of this gift will be made only after the execution of this gift agreement and the University's approval of the naming rights sought in this Agreement. After the announcement of the gift, all payments are irrevocable. Subsequently, the Foundation or the University of New Mexico may announce the Fund, including amount, descriptions of contributions, and pertinent details in any of their publications.
5. **Information on Use of Funds:** University Athletics will respond to requests for information made by the Donor, the Donor's immediate family or other individuals identified by the Donor about the activities and programs funded by the WisePies Fund.
6. **Duration of the Fund:** If the purpose for which the Fund has been instituted becomes impossible to perform or impractical to the extent that the University is unable to use the support generated by the Fund under the existing terms of the Agreement or if the University President concludes that carrying out the purpose exposes the University to an unacceptable risk of legal exposure, the University shall consult with the Donor to modify the Fund. If the Donor is not available, the University's President may recommend to the Foundation's Board of Trustees for approval an alternative purpose for the Fund as close to and consistent with the Donor's original intent.
7. **Representatives and Successors Bound:** This Agreement shall be binding upon and inure to the benefit of the parties hereto, the University of New Mexico, the Donor and their representatives and their lawful successors.
8. **Governing Law:** This Agreement shall be governed by and interpreted in accordance with the laws of the State of New Mexico, excluding that body of law concerning choice of law.



THE UNIVERSITY of  
NEW MEXICO FOUNDATION

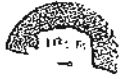
9. **Modification of Agreement:** The terms and conditions of this Agreement may not be orally amended, modified, or altered but may be amended, modified, or altered only in writing signed by the Donor(s) and the Foundation and approved by the University.
10. **Extension of Naming Rights.** After the completion of the terms of the naming rights granted and the Donor's satisfaction of all payment obligations identified in this Agreement, the University will give Donor the right of first refusal on the next subsequent naming rights at the University Arena.

**DONOR**

*Steve B. Clay / [Signature]* Date: 11/18/14  
WisePies Franchise Services LLC

**UNIVERSITY OF NEW MEXICO FOUNDATION, INC.**

*[Signature]* Date: 11-19-14  
Henry Nemcik, President & CEO



THE UNIVERSITY of  
NEW MEXICO FOUNDATION

ATTACHMENT A  
SCHEDULE OF PAYMENTS

<u>Due Date</u>	<u>Amount of Payment by Donor</u>
December 1, 2014	\$100,000
December 31, 2015	\$100,000
December 31, 2016	\$600,000
December 31, 2017	\$600,000
December 31, 2018	\$600,000
December 31, 2019	\$600,000
December 31, 2020	\$600,000
December 31, 2021	\$600,000
December 31, 2022	\$600,000
December 31, 2023	<u>\$600,000</u>
Total Gift	\$5,000,000



From: Paul Krebs pkrebs@unm.edu  
Subject: Re: Chavez Gift Agreement (ATHL-0141)  
Date: November 10, 2014 at 7:23 AM  
To: Larry Ryan Larry.Ryan@unmfund.org

PK

Larry

Could you ask Sandy Liggett to add a part in the document that essentially says the following:

During the course of this deal should UNM receive another naming rights offer for the Pitt that exceeds the value of the current WisePies deal, we can accept the new deal and Steve Chavez/WisePies are released from their financial obligation.

FYI...Steve is comfortable with this language and would like something along these lines included in the deal.

I need this done today and Steve's signature prior to the F&F meeting tomorrow morning.

Let me know if this is a problem.

Paul

/Sent from my iPad

On Nov 7, 2014, at 4:21 PM, Larry Ryan <Larry.Ryan@unmfund.org> wrote:

Looks good. Puts him on the hook for 500k no matter what happens and if things go well you get the whole 5m. You probably didn't put any of the initial signage change costs in there by design but hopefully he helps with that.

Sent from my iPhone

On Nov 7, 2014, at 4:13 PM, Paul Krebs <pkrebs@unm.edu> wrote:

Let me know if you see any issues. Getting close,  
Paul

---

From: Maureen McGuire |mailto:MaMcGuire@salud.unm.edu|  
Sent: Friday, November 07, 2014 4:09 PM  
To: Paul Krebs  
Cc: Agnes Thomas; 'sandra.liggett@unmfund.org'; David Harris  
Subject: RE: Chavez Gift Agreement (ATHL-0141)  
Paul,

I'm not sure if you are just asking for some administrative help with generating a clean version of the latest draft of the agreement for review by EVP Harris and Regent Koch before finalizing it - if so, see attached. I simply accepted all changes and deleted the comments. Otherwise, just to clarify, I didn't generate the gift agreement. It was generated by the Foundation. At the request of David Harris several months ago, I only reviewed it to provide some suggested revisions. I also posed a couple questions that don't look like they've been answered or clarified. The entity entering into the agreement is the Foundation and, as such, they will have to review and finalize any changes before execution of the agreement. Have a good weekend.

