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We have completed an audit of the Division of Emergency Management of the Department of Public Safety. This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions. The results of our audit, including findings, conclusions, recommendations, and the Division's response, are presented in this report.

We wish to express our appreciation to the management and staff of the Division of Emergency Management for their assistance during the audit.

Respectfully presented,

A handwritten signature in black ink, appearing to read "Paul V. Townsend".

Paul V. Townsend, CPA  
Legislative Auditor

September 10, 2008  
Carson City, Nevada

STATE OF NEVADA  
DEPARTMENT OF PUBLIC SAFETY  
DIVISION OF EMERGENCY MANAGEMENT

AUDIT REPORT

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# **EXECUTIVE SUMMARY**

## **DEPARTMENT OF PUBLIC SAFETY DIVISION OF EMERGENCY MANAGEMENT**

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### **Background**

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The Division of Emergency Management (DEM) is organizationally within the Department of Public Safety. Its mission is to coordinate the efforts of the State and its political subdivisions, in partnership with private and volunteer organizations, and tribal nations, in reducing the impact of disasters by planning, implementing, and maintaining programs for preparedness, mitigation, response, and recovery.

The State Comprehensive Emergency Management Plan (SCEMP) describes the methods by which the State will mobilize resources and conduct response and recovery activities. The SCEMP states that DEM will maintain the State Emergency Operations Center to coordinate responses to events that require state assistance under the SCEMP.

Due to the terrorist attacks on September 11, 2001, the federal emergency management system was significantly modified. On November 25, 2002, the Homeland Security Act established the Department of Homeland Security (DHS). DHS issued three primary initiatives: the National Incident Management System, the National Response Plan, and the National Preparedness Goal.

Federal grant funding totaled \$24.9 million in fiscal year 2007, an increase of \$9.8 million from fiscal year 2004. The number of grants that DEM received increased from 56 in fiscal year 2004 to 80 for fiscal year 2007 as of December 31, 2006.

In fiscal year 2007, DEM's operational expenditures totaled \$3.4 million dollars. As of June 30, 2007, DEM had 24 authorized full time positions.

## EXECUTIVE SUMMARY

### DEPARTMENT OF PUBLIC SAFETY DIVISION OF EMERGENCY MANAGEMENT

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## Purpose

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This audit focused on the Division's financial, administrative, and emergency preparedness activities for the 18 month period from July 1, 2005, through December 31, 2006, and included certain activities through June 30, 2007. The purpose of our audit was to evaluate the Division's financial, administrative and emergency preparedness practices, including whether activities were carried out in accordance with applicable state laws, regulations, and policies.

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## Results in Brief

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The Division of Emergency Management (DEM) has not adequately monitored and evaluated emergency operation plans or emergency response plans prepared by other entities. In addition, DEM has not adequately tracked emergency equipment in the State. As a result, the State has little assurance that all state agencies, local jurisdictions, schools and school districts, resort hotels, and tribes have prepared plans that meet federal requirements or will assist the entities in responding to emergencies. Furthermore, DEM lacks a system to quickly obtain information on equipment that may be needed to respond to certain types of emergencies or disasters. DEM does not have current policies and procedures to provide staff with the guidance needed to properly handle the changes that have occurred since 2001 related to federal grants and emergency preparedness requirements.

DEM has not established management controls to help ensure compliance with state and department policies and procedures. Some procedures that have been developed are outdated or conflict with department or state policies. The absence of these controls resulted in pervasive problems related to handling complaints about

## EXECUTIVE SUMMARY

### DEPARTMENT OF PUBLIC SAFETY DIVISION OF EMERGENCY MANAGEMENT

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employees, travel advances and reimbursements, and personnel management.

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## Principal Findings

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- DEM has not been proactive in ensuring local jurisdictions and other entities throughout the State are prepared for emergencies. State law and the federal Department of Homeland Security (DHS) call for DEM to coordinate efforts of the State, its political subdivisions, private organizations, and tribal nations. These efforts are to include fostering the adoption of plans for emergency operations or response. However, DEM could not locate plans for 53 of a sample of 95 (56%) state agencies, local jurisdictions, charter schools and school districts, resort hotels, and tribal nations. There was little documentation in the files showing DEM worked with the other entities to encourage them to prepare or update their plans. (page 12)
- Although the 2005 Legislature approved an additional position to work with other entities to prepare plans, DEM management maintains it lacks staff to oversee other entities' preparation of plans. Furthermore, DEM's management represents it lacks authority to enforce planning requirements on other entities. (page 13)
- DEM does not have an effective process to track emergency equipment purchased by state and local agencies with DHS funding. A system that quickly identifies and provides the location of equipment and supplies could help minimize the impact of disasters. DEM had used a computer database to track emergency equipment. In April 2006, the employee who maintained and updated the information in the database retired and the vendor of the system went out of business. Since DEM did not have written

## EXECUTIVE SUMMARY

### DEPARTMENT OF PUBLIC SAFETY DIVISION OF EMERGENCY MANAGEMENT

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procedures explaining how to update and maintain the database, DEM stopped entering data into the system. DEM is currently contracting with a vendor to install a new inventory management database. (page 17)

- DEM's management failed to report a complaint of an alleged conflict of interest to the Department of Public Safety's Office of Professional Responsibility (OPR). DEM's management was made aware of an employee who was an officer of a corporation that developed emergency operation or response plans for local jurisdictions. During part of the time the employee was an officer of the corporation, the employee was also the supervisor of the State Emergency Planner who was responsible for reviewing and maintaining the plans. Department of Public Safety policy assigns the responsibility to investigate complaints to OPR. Because DEM did not follow department procedures, a thorough investigation was not done to determine whether the employee used his position to obtain favorable treatment for the corporation. (page 19)
- Weak controls over travel resulted in numerous problems with travel advances and travel reimbursements. As a result, 67% (20 of 30) of the travel advances tested did not comply with department travel policies. State employees may be advanced money to cover anticipated travel expenses from the agency budget account at the discretion of the agency. DEM allowed employees to take longer than 60 days to use travel advances or reimburse unused advances, and to obtain advances totaling \$2,407 when prior advances were still outstanding. In addition, DEM could not provide three travel claims amounting to \$1,026 supporting the travel for which the advances were given. Furthermore, the 27 travel reimbursements reviewed contained exceptions including per diem not paid correctly, air travel not booked in accordance with state policy, and a travel

## EXECUTIVE SUMMARY

### DEPARTMENT OF PUBLIC SAFETY DIVISION OF EMERGENCY MANAGEMENT

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reimbursement missing supporting documentation.  
(page 19)

- DEM did not comply with several state laws and policies regarding personnel management. First, DEM did not have written agreements with three employees who accrued more than 120 hours of compensatory time, as required by the Nevada Administrative Code. Second, there was no documentation overtime worked was approved in advance for 12 of the 50 instances of overtime reviewed. Prior approval of overtime is required by state law. Third, 6 of 16 personnel files examined did not contain current work performance standards. Work performance standards are required for each position. Fourth, of the 14 employee files reviewed where the employee should have had a performance evaluation, 8 had no performance evaluations and 6 evaluations were not timely. Finally, personnel files for four of six supervisors did not contain evidence they had received required supervisory training, including employee performance evaluations, disciplinary procedures, and handling grievances.  
(page 20)

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## Recommendations

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This report contains ten recommendations to improve controls over emergency operation and response plans and administrative functions. Specifically, we made three recommendations for improvements to the monitoring procedures for emergency operation and response plans and tracking emergency equipment. We also made a recommendation to follow department procedures for reporting complaints about employees. Finally, we made six recommendations for developing written policies and procedures for travel advances and reimbursements, and personnel administration. (page 38)

## EXECUTIVE SUMMARY

DEPARTMENT OF PUBLIC SAFETY  
DIVISION OF EMERGENCY MANAGEMENT

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### Agency Response

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The Division, in its response to our report, did not agree with certain findings and conclusions, and rejected 4 of the 10 audit recommendations. (page 28) Therefore, we have prepared additional comments on the Division's response to assure the reader that we believe our findings, conclusions, and recommendations as stated in the report are appropriate. (page 39)



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# Introduction

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## Background

The Division of Emergency Management (DEM) is organizationally within the Department of Public Safety. Its mission is to coordinate the efforts of the State and its political subdivisions, in partnership with private and volunteer organizations, and tribal nations, in reducing the impact of disasters by planning, implementing, and maintaining programs for preparedness, mitigation, response, and recovery.

The State Comprehensive Emergency Management Plan (SCEMP) describes the methods by which the State will mobilize resources and conduct response and recovery activities. The SCEMP states that DEM will maintain the State Emergency Operations Center with the primary function of coordinating the response to an event that requires state assistance under the SCEMP.

In fiscal year 2007, DEM's operational expenditures were \$3.4 million. As of June 30, 2007, DEM had 24 authorized full-time positions. DEM is organized into the following five sections: Administration; Grants Management; Operations; Planning, Training, and Exercise; and Mitigation and Recovery

The Stafford Act was passed in 1974 to establish programs and processes for the federal government to provide major disaster and emergency assistance. Due to the terrorist attacks on September 11, 2001, the federal emergency management system was significantly modified. The federal system modifications had a major impact on the states' emergency management systems as well. On November 25, 2002, the Homeland Security Act established the Department of Homeland Security (DHS). DHS issued three primary initiatives:

- **The National Incident Management System (NIMS) defines the roles and responsibilities of the federal, state, and local governments.**
- **The National Response Plan (NRP) defines what needs to be done and where.**
- **The National Preparedness Goal (Goal) defines how well it should be done.**

The NIMS provides a consistent framework for incident management at all jurisdictional levels regardless of the cause, size, or complexity of the incident. The NIMS outlined 34 activities that state, local, and tribal jurisdictions must implement from 2005 through 2007. The NIMS requires the State to self-certify that it and the local and tribal jurisdictions have completed these requirements.

The NRP, operating within the framework of NIMS, provides the structure and mechanisms for national-level policy and operational direction for domestic incident management. The NRP is an all hazards plan that establishes a single, comprehensive framework for the management of domestic incidents where federal involvement is necessary. The Goal establishes national priorities and identifies 37 target capabilities that are subsets of four mission areas: prevent, protect, recover, and respond.