Maureen

Maureen M. McGuire

Associate University Counsel

University of New Mexico

Office of University Counsel

1 University of New Mexico

MSC05 3440

Albuquerque, NM 87131-0001

(505) 277-3446

(505) 277-4154 (fax)

email: [MaMcGuire@salud.unm.edu](mailto:MaMcGuire@salud.unm.edu)

THIS ELECTRONIC MAIL TRANS

EXHIBIT

I

ALL INFORMATION GENERALLY, PEER

REVIEW INFORMATION AND/OR PROTECTED, INDIVIDUALLY IDENTIFIABLE HEALTHCARE INFORMATION THAT IS CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER STATE AND/OR FEDERAL LAWS, RULES AND/OR REGULATIONS INCLUDING, WITHOUT LIMITATIONS, THE HIPAA PRIVACY AND/OR SECURITY STANDARDS, THE ATTORNEY-CLIENT OR ATTORNEY WORK PRODUCT PRIVILEGE AND/OR THE NEW MEXICO REVIEW ORGANIZATIONS IMMUNITY ACT, IT IS THE POLICY OF THE UNIVERSITY OF NEW MEXICO THAT THE SENDER DID NOT INTEND THIS TRANSMISSION TO BE SENT TO OR RECEIVED BY ANY UNAUTHORIZED PERSONS AND IS NOT WAIVING THE CONFIDENTIALITY OR PRIVILEGED NATURE OF SUCH INFORMATION. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS ELECTRONIC MAIL TRANSMISSION AND THEREBY RECEIVED THIS ELECTRONIC MAIL TRANSMISSION IN ERROR, PLEASE IMMEDIATELY DELETE IT FROM YOUR COMPUTER SYSTEM WITHOUT COPYING IT. IN ADDITION, PLEASE NOTIFY THE SENDER BY REPLY E-MAIL OR BY CALLING THE SENDER AT (505) 277-5035. THIS WAY, WE CAN CORRECT OUR ADDRESS FOR THE INTENDED RECIPIENT.

From: Paul Krebs [<mailto:pkrebs@unm.edu>]  
Sent: Friday, November 07, 2014 1:39 PM  
To: Maureen McGuire  
Subject: FW: Chavez Gift Agreement\_mmmredline010714.doc

Maureen,

Attached is a copy of a gift/naming rights agreement that you generated for athletic several months ago along with some proposed changes. Would you make the changes for me to share with EVP Harris and Regent Koch? I need by Monday morning if at all possible.

Paul

---

From: STEVEN CHAVEZ [<mailto:SCHAVEZ@ICSICONTROLS.COM>]  
Sent: Thursday, November 06, 2014 12:03 PM  
To: Paul Krebs  
Cc: Steve Chavez  
Subject: Fwd: Chavez Gift Agreement\_mmmredline010714.doc

Paul,

Here you go!!!! Let me know what you think.

Steve

Sent from my iPhone

Begin forwarded message:

From: Season Elliott <[season@sc3intl.com](mailto:season@sc3intl.com)>  
Date: November 6, 2014 at 11:46:30 AM MST  
To: STEVEN CHAVEZ <[schavez@icsicontrols.com](mailto:schavez@icsicontrols.com)>  
Subject: Re: FW: Chavez Gift Agreement\_mmmredline010714.doc

Revised file attached.

**Season Elliott**

*VP Communications & Development*



INTERNATIONAL

(505) 414-2099

4020 Vassar Drive NE, Suite H

Albuquerque, NM 87107

On Thu, Nov 6, 2014 at 10:16 AM, STEVEN CHAVEZ

<[schavez@icsicontrols.com](mailto:schavez@icsicontrols.com)> wrote:

----- Forwarded Message

From: Paul Krebs <[pkrebs@unm.edu](mailto:pkrebs@unm.edu)>

Date: Thu, 30 Oct 2014 20:14:15 +0000

To: STEVEN CHAVEZ <[schavez@icsicontrols.com](mailto:schavez@icsicontrols.com)>

Subject: Chavez Gift Agreement\_miniredline010714.doc

Steve

Thank you for lunch and for your vision. This is a difference maker for Lobo Athletics. Every team and student athlete will benefit from your generosity.

Attached is the electronic version. Make changes and include the timeline for payments including the \$100,000 up front money. Thank you.