On September 8, 2004, in a letter to state governors, DHS stated that it is critical that the State provide support and leadership to tribal and local entities to ensure full NIMS implementation. DHS looks to the state administrative agency (DEM) to coordinate with state agencies, tribal governments, and local jurisdictions to ensure NIMS implementation.

DHS, the Federal Emergency Management Agency (FEMA), and the Department of Energy (DOE) are the primary sources of grant funding. Grant awards are normally spread out over a 2 to 4 year period. Actual federal grant dollars received each year are dependent upon actual expenditures.

Exhibit 1 shows the grant dollar amounts DEM received in state fiscal years 2004 through 2007. Federal grant funding totaled \$24.9 million in fiscal year 2007, an increase of \$9.8 million from fiscal year 2004. DHS funding decreased in 2007 due to changing the focus from purchasing assets to managing programs. In addition, spending associated with FEMA decreased in 2007 due to a reduction in the number of presidential-declared disasters in Nevada.

**Exhibit 1**

**Federal Grant Program Funding  
State Fiscal Years 2004 Through 2007**

<b>Description</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
Homeland Security (DHS) Funding	\$10,945,056	\$32,681,468	\$34,521,647	\$19,523,376
Department of Energy (DOE) Funding	1,422,196	4,731,262	3,363,734	3,421,554
Federal Emergency Management Assistance (FEMA) Funding	2,689,672	12,521,966	9,661,753	1,952,318
<b>Total Program Funding</b>	<b>\$15,056,924</b>	<b>\$49,934,696</b>	<b>\$47,547,134</b>	<b>\$24,897,248</b>

Source: State's accounting system.

The number of grants received has also increased over the last 4 years from 56 to 80. Exhibit 2 lists the number of federal grant awards for state fiscal years 2004 through the first half of fiscal year 2007. The performance periods for these grants are normally 2 to 3 years. This means that the grant is counted in each fiscal year that the grant remained open. The total dollar amount of the grants does not have a direct relationship to the number of grants awarded.

**Exhibit 2**

**Number of Federal Grant Awards  
State Fiscal Years 2004 Through 2007**

<b>Description</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007*</b>
DHS Grants	25	41	40	55
DOE Grants	7	4	3	4
FEMA Grants	24	34	23	21
<b>Total Number of Grants</b>	<b>56</b>	<b>79</b>	<b>66</b>	<b>80</b>

Source: DEM report "Listing of Funding Source by Job Number."  
\*As of December 31, 2006.

According to DEM officials, for calendar years 1997 through 2007, there have been eight federally declared disasters in Nevada leading to 270 applications for FEMA assistance being submitted to DEM for processing. There were 1,835 projects included in the applications. Each application is not limited to one project, but there will be at least one project for each application.

Exhibit 3 shows that 2005 had the greatest number of declared disasters and applications, but 1997 had the largest number of projects and largest dollar value of projects. This shows that the dollar value of the projects is not necessarily associated with the number of declared disasters. The exhibit also shows that, in some years, such

as 2000 through 2003, there were no declared disasters. Although DEM did not receive any applications in those years, it was still monitoring applications from prior disasters. These numbers do not include local and state declared emergencies.

**Exhibit 3**

**Presidential Declared Disasters in Nevada  
Calendar Years 1997 Through 2007**

<b>Calendar Year</b>	<b>Declared Disasters</b>	<b>Number of Applications</b>	<b>Total Projects</b>	<b>Dollar Value Of Projects</b>
1997	1	67	894	\$22,319,928
1998	No Declared Disasters			
1999	1	12	233	6,331,731
2000	No Declared Disasters			
2001	No Declared Disasters			
2002	No Declared Disasters			
2003	No Declared Disasters			
2004	1	10	40	8,871,785
2005	4	151	208	16,100,607
2006	1	30	460	11,621,814
2007	No Declared Disasters			
<b>Total</b>	<b>8</b>	<b>270</b>	<b>1835</b>	<b>\$65,245,865</b>

Source: Prepared by DEM officials.

**Scope and Objective**

This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission, and was made pursuant to the provisions of NRS 218.737 to 218.893. The Legislative Auditor conducts audits as part of the Legislature’s oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This audit included the Division’s financial, administrative, and emergency preparedness activities for the 18 month period from July 1, 2005, through December 31, 2006, and included certain activities through June 30, 2007. The objective of our audit was to evaluate the Division’s financial, administrative and emergency preparedness practices, including whether activities were carried out in accordance with applicable state laws, regulations, and policies.

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## **Findings and Recommendations**

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The Division of Emergency Management (DEM) has not adequately monitored and evaluated emergency operation plans or emergency response plans prepared by other entities. In addition, DEM has not adequately tracked emergency equipment in the State. As a result, the State has little assurance that all state agencies, local jurisdictions, schools and school districts, resort hotels, and tribes have prepared plans that meet federal requirements or will assist the entities in responding to emergencies. Furthermore, DEM lacks a system to quickly obtain information on equipment that may be needed to respond to certain types of emergencies or disasters. DEM does not have current policies and procedures to provide staff with the guidance needed to properly handle the changes that have occurred since 2001 related to federal grants and emergency preparedness requirements.