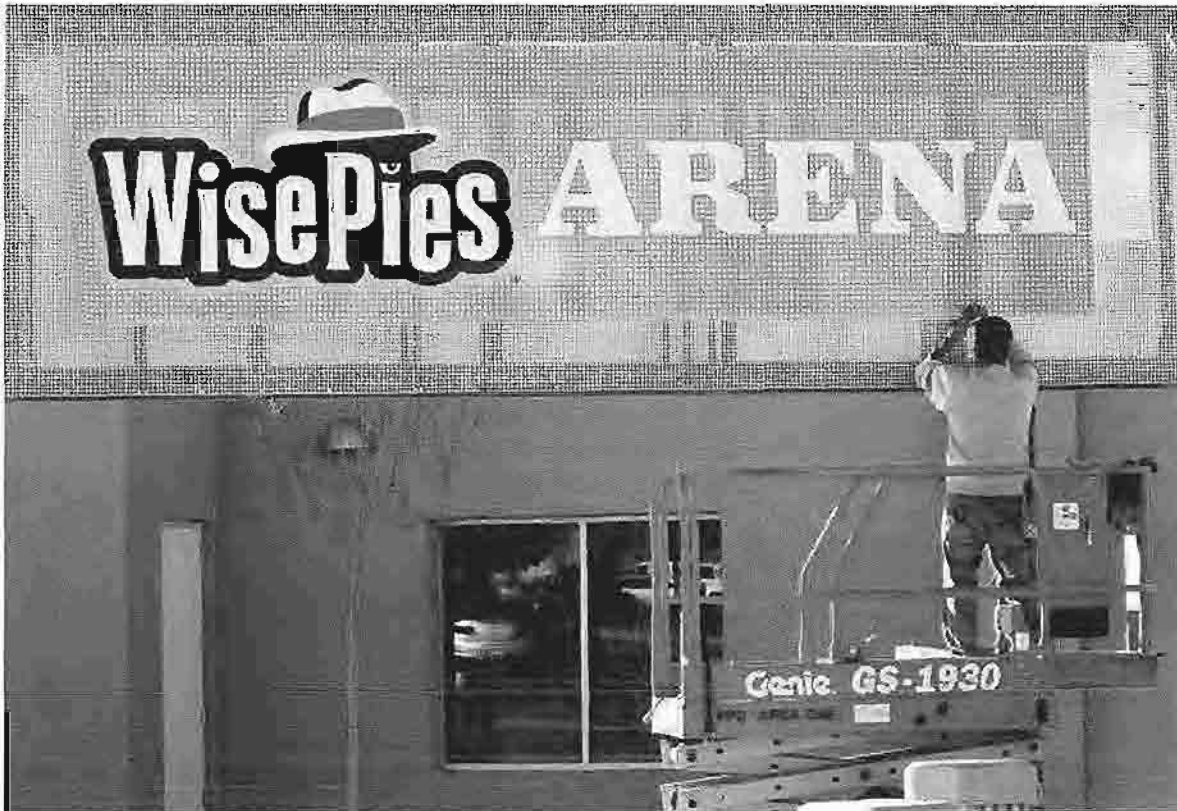
Paul

----- End of Forwarded Message

# Pit cashes in on pizza deal

By Geoff Grammer / Journal Staff Writer

Published: Monday, December 1st, 2014 at 1:02pm  
Updated: Monday, December 1st, 2014 at 9:14pm



WisePies Pizza & Salad and UNM announced a \$5 million cash gift deal that gives the local chain naming rights to the basketball arena known as the Pit. It is the largest cash gift UNM athletics has ever received. (Greg Sorber/Journal)

There is no question the Pit is an iconic slice of history for thousands of sports fans in and around Albuquerque.

And now, a local startup pizza chain is hopeful that forking over the largest cash donation in University of New Mexico athletics department history will help give it a piece of the pie as well.

## Schedule of payments

Dec. 1, 2014 — \$100,000  
Dec. 31, 2015 — \$100,000  
Dec. 31, 2016 — \$600,000  
Dec. 31, 2017 — \$600,000  
Dec. 31, 2018 — \$600,000  
Dec. 31, 2019 — \$600,000  
Dec. 31, 2020 — \$600,000  
Dec. 31, 2021 — \$600,000  
Dec. 31, 2022 — \$600,000  
Dec. 31, 2023 — \$600,000  
Total gift — \$5,000,000

**EXHIBIT**  
**J**

UNM and WisePies Pizza & Salad announced Monday that the company would give UNM a \$5 million cash gift paid out over the next 10 years in exchange for naming rights for University Arena, known by almost everyone as the Pit.

"I think it was about us wanting to make sure people could recognize the commitment we're making not only to our local community, but also to future franchises that are coming aboard," Season Elliott, a WisePies spokeswoman, told the Journal. "We have such a rapid growth plan over the next few years, we had to make a bold move."

The Albuquerque-based company is owned by New Mexico residents Steve Chavez and Michael Baird.

It is the largest cash gift UNM athletics has ever received and sixth-largest cash gift ever received by the university.

According to the "Gift Agreement" between WisePies and UNM Foundation, the company paid UNM \$100,000 on Monday, will pay another \$100,000 on Dec. 31, 2015, and then make annual payments of \$600,000 on Dec. 31 each year from 2016 through 2023.

If the company fails to make a payment, the naming rights will be removed and WisePies must reimburse the university for cost of the removal.

WisePies Pizza, which dubs itself "A family pizza joint," will have its company logo – its name with a fedora-wearing mafioso-type peeking from behind – attached to internal and external signage at the Pit. In addition, two large logos have been added to Bob King Court and UNM will include the name and logos on all media packets and other publications referring to the arena.

### **Still the Pit**

What Monday's announcement won't do in the eyes of many fans is change what people actually call the arena.

"We know our fans are going to call it the Pit," UNM athletic director Paul Krebs said. "So many grew up with that. But for the things we can control and all of our recognition, all of our exposure, it is and will be WisePies Arena."



University Arena is now WisePies Arena after the local pizza chain worked out a deal with UNM. Athletic director Paul Krebs says, "We know our fans are going to call it the Pit."

In fact, on most signage, the phrase, "AKA The Pit," follows the words "WisePies Arena" – a tip of the fedora to the realization that most people will still call it the Pit as well as a play on the company's branding of a mafia type feel using aliases along with actual names.

"I don't think it's a major concern of ours," Elliott said. "As you can see on the floor, we still have 'THE PIT' on both ends. And in the logo, 'WisePies Arena AKA The Pit,' was a way that we could bring in the new name with a long-standing tradition.

"We want to honor the fans. They are certainly going to be some traditionalists out there who won't be happy with naming WisePies Arena, but I think we're going to be welcomed. I think this is going to be embraced."

The money will be earmarked toward paying down the \$60 million debt service on the Pit's 2009 renovation, which will greatly help the finances for an athletic department that has a poor recent history of balancing its budget.

Data submitted to the Department of Education's Equity in Athletics Disclosure Act shows UNM athletics has operated under a budget deficit in each of the past six fiscal years, with shortfalls ranging between \$538 in 2009-10 to \$1,037,206 in 2011-12.

UNM maintains its "actual operating budget" reflects a budget deficit in five of those six years.

#### **Balancing the budget**

Nevertheless, securing a naming rights deal has been priority No. 1 for some time.

"It's been a huge priority for us," Krebs said. "It's something that's consumed a lot of my time. Our budget has been challenged in large part because we have not been able to land the naming gift we thought we were going to be able to get. ... This gift, the timing of it was huge. It allows us to meet our debt service obligations and will hopefully free up some resources that we can reinvest back into our programs."

UNM President Robert Frank told the **Journal** in June he expects the athletics department to balance its budget, but added athletics faces various issues in balancing its budget some other departments do not. One major one, he acknowledged on Monday, was whether the entire debt service for the Pit should be only the responsibility of the athletics department.

He also said he understands how difficult it has been in recent years to secure such a deal due to the economy.

"The naming environment has just turned soft on us," Frank said. "Particularly Albuquerque, as Paul (Krebs) mentioned, just doesn't have that many home businesses."

On Monday, Krebs said it couldn't have worked out better to land such a large deal from a locally owned company.

"It's very fortuitous that it worked out this way," Krebs said. "We got somebody local who wants to support the university who believes in Albuquerque, who believes in New Mexico."

Among the agreements details, WisePies will give away more than \$200,000 in free pizza certificates over the next two home games – Wednesday's men's game against New Mexico State and the Dec. 14 women's game against UTEP – in addition to other giveaways.

But don't expect the actual WisePies pizzas to be served anywhere in the Pit anytime soon.

"We would like to look at opportunities in the future and I think that's an opportunity that will be discussed in the future," Elliott said.

The WisePies deal does not affect any existing deals UNM has with other food vendors, including Jack in the Box or Papa John's, which offers discounts after certain Lobo achievements.

After 10 years, WisePies will have the right of first refusal for future naming rights of the arena.

## Out-of-state sale in works for WisePies

By Jessica Dyer / Journal Staff Writer

Published: Wednesday, May 18th, 2016 at 12:02am  
Updated: Wednesday, May 18th, 2016 at 11:56pm



The owners of WisePies are in final negotiations to sell a majority interest in the company. ( Roberto E. Rosales/Journal)

Copyright © 2016 Albuquerque Journal

WisePies could have a new, out-of-state owner soon – but the pizza chain's name is likely to remain on New Mexico's most famous sports arena.

The owners of the Albuquerque-based franchise operation are in final negotiations to sell a majority interest in the company to an out-of-state restaurant group, co-owner Mike Baird said this week in a **Journal** interview. The prospective buyer, which Baird declined to identify, will take over day-to-day operations and commit to fulfilling WisePies' agreement with University of New Mexico for naming rights at its basketball arena, commonly called "the Pit."

WisePies has not met its expansion targets and has faced a handful of tax liens, issues Baird blamed in part on underestimating how much it would cost to launch a franchising operation.

Three WisePies franchise stores owned separately by Baird, which are not part of the sale, also have had a history of tax trouble, racking up more than \$150,000 in liens.

None of the other individual stores is facing tax liens, according to a WisePies spokeswoman.

**EXHIBIT**  
**K**





#### BAIRD: Deal will help him clear tax liens

Baird could not say if the buyer would keep WisePies based in Albuquerque but said the company's commitment to UNM remains intact. After two payments of \$100,000 each, the deal calls for a major payment escalation this year. Under the terms of the \$5 million gift agreement, WisePies owes eight annual payments of \$600,000 starting this December.

"That was one of the main reasons why we went with this group was they are dedicated to continuing that agreement," Baird said in an interview.

Baird said the company buying the WisePies Franchise Services has the resources, financial and otherwise, needed to shepherd WisePies Pizza & Salad in an increasingly competitive fast-casual marketplace.

There currently are nine WisePies stores in operation. When signing the UNM agreement in late 2014, the company had three stores and said it planned to add 20 in 2015.

"You need millions and millions of dollars to start a franchise system properly, and that's what we didn't do – we tried to bootstrap it," Baird said. "You have lofty goals when you get started with it and have all the best intentions of having everything grow the way you want it to, but it doesn't always happen that way."

Baird declined to disclose the sales price but said he and partner Steven B. Chavez will maintain some stake in the company.

#### Several liens

Baird said he and Chavez set out to create a company, formally called WisePies Franchise Services, they could either sell or take public after five years. If the sale closes, it will come 2½ years after the first WisePies restaurant opened, something the owners consider a testament to the brand they built.

"Based on our business model, our five-year plan was achieved within two years. This made us a highly desirable candidate for acquisition by a larger restaurant investment group that sees the potential for national growth and development of a New Mexico-based company," Chavez said in a statement. "Through strategic moves like the naming of WisePies Arena aka the Pit, we were able to garner national attention and reinforce our commitment to the future of the company."

Baird said the deal would also help him clear a number of tax liens he's faced both through WisePies and his other companies.