DEM has not established management controls to help ensure compliance with state and department policies and procedures. Some procedures that have been developed are outdated or conflict with department or state policies. The absence of these controls resulted in pervasive problems related to handling complaints about employees, travel advances and reimbursements, and personnel management.

### **DEM's Efforts to Ensure Adequate Planning and Track Emergency Equipment Are Not Sufficient**

DEM has not demonstrated adequate oversight of or coordination with other entities in the preparation of their emergency operation plans or emergency response plans. DEM was unable to provide copies of some plans and did not review many of the plans that had been submitted. There was little evidence that DEM worked with or contacted many of the other entities to assist them in preparing adequate plans. Further, the DEM inaccurately reported the status of the entities' plans to the Governor's Office and the federal government.

In addition, DEM has not adequately tracked equipment purchased with Homeland Security grant funds. Since DEM lacks a comprehensive system to track the

location of emergency equipment and supplies, it cannot ensure the equipment is readily available for emergencies.

**Little Is Done to Ensure Emergency Operation and Response Plans Are Current and Adequate**

DEM has not been proactive in ensuring local jurisdictions and other entities throughout the State are prepared for emergencies. NRS 414.040 and the federal Department of Homeland Security (DHS) call for DEM to coordinate efforts of the State, its political subdivisions, private organizations, and tribal nations.

NRS 414.040 states:

3. The Chief, subject to the direction and control of the Director, shall carry out the program for emergency management in this state. He shall coordinate the activities of all organizations for emergency management within the State, maintain liaison with and cooperate with agencies and organizations of other states and of the Federal Government for emergency management and carry out such additional duties as may be prescribed by the Director.

4. The Chief shall assist in the development of comprehensive, coordinated plans for emergency management by adopting an integrated process, using the partnership of governmental entities, business and industry, volunteer organizations and other interested persons, for the mitigation of, preparation for, response to and recovery from emergencies or disasters. In adopting this process, he shall conduct activities designed to:

(a) Eliminate or reduce the probability that an emergency will occur or to reduce the effects of unavoidable disasters;

(b) Prepare state and local governmental agencies, private organizations and other persons to be capable of responding appropriately if an emergency or disaster occurs by fostering the adoption of plans for emergency operations, conducting exercises to test those plans, training necessary personnel and acquiring necessary resources;

(c) Test periodically plans for emergency operations to ensure that the activities of state and local governmental agencies, private organizations and other persons are coordinated;

(d) Provide assistance to victims, prevent further injury or damage to persons or property and increase the effectiveness of recovery operations; and

(e) Restore the operation of vital community life-support systems and return persons and property affected by an emergency or disaster to a condition that is comparable to or better than what existed before the emergency or disaster occurred.

DEM could not locate plans for 53 of 95 (56%) state agencies, local jurisdictions, charter schools and school districts, resort hotels, and tribal nations from a random sample of these types of entities. In addition, there was little documentation in the files showing DEM worked with the other entities to encourage them to prepare or update their plans.

DEM inaccurately reported the status of the state's plans to the federal government and the Governor's Office. DEM rated the state's efforts in the planning area as a 5, with 5 being the best possible score, on a report to DHS in 2007. The rating was applied to an objective to ensure all state agencies and local jurisdictions

continue to have current emergency operations plans, continuity of government plans and terrorism annexes through annual random reviews. In addition, DEM reported to the Governor's Office in September 2006 that it had received a plan from each of the agencies in the Executive Branch that have a primary or secondary role in the State Comprehensive Emergency Management Plan. In addition, DEM represented it would continue supporting each agency to enhance its plan and ensure annual review and updates of plans.

DEM's management maintains it lacks adequate staff to oversee other entities' preparation of plans. In addition, management represents it lacks authority to enforce planning requirements on other entities.

DEM asserts it lacks staff to oversee other entities' plans even though the 2005 Legislature approved DEM's request for a position to work with other entities to prepare plans. During a joint meeting of the Assembly Committee on Ways and Means and the Senate Committee on Finance on March 10, 2005, the Division Chief testified that a Grants and Projects Analyst II position was needed to focus in the planning area in order to meet federal requirements. This position was to work in concert with local governments, tribal nations, and state agencies to ensure that all entities were compliant with the National Incident Management System (NIMS) in order to meet the federal requirements. The position was approved effective July 1, 2005, and was vacant for 2 1/2 months between then and December 31, 2007. Although this position was vacant for a short time, DEM's files documented only sporadic attempts at contacting other entities to ensure plans were submitted and met state and federal requirements. Most documented activity occurred in 2007.

DEM's mission and its federal and state responsibilities require it to assist other entities to adequately plan for emergencies. Further, plans are required to contain emergency contact information and lists of equipment available to respond to disasters. This information would be useful in coordinating responses to emergencies. Finally, having entities submit plans to DEM would allow DEM to keep track of which entities had prepared plans and review the plans for completeness without having to travel to the entities' locations, saving time and travel costs.