CHAVEZ: Will maintain some stake in company

Since December 2014, a total of 20 liens have been recorded against WisePies Franchise Services, WisePies USA and individual franchise WisePies restaurants owned by Baird, according to a **Journal** search of Bernalillo County records. They reflect money owed to the New Mexico Taxation & Revenue Department, Internal Revenue Service and New Mexico Department of Workforce Solutions.

Only six have been released, according to the documents.

WisePies Franchise Services, which has the deal with UNM, is the chain's corporate entity. Baird and Chavez own it together. County records currently show three liens against the company – one from the IRS and two from Workforce Solutions for missed unemployment insurance contributions – totalling \$13,843.

Baird said the company has paid the outstanding tax bill, but the release does not appear in online records yet. He said the company is looking into the Workforce Solutions liens.

Two previous liens filed in 2015 have been released, according to county records.

In addition to the corporate office, three individual franchised WisePies restaurants owned separately by Baird are facing a combined 11 more liens totalling \$168,291.

Records also reflect at least \$603,000 in liens against other restaurant-related companies owned by Baird. That includes VSH, LLC, which does business as Vernon's Speakeasy steakhouse and has 15 outstanding liens totaling \$479,753.

That does not include an additional \$243,083 in liens filed against "VSH LLC, Calico Cantina & Cafe," which Baird said is not an actual entity and might represent some sort of duplication in the system.

Baird said some unexpected delays in completing the WisePies sale contributed to the growing tax debt and thinks the online records might not reflect all payments he has made. But he acknowledged that he owes a "significant"

amount and said he has met with IRS and state tax representatives to discuss how the WisePies sale will allow him to cover all outstanding tax obligations.

"The purchase is plenty enough to take care of any debts that I have and clear everything up and allow me to move forward with everything else," he said.

## Comments

19 Comments

Sort by Newest



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**Alan Schwartz** · University of West Los Angeles School of Law

I'm thinking the buyer could be Denver based Chipolte. They both use the same Subway style build it yourself model. And today's ABF has a piece about Chipolte's "tired" menu.

Like · Reply · May 23, 2016 12:27pm



**Susy Golden** · Albuquerque, New Mexico

Wrong.

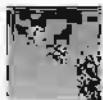
Like · Reply · Jun 1, 2016 6:55am



**Terry Martin** · Rio Rancho, New Mexico

I worked in the accounting dept. at wisepies and quit. All the people running wisepies have big heads. Think they know it all. Great idea and great pizza though. I knew the big-heads were in way over their big-heads. They make the worst decisions. I have alot of insight and will keep quiet now. I expect baird to want to fist fight me now that I have said all this.

Like · Reply · May 19, 2016 3:21pm



**Michael Chesley** · Agent at Farm Bureau Financial Services

The comments here are a joke. Who cares about the pizza. This is a business that has over 60 leins against it. They have stole from their employees. Those deductions from their checks for federal and other taxes were not paid to the governments. Does anyone care about that? No unemployment taxes paid? A lot of them are going to be unemployed. This is a scam!

As far as the Pit goes, they got to pay two \$100,000 checks for two seasons of national advertising. That was very savvy on their part and very naive on UNM's part. Krebs had no say in this. blame President Frank.

Like · Reply · 4 · May 18, 2016 8:32pm



**Barbara Turner**

Should have NEVER agreed to deal with UNM and THE PIT name change. People from here don't like it.

Like · Reply · 1 · May 18, 2016 7:03pm



**Gonzo Olivas**

## KRQE NEWS 13

### WisePies pizza chain runs into tax trouble



By Chris McKee (<http://krqe.com/author/chris-mckee/>)

Published: July 27, 2015, 7:03 pm | Updated: September 9, 2015, 9:56 am



ALBUQUERQUE (KRQE) – Will UNM ever really see that \$5 million that WisePies has promised for putting its name on the Pit?

Records show WisePies is having some money troubles and the young company even admits it is way behind schedule opening stores.

However, UNM says WisePies hasn't given it any indication that they're in trouble of not paying the arena naming bill, and meanwhile the restaurant chain says it's still expanding.

Just last month, WisePies hung its permanent signs on large entryways to the Pit, giving a big indication that their 10 year, \$5 million naming rights deal is for the long haul.

EXHIBIT

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While they're still planning on growing with an announcement of six new stores opening across New Mexico and Arizona in 2015, WisePies has hit a cash problem related to state taxes.

New Bernalillo County tax records show WisePies owes more than \$29,000 in taxes to the New Mexico Department of Tax and Revenue. According to the Bernalillo County Clerk's Office's online records, the WisePies Franchise Services LLC owes \$10,132. Records shows the corporation's own restaurants on Alameda and Unser in northwest Albuquerque respectively owe \$7,262 and \$11,786 in taxes to the state.

It's another hiccup for the franchise business that said it would finance the Pit deal by opening more than 20 stores in 2015 alone. However, they have just four locations in Albuquerque and Rio Rancho today.

WisePies has only paid \$100,000 of the \$5 million it owes UNM through 2023. That payment was made on time. Despite the financial discovery, UNM says so far, it has no worries that WisePies won't hold up its end of the bargain when the next payment comes on December 31, 2015. That's an upcoming \$100,000 payment.

"We have no concerns," said Bob Frank, President of the University of New Mexico.

Frank told News 13 in an interview Monday that he still sees a promising future with WisePies. He says the business has also said its on track to make the second naming rights payment on time.