### DEM Lacks Adequate Oversight of Emergency Operation Plans for State Agencies

The DEM has not demonstrated adequate oversight of emergency operation plans prepared by state agencies. We tested DEM's files for 50 state agencies that are listed as having primary or secondary responsibilities in the State Comprehensive Emergency Management Plan (SCEMP) and found no evidence of plans for 33 of the agencies. In addition, of the 17 plans that DEM had on file, 10 did not have evidence that the plan had been updated annually, and 12 did not have evidence that DEM had determined the plan to be in compliance with NIMS.

In addition, the files did not show DEM took actions to encourage the agencies to file adequate plans. We found 10 of the 17 files did not contain logs where DEM's actions could be recorded. Seven files did contain logs where action could be recorded; however, only one log had an entry and it was made on September 29, 1998.

An Executive Order dated October 24, 2005, required each department, division, and agency in the Executive Branch of state government that is assigned a primary or secondary support role within the SCEMP to develop or update its plan by March 31, 2006. In addition, the Executive Order required the plans to be compliant with the NIMS, and be reviewed and updated annually. The SCEMP requires the DEM to coordinate with state agencies to annually review their role in the SCEMP. It also requires DEM to assist state agencies in the review and update of their plans annually.

### DEM Lacks Adequate Oversight of Emergency Response Plans for Local Jurisdictions

DEM did not provide adequate oversight of local jurisdictions' emergency response plans. DEM did not adequately review local jurisdictions' plans to ensure that the plans met state and federal requirements.

We tested DEM's files for 20 local jurisdictions and found no evidence of plans for 3 of the 20 local jurisdictions. Of the 17 plans found, 13 did not have a current effective date, and 16 did not have evidence that the plan was updated annually. Also, none of the files examined had evidence that DEM routinely communicated with the local jurisdictions about the status of their plans.



NRS 239C.250 was added to the statutes by the 2003 Legislature and states, in part:

1. Each political subdivision shall adopt and maintain a response plan. Each new or revised plan must be filed within 10 days after adoption or revision with:
  - (a) The Division; and
  - (b) Each response agency that provides services to the political subdivision.
2. The response plan required by subsection 1 must include:
  - (a) A drawing or map of the layout and boundaries of the political subdivision;
  - (b) A drawing or description of the streets and highways within, and leading into and out of, the political subdivision, including any approved routes for evacuation;
  - (c) The location and inventory of emergency response equipment and resources within the political subdivision;
  - (d) The location of any unusually hazardous substances within the political subdivision;
  - (e) A telephone number that may be used by residents of the political subdivision to receive information and to make reports with respect to an act of terrorism or related emergency;
  - (f) The location of one or more emergency response command posts that are located within the political subdivision;
  - (g) A depiction of the location of each police station, sheriff's office and fire station that is located within the political subdivision;
  - (h) Plans for the continuity of the operations and services of the political subdivision, which plans must be consistent with the provisions of NRS 239C.260; and
  - (i) Any other information that the Commission may determine to be relevant.

Fourteen of 17 plans at DEM did not have an equipment list as required by state law. Two of the plans that did contain an equipment list were dated 1994. In addition, DEM had not determined whether 11 plans were compliant with NIMS. Six files either had no entries in the activity log or did not have an activity log.

The SCEMP requires the DEM to assist all local jurisdictions in the review and update of their plans annually. During the Interim Finance Committee meeting dated June 24, 2003, the Division Chief testified that, in order to remain eligible for future funding, DEM was working very closely with at least 15 of the 17 counties to assist in review and development of emergency response plans.

#### DEM Lacks Adequate Oversight of Emergency Plans for School Districts, Charter Schools, and Tribal Nations

DEM has not taken steps to foster the adoption of emergency plans by school districts, charter schools, and tribal nations. We tested DEM's files for a total of five school districts and charter schools and found no evidence of plans for any of the school districts or charter schools. We tested DEM's files for five tribal nations. The Division did not have evidence of maintaining plans for any of the tribal nations.

Furthermore, DEM could not provide any documentation it contacted the schools, school districts, or tribes to encourage or assist them with developing plans.

State law requires the board of trustees of a school district and the governing body of a charter school to annually review and update their plans and provide a copy to DEM.

DEM's mission and guidance from DHS require DEM to work with tribes in developing plans. The Secretary of the Department of Homeland Security has repeatedly emphasized the state's responsibility for planning. In September 2004, the Secretary stressed that it was critical that states provide support and leadership to tribal and local entities to ensure full NIMS implementation. In October 2005, the Secretary stated that the most important fiscal year 2006 requirement was that the State establish a planning process that incorporates the appropriate procedures to ensure the effective communication and implementation of NIMS requirements across the State, including tribes and local governments. This planning process must include a means for measuring progress and facilitate the reporting of NIMS implementation among tribal and local jurisdictions.

#### DEM Lacks Adequate Oversight of Emergency Response Plans for Resort Hotels

DEM does not provide adequate oversight of emergency response plans for resort hotels. We tested the DEM's files for 15 resort hotels and found no evidence of plans for 7 of the 15 resort hotels. DEM reported that a complete inventory of all resort hotel plans was conducted by staff on October 23, 2007, and that the seven missing plans had not been received at DEM. State law requires resort hotels to adopt and maintain a plan. Each new or revised plan must be filed with DEM within 3 days after adoption or revision with DEM.