"I've talked to their leadership and I'm absolutely confident that they're going to correct this immediately," said Frank about the tax liens.

Frank says he believes the tax issue is a temporary growing pain of the business and how it's structured.

"This is technical issue about how they are billed and how they're taxed," said Frank, commenting on the business structure of WisePies. While the restaurant owns a few of its own restaurant, it intends to franchise future restaurants with different owners.

In a statement, WisePies said Monday that they're planning to pay the more than \$29,000 in debt by the end of the day. The company says it's also revamped its accounting team, developed new accounting procedures and revenue forecasts.

>>READ: WisePies responds to publication of tax liens.

(<https://lintvkrqe.files.wordpress.com/2015/07/wise-pies-tax-statement.pdf>)

In return, the company says it will also open fewer restaurants through the end of 2015. Originally, WisePies forecasted building 20 more stores in the Albuquerque metro and southwest U.S. region by the end of the year. WisePies now says it has plans to open six new restaurants across New Mexico and Arizona by the year's end. That cluster includes the first two stores out of the Albuquerque-metro area, including one in Gallup and another at Arizona State University.

>>READ: WisePies new 2015 locations announcement.

(<https://lintvkrqe.files.wordpress.com/2015/07/wise-pies-new-locations.pdf>)

President Frank says he still thinks WisePies is the "right fit" for UNM's marquee sponsorship.

"We're concerned that they're hitting speed bumps in their business model, like you would be for any partner, but we're obviously confident they're going to correct those," said Frank.

If WisePies backs out of the Pit sponsorship deal, the only penalty for canceling is the cost of removing the signage from the Pit. UNM estimates that would cost about \$50,000. However, the company would still be getting ton of advertising for a fraction of the cost, especially in the first two years of the deal.

WisePies only has to pay \$100,000 each of the first two years of the naming deal before their payment jumps to \$600,000 a year. The first \$600,000 payment is due on December 31, 2016.

**UPDATE (07/28/2015): A spokeswoman for WisePies returned KRQE News 13's request for comment on Tuesday. The restaurant says it resolved the tax liens in full at 5:00 p.m. on Monday. The company says it's still on track to make the December 2015 naming rights payment of \$100,000. The company says it's also on track to make the December 2016 payment of \$600,000 on time. The company says it's also working on increasing the number of projected store openings by the end of 2015, and a Las Vegas development deal.**

Top News



**1st round games in Boys State Basketball Tournament**  
Saturday played host to first round games in the 2017 New Mexico high...

## State wants WisePies corporate to halt operations

By Jessica Dyer / Journal Staff Writer

Published: Thursday, September 15th, 2016 at 12:02am  
Updated: Thursday, September 15th, 2016 at 11:02pm

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The New Mexico Secretary of Taxation and Revenue is seeking a court order to halt WisePies Franchise Services from doing business until the company gets up to date on its taxes – something a company spokeswoman said it intends to do immediately.

The state applied for the injunction in state District Court in Santa Fe on Tuesday, noting in its filing that WisePies has a current outstanding gross receipts tax liability of \$11,936 and that interest continues to accrue. The company “has continually been non-compliant” in paying gross receipts taxes and also failed to pay workers’ compensation fees on multiple occasions, according to an accompanying affidavit from a state revenue agent.



BAIRD: No longer involved in operations

WisePies – which has the naming rights to University of New Mexico’s basketball arena, aka the Pit – has not complied with a state request to enter into an installment agreement, and co-owner Mike Baird has not communicated with the department since July 1, the affidavit says.

Baird is no longer involved in WisePies operations, according to the company, though he remains an owner. He did not immediately respond to a **Journal** message late Wednesday.

In an Aug. 16 letter addressed to Baird and included in Tuesday’s filing, the state demanded WisePies “furnish acceptable security in the amount of \$17,607.12 ... in order to ensure payment of tax due or reasonably expected to become due from you.” It gave Baird 10 days to respond.

WisePies Franchise Services is the corporate entity for the WisePies Pizza & Salad chain. However, the company itself does not own any of the nine WisePies-branded restaurants.

WisePies spokeswoman Season Elliott said Wednesday that WisePies co-owner Steve Chavez was not aware the company still owed the state back taxes but had already made out a check and intended to make the payment “immediately” and thus thwart any potential shutdown.

She said the company recently underwent a leadership transition, with Chavez taking over managing partner duties from Baird on Sept. 1. Baird remains an owner but is no longer involved in operations, Elliott said.

“(Chavez) is committed to making all accounts current and healing relationships that may have been damaged under previous management. He feels the previous handling of taxes is absolutely unacceptable which is why he’s taken it completely over to ensure this NEVER happens again,” Elliott said in an emailed statement. “Since September 1st, Mr. Chavez has paid ALL Federal taxes owed as well as a number of other vendor invoices that needed payment. He has also filed and paid current taxes.”

**EXHIBIT**

**M**

WisePies Franchise Services has had ongoing tax troubles. The Internal Revenue Service, New Mexico Taxation and Revenue Department and New Mexico Department of Workforce Solutions have filed multiple liens against the company, according to Bernalillo County records.

The county records show three of the seven liens recorded against WisePies have been released, including the two filed by the IRS.

WisePies' issues have commanded a great deal of community attention due to the company's naming rights arrangement with UNM.