Of the eight plans on file at DEM:

- **three did not have an effective date;**
- **one did not have evidence that it had been evaluated by DEM;**
- **one did not comply with requirements;**
- **four had noted deficiencies; and**
- **two were determined to be in compliance with the requirements.**

None of the eight plans' files had evidence that DEM communicated with the resort hotel regarding the status of its plan. In addition, the list of Nevada resort hotels that DEM provided had not been updated for resorts that were closed, renamed by a new owner, or for new resorts. The list included 21 resorts' names that should be changed or removed from the list.

### **DEM Does Not Have Effective Processes to Track Emergency Equipment**

DEM does not have a comprehensive process to track equipment purchased by state and local agencies with DHS funding. This equipment may be needed during an emergency incident. A system that quickly identifies and provides the location of equipment and supplies could help minimize the impact of disasters.

The Department of Homeland Security's 2004 document, "National Incident Management System" (NIMS), states:

**Resource management involves coordinating and overseeing the application of tools, processes, and systems that provide incident managers with timely and appropriate resources during an incident. Resources include personnel, teams, facilities, equipment, and supplies. Generally, resource management coordination activities take place within EOCs [Emergency Operations Centers]. When they are established, multiagency coordination entities may also prioritize and coordinate resource allocation and distribution during incidents.**

**Resource management involves four primary tasks:**

- **establishing systems for describing, inventorying, requesting, and tracking resources;**
- **activating these systems prior to and during an incident;**
- **dispatching resources prior to and during an incident; and**
- **deactivating or recalling resources during or after incidents.**

NIMS also defines one of the underlying concepts of resource management as providing a uniform method of identifying, acquiring, allocating, and tracking resources. Another underlying concept is that coordination is the responsibility of EOCs. NIMS states that management information systems are used to collect, update, and process data; track resources; and display their readiness status. These tools enhance information flow and provide real-time data in a fast-paced environment where different jurisdictions and functional agencies managing different aspects of the incident life cycle must coordinate their efforts.

DEM had used a computer database to track emergency equipment. According to DEM officials, in April 2006, the employee who maintained and updated the information in the database retired and the vendor of the system went out of business. Since DEM did not have written procedures explaining how to update and maintain the database, DEM stopped entering data into the system. DEM had signed a contract for a web-based system in March 2006. The system was to include several modules related to emergency management. However, during the installation of the system, DEM was told the contract did not include the inventory management module. DEM amended the contract in October 2007 to include the inventory management module. The expected completion date on the contract amendment was September 2008.

### **Recommendations**

1. Develop detailed policies and procedures to monitor emergency operation and response plans, including identification of delinquent or outdated plans, evaluation of the completeness of plans on file, and communication with entities with delinquent, outdated, or inadequate plans.
2. Prepare periodic reports for management review on the status of emergency operation and response plans.
3. Continue with the implementation of the new system that will allow for tracking of emergency equipment and resources, develop procedures for using and maintaining the system, and ensure more than one employee knows how to use and maintain the system.

### **Compliance With State and Department Policies and Procedures Needs Improvement**

DEM's management controls do not provide adequate assurance that state and department policies and procedures are followed. Some procedures that have been developed are outdated or conflict with department or state policies. The absence of these controls resulted in problems related to handling complaints about employees, travel advances and reimbursements, and personnel management.

### **Complaint Alleging Conflict of Interest Not Handled Properly**

DEM's management failed to report a complaint of an alleged conflict of interest to the Department of Public Safety's Office of Professional Responsibility (OPR). Department policy assigns the responsibility to investigate complaints to OPR. DEM's management was made aware of an employee who was an officer of a corporation that developed emergency operation or response plans for local jurisdictions. During part of the time the employee was an officer of the corporation, the employee was the supervisor of the State Emergency Planner who was responsible for reviewing and maintaining plans.

According to DEM's management, the issue was discussed with the employee, but management did not make or retain notes of this discussion. DEM requested a letter from the corporate president. The letter represented that the employee had limited duties and received no compensation but provided no documentation to substantiate this claim. Management represented to the auditors that they considered the employee's involvement with the corporation to be similar to moonlighting and determined no further action was necessary.

Management also purported this position had no authority over the emergency operation plans. However, documents in DEM's files show that this position had supervisory duties over staff with plan evaluation duties during the period that he was an officer of the corporation. Because DEM did not follow department procedures, a thorough investigation was not done to determine whether the employee used his position to obtain favorable treatment for the corporation.

### **Weak Travel Controls Resulted in Numerous Problems**

Weak controls over travel advances and reimbursements resulted in numerous problems. As a result, 67% of the travel advances tested (20 of 30) did not comply with department travel policies. State employees may be advanced money to cover anticipated travel expenses from the agency budget account at the discretion of the agency. Amounts due the State from unspent travel advances were not reimbursed or used for up to 6 months and advances were issued when prior advances had not been reimbursed.