In 2014, less than a year after opening its first restaurant, the company agreed to give UNM \$5 million over 10 years in a deal that renamed the basketball venue WisePies Arena (aka the Pit). WisePies has made the first two payments of \$100,000 each, but its contribution is scheduled to escalate to \$600,000 annually starting in December.

The company has not grown as quickly as it projected when it signed the UNM deal. Baird told the **Journal** in May that an unnamed, out-of-state company was preparing to buy a majority interest in the company and would make good on all commitments to UNM.

WisePies has never disclosed the buyer's identity and the deal has not closed. However, Elliott said it is still in the works.





The University of New Mexico

**Office of The Custodian of Public Records**

MSC05 3440  
Scholes Hall Room 208  
1 University of New Mexico  
Albuquerque, NM 87131-0001  
Telephone (505) 277-5035  
<http://publicrecords.unm.edu/>  
[unmipra@unm.edu](mailto:unmipra@unm.edu)

November 11, 2016

*Via Email Transmission.* [REDACTED]

Daniel Libit  
[REDACTED]

Re: **IPRA Request No. 16-130**

Dear Mr. Libit:

Pursuant to your IPRA request dated November 7, 2016, you requested the following:

All written communications, either sent or received by UNM Foundation's Larry Ryan, transmitted between May 1, 2016 and the present date of this request, in which the following phrases, terms or words appear: "WisePies", "Wise", "Pies", "Steve Chavez", "gift", "naming". This includes emails in which Mr. Krebs is a third-party on an exchange. This request includes messages transmitted on UNM property, and/or through private electronic devices where the subject is discussing matters related to official UNM business.

The University does not have the records you seek. I suggest you contact the UNM Foundation directly, which is a separate legal entity, for their consideration of your request at [marcom@unmfund.org](mailto:marcom@unmfund.org).

This request is considered fulfilled, should you require further information please submit a new IPRA request to this office at <https://unmipra.nextrequest.com/>.

Sincerely,

*John Rodriguez*

John Rodriguez, M.A.  
Custodian of Public Records

**EXHIBIT**  
**N**

Daniel Libit



Jennifer Kemp,  
Director of Communications  
UNM Foundation  
Two Woodward Center  
700 Lomas NE, Suite 108  
Albuquerque, NM 87102

November 14, 2016

SENT VIA EMAIL TO: [jennifer.kemp@unmfund.org](mailto:jennifer.kemp@unmfund.org)

Dear Jennifer:

Under the New Mexico Public Records Act, I request the following materials from the UNM Foundation:

- A final copy of the naming-rights agreement between the University of New Mexico Foundation and WisePies Pizza.

- Any/all electronic correspondence, dated between Jan 1, 2016 and the present moment of this request, to/from UNM Foundation's Larry Ryan, in which the following words or terms appear: "WisePies", "Wise", "Pies", "Steve Chavez", "arena", and/or "golf agreement".

In the event this request is denied in full or part, I would appreciate an explanation for the denial.

Thank you for your assistance.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Daniel Libit".

Daniel Libit

EXHIBIT  
O

**From:** Jennifer Kemp <[jennifer.kemp@unmfund.org](mailto:jennifer.kemp@unmfund.org)>  
**Subject:** RE: IPRA Request  
**Date:** November 21, 2016 at 10:18:41 AM CST  
**To:** Daniel Libit [REDACTED]  
**Cc:** Giulia Urquhart <[giulia.urquhart@unmfund.org](mailto:giulia.urquhart@unmfund.org)>

Hi Daniel -

Thank you so much for your interest in The University of New Mexico and the UNM Foundation. Below is the answer to your question. If you have any questions, please don't hesitate to contact myself or Giulia.

**Q:** Would the foundation share the list of donors to the Dugout Club?

**A:** Out of respect for donor privacy, the UNM Foundation does not share donor or gift information unless the donor has authorized us to do so.

Have a nice Thanksgiving, Daniel!

Jennifer

P.S. Please note I have a new phone number: 505-313-7676. Please be sure to update your records accordingly.

Jennifer Kemp, APR  
Director, Marketing & Communication  
UNM Foundation  
700 Lomas Blvd. NE  
Two Woodward Center  
Albuquerque, NM 87102  
[Jennifer.Kemp@unmfund.org](mailto:Jennifer.Kemp@unmfund.org)

Phone: (505) 313-7676



Changing Worlds 2020: The Campaign for UNM  
Whose world will you change?

This electronic message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, or exempt from disclosure under applicable law. If you have received this email in error, please notify us at the phone number or email address listed above.

---

From: Daniel Libit [REDACTED]  
Sent: Saturday, November 19, 2016 11:25 PM  
To: Jennifer Kemp  
Cc: Giulia Urquhart  
Subject: Re: IPRA Request

Dear Jennifer,  
Would the foundation share the list of donors to the Dugout Club?  
Thank you,  
Daniel

On Nov 16, 2016, at 4:42 PM, Jennifer Kemp <[jennifer.kemp@unmfund.org](mailto:jennifer.kemp@unmfund.org)> wrote:

Good afternoon, Daniel -

Thank you so much for reaching out to us regarding the WisePies gift to UNM. Below are the answers to your inquiries. Please contact me or Giulia Urquhart if you have any additional questions.

Q: I request...A final copy of the naming-rights agreement between the University of New Mexico Foundation and WisePies Pizza.

A: Attached to this email is a copy of the final gift agreement and news release which were included in the materials provided during a December 2014 news conference.