We tested 30 travel advances and found:

- It took more than the 60 days for 12 advances to be used or reimbursed. DEM's policy states a travel claim must be submitted immediately upon return when an employee has an advance. In addition, the employee must submit any overpayment with the travel claim;
- Nine advances totaling \$2,407 were issued with a prior travel advance balance still owed to the State or no claim had been filed for the prior advance; and
- Three travel claims totaling \$1,026 that supported advances and their supporting documentation could not be found.

We tested 27 travel reimbursements and found:

- 5 contained per diem not paid in accordance with the State Administrative Manual (SAM) and department policies and procedures;
- 2 contained air travel that was not booked in accordance with SAM; and
- 1 claim for out-of-state travel was missing an out-of-state travel authorization and receipts for lodging and rental car reimbursements.

These problems have occurred because DEM did not have adequate controls to prevent or detect the errors. DEM's travel policies and procedures were outdated and sometimes conflicted with department policies. In addition, some staff were not familiar with the policies and procedures and management review was not adequate to detect the errors. Some staff consistently obtained advances because they did not have state issued credit cards. State facilitated credit cards are preferred to advances according to SAM and department policy. Excessive use of advances creates additional work for fiscal staff and provides little incentive to submit travel claims and supporting documentation timely.

### **Personnel Management Controls Do Not Ensure Compliance**

DEM did not comply with several state laws and policies regarding personnel management. DEM needs to improve controls over personnel management to ensure overtime worked is properly approved and does not exceed authorized amounts, work performance standards are routinely updated, and employee evaluations are performed.

We tested files of 16 staff positions and found the following:

- Pre-approval of overtime worked was not always documented per agency policies. The required approval form was not in the files for 12 of 50 instances of overtime. NRS 284.180 requires overtime be approved in advance. This finding was reported in our 2001 audit of DEM.
- Three of sixteen employees had compensatory time exceeding 120 without a proper agreement. The number of the hours accumulated ranged from 152 to 311. This included one employee whose compensatory time balance exceeded 240 hours for 2 1/2 months. Nevada Administrative Code (NAC) states that compensatory time may not be accrued in excess of 120 hours unless there is

an agreement between the employee and the appointing authority. Compensatory time may not be accrued in excess of 120 hours unless the agreement provides for accrual of compensatory time up to but not to exceed 240 hours. This finding was also reported in our 2001 audit.

- Six of sixteen personnel files examined did not contain current work performance standards. NAC 284.468 requires each classified position have work performance standards and that employees be evaluated using those standards. It also requires those standards be reviewed annually.
- Eight of fourteen employee files where the employee should have had a performance evaluation had no performance evaluations and the other six evaluations were not completed in a timely manner. NRS 284.340 requires annual evaluations.
- Personnel files for four of six supervisors did not contain documentation that they had received required supervisory training, including employee performance evaluations, disciplinary procedures, and handling grievances. NAC 284 lists the type and timing of training that supervisors and managers responsible for work performance standards and employee evaluations are to attend. The training is available through State Personnel.

Agency officials stated they do not have enough staff to complete these tasks. However, we found poor procedures were causing these problems. For example, there were three different policies concerning overtime procedures that were distributed within DEM. These policies had subtle differences that, if followed, would be in conflict with the Department's overtime policy. In addition, DEM had not developed written procedures to monitor whether work performance standards had been developed and revised as required or for tracking whether employee performance evaluations had been completed. Finally, DEM had no written procedures to monitor supervisor training.

### **Recommendations**

4. Submit complaints of employee misconduct to the Office of Professional Responsibility in accordance with Department of Public Safety policy.
5. Develop written policies and procedures that are consistent with department policy over employee travel to ensure compliance with state laws and regulations and ensure travel related documents are complete and submitted timely.
6. Encourage management and staff to use state credit cards rather than using travel advances.

7. Develop written policies and procedures to ensure overtime is approved prior to being earned and regularly monitor employee overtime accrual to ensure compliance with state laws and regulations.
8. Develop procedures for preparing and updating work performance standards for each employee in accordance with state laws and regulations.
9. Develop procedures for conducting performance evaluations in accordance with state laws and regulations.
10. Monitor managers and supervisors who prepare work performance standards and employee evaluations to ensure they have taken the required training in accordance with regulations and retain documentation of the training.



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# Appendices

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## Appendix A Audit Methodology

To gain an understanding of the Division of Emergency Management (DEM), we interviewed management and staff, reviewed applicable laws, regulations, and policies and procedures significant to DEM. We also reviewed legislative and executive budgets, legislative committee minutes, Interim Finance Committee minutes and publications of DEM.

We evaluated the adequacy of controls over the emergency operations plans and emergency response plans for state agencies, local jurisdictions, resort hotels, tribes, charter schools and school districts. In addition, we assessed the DEM's compliance with laws, regulations, and policies related to complaints against employees, travel, contract expenditures and personnel.

We tested applicable plans for state agencies to determine compliance with the Executive Order requiring all primary and secondary support agencies with identified responsibility within the State Comprehensive Emergency Management Plan (SCEMP) to develop or update their plans by March 31, 2006. We identified 63 state agencies with primary and secondary emergency support function in the SCEMP and selected a random sample of 50.