Q: I request....Any/all electronic correspondence, dated between Jan 1, 2016 and the present moment of this request, to/from UNM Foundation's Larry Ryan, in which the following words or terms appear: "WisePies", "Wise", "Pies," "Steve Chavez," "arena", and/or "gift agreement".

A: The UNM Foundation is a 501(c)(3) non-profit, non-public entity and is therefore not subject to Inspection of Public Records Act (IPRA). Out of respect for donor privacy, the UNM Foundation does not share donor or gift information unless the donor has authorized us to do so.

Q: In the event this request is denied in full or part, I would appreciate an explanation for the denial.

A: Our relationship with The University of New Mexico is contractual. The UNM Foundation is not a public body, and is therefore not subject to IPRA, although we strive to be as transparent as possible without compromising the privacy of our donors or employees. For example, we have our 990s, investments, annual reports of giving and other key information listed on our website. In some circumstances, the Foundation - with advance donor agreement - has decided to share the gift agreement of certain gifts (such as WisePies) that we expect to be of significant public interest.

Thank you again, Daniel. Have a good week!

Jennifer

P.S. Please note I have a new phone number: 505-313-7676. Please be sure to update your records accordingly.

Jennifer Kemp, APR  
Director, Marketing & Communication  
UNM Foundation  
700 Lomas Blvd. NE  
Two Woodward Center  
Albuquerque, NM 87102  
[Jennifer.Kemp@unmfund.org](mailto:Jennifer.Kemp@unmfund.org)

Phone: (505) 313-7676

Changing Worlds 2020: The Campaign for UNM  
Whose world will you change?

This electronic message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, or exempt from disclosure under applicable law. If you have received this email in error, please notify us at the phone number or email address listed above.

---

From: Daniel Libit [REDACTED]  
Sent: Monday, November 14, 2016 4:02 PM  
To: Jennifer Kemp  
Cc: Giulia Urquhart  
Subject: IPRA Request

Dear Jennifer,  
Please find attached my public records request.  
Sincerely,  
Daniel Libit<Final Press Kit.pdf>



The University of New Mexico

**Office of The Custodian of Public Records**

MSC05 3440  
Scholes Hall Room 208  
1 University of New Mexico  
Albuquerque, NM 87131-0001  
Telephone (505) 277-5035  
<http://publicrecords.unm.edu/>  
[unmipra@unm.edu](mailto:unmipra@unm.edu)

January 27, 2017

Via Email Transmission. [REDACTED]

Daniel Libit  
[REDACTED]

Re: IPRA Request No. 17-25

Dear Mr. Libit:

Per your IPRA request dated January 12, 2017, you requested the following:

Under the Inspection of Public Records Act, I request a copy of the check(s), as well as any banking documentation -- that relate to WisePies' Pizza and Salad's final naming rights payment of 2016. Pursuant to this request, I should note that Paul Krebs, UNM's Athletics Director, told the Albuquerque Journal on Dec. 29, 2016, that he was planning to pick up the check from WisePies that day. This acknowledgement only served to further ratify the fact that the check payment was received in the course of public business being conducted by a public official at UNM. Therefore, all documentation of the payments should be subject to a public records request.

The University does not have the records you seek. Please contact the UNM Foundation directly, which is a separate legal entity, for their consideration of your request at [marcom@unmfund.org](mailto:marcom@unmfund.org).

This request is considered fulfilled, should you require further information please submit a new IPRA request to this office at <https://unmipra.nextrequest.com/>.

Sincerely,

*John Rodriguez*

John Rodríguez, M.A.  
Custodian of Public Records

**EXHIBIT**  
**Q**

**From:** Jennifer Kemp <jennifer.kemp@unmfund.org>  
**Date:** January 30, 2017 at 7:05:18 PM CST  
**To:** [REDACTED]  
**Subject:** RE: IPRA request

Good evening, Daniel -  
Thank you for contacting us regarding your request. Below is the answer to your inquiry.

Q: Under the New Mexico Inspection of Public Records Act, I am requesting any/all bank documentation related to the the monies that WisePies gave to the UNM Foundation as part of its naming-rights agreement for The Pit. This includes a copy of the checks themselves, and any deposit slips or bank documentation that indicates when such monies were deposited.

A: The UNM Foundation is a non-profit, non-public entity and is therefore not subject to Inspection of Public Records Act (IPRA). Although we try to be as transparent as possible, out of respect for donor privacy, the UNM Foundation cannot share donor or gift information unless the donor has authorized us to do so.

Please let me know if you have any additional questions.

Thank you again for contacting us. Have a good week!

Jennifer Kemp  
Director, Communication & Marketing  
UNM Foundation

---

**From:** Daniel Libit ([REDACTED])  
**Sent:** Friday, January 27, 2017 3:34 PM  
**To:** marcom@unmfund.org  
**Subject:** IPRA request

To Whom it May Concern:

Under the New Mexico Inspection of Public Records Act, I am requesting any/all bank documentation related to the the monies that WisePies gave to the UNM Foundation as part of its naming-rights agreement for The Pit. This includes a copy of the checks themselves, and any deposit slips or bank documentation that indicates when such monies were deposited.

I am attaching a copy of the letter UNM's public records custodian sent to me, claiming that such materials would only be in the Foundation's possession.

Sincerely,

Daniel Libit  
[REDACTED]

**EXHIBIT**  
**R**