We tested DEM's files for local jurisdictions to determine compliance with NRS 239C.250 requiring each political subdivision to adopt and maintain an emergency response plan and to submit each new or revised plan with the DEM within 10 days after adoption or revision of the plan. A population of 37 local jurisdictions was determined by combining DEM's Emergency Manager's List and the list of incorporated cities from the Nevada League of Cities. From the 37 local jurisdictions, we selected a random sample of 20.

We tested DEM's files for resort hotels to determine compliance with NRS 463.790 requiring each resort to adopt and maintain a plan and to file the plan within 3 days after adoption or revision with the DEM. A population of 104 resort hotels was

obtained by comparing the list maintained by DEM with a list of resorts provided by the Gaming Control Board. We randomly selected a sample of 15 resort hotels.

We tested DEM's files for charter schools and school districts to determine compliance with NRS 392.624 requiring an annual review and update of the plan for responding to crisis and to provide a copy of the plan to the DEM. A population of 35 school districts and charter schools was determined by assigning a school district for each of the 17 counties in the State including Carson City. Next, the Department of Education's website was accessed for names of charter schools. We then randomly selected a sample of five charter schools and school districts.

We selected a random sample of five tribal nations to determine if DEM was following good management practices by reviewing and monitoring the plans of tribes to ensure that Department of Homeland Security requirements were followed. The sample was selected from a population of 24 tribes determined by accessing the Nevada Indian Commission web site.

To determine compliance with the Department of Public Safety travel policy, NRS 281.160 and the State Administrative Manual (SAM), we randomly selected 19 travel claims from the state's Financial Data Warehouse for the period 7/1/2005 to 12/31/2006. Additionally, we judgmentally selected five travel claims of an employee that accrued significant overtime hours during the test period. In total, we tested 27 claims (one selected transaction included four travel claims).

We tested travel advances to determine that only allowed expenditures were advanced, proper travel approvals were obtained, travel claims were timely filed and recorded, and expenditures were recorded to the appropriate budget account. Finally, we determined the number of advances that had been in arrears for more than 30 days and the number of occurrences where an employee had more than one advance outstanding. Travel advances were selected from the state's Financial Data Warehouse for fiscal years 2006 and 2007 through 12/31/06. There was a total list of 30 advance transactions during this time period.

To determine whether contracts were properly authorized in accordance with the requirements of state law and SAM, we randomly selected five contracts. We obtained the contract log and verified that the log contained the required information in

accordance with SAM. Contracts were selected from a contract list provided by DEM staff. To verify that the list was complete, we reviewed payments on the state's accounting system for fiscal years 2006 and 2007. The payments were compared to the list of contracts provided by DEM. We identified five additional contracts to include in the contract population.

We randomly selected 16 employees to determine DEM's compliance with pertinent state and federal laws, rules, regulations, and guidelines for personnel. We determined if work performance standards were established, performance evaluations were received, and overtime pre-approvals were performed. We also determined whether compensatory time balances were within statutorily defined limits.

Additionally, from the randomly selected 16 employees, we identified 6 employees with supervisory responsibilities. We determined if supervisors had received supervisory training in accordance with Nevada law.

Our audit work was conducted from November 2006 to March 2008 in accordance with generally accepted government auditing standards.

In accordance with NRS 218.821, we furnished a copy of our preliminary report to the Director of the Department of Public Safety and the Chief of the Division of Emergency Management. On August 18, 2008, we met with agency officials to discuss the results of our audit and requested a written response to the preliminary report. That response is contained in Appendix C which begins on page 28.

Contributors to this report included:

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**Appendix B**  
**Status of Emergency Operation or Response Plans**  
**Sample of State Agencies, Local Jurisdictions,**  
**Charter Schools and School Districts**

State Agency	Plan on File	Date of Plan
1. Office of Energy	No	
2. Lieutenant Governor	No	
3. Attorney General	Yes	01/17/2007
4. Controller	No	
5. Department of Administration	Yes	1997
6. Budget Division	No	
7. Buildings and Grounds Division	No	
8. Purchasing Division	No	
9. Risk Management Division	No	
10. State Public Works Board	No	
11. Division of Industrial Relations	No	
12. Division of Insurance	No	
13. Taxicab Authority	No	
14. Department of Conservation and Natural Resources	Yes	12/18/2006
15. Division of Environmental Protection	Yes	12/18/2006
16. Division of Forestry	Yes	12/18/2006
17. Division of State Parks	Yes	12/18/2006
18. Division of Water Resources	Yes	12/18/2006
19. Department of Corrections	No	
20. Office of Historic Preservation	No	
21. Division of State Library and Archives	No	
22. Department of Education	No	
23. Department of Employment, Training and Rehab	Yes	05/08/2006
24. Department of Health and Human Services	No	
25. Division of Child and Family Services	No	
26. Health Division	Yes	03/27/2006
27. Bureau of Health Protection Services	No	
28. Public Health Engineering	No	
29. Radiological Health	No	
30. Division of Mental Health and Developmental Services	No	
31. Office of the Military	No	
32. Department of Motor Vehicles	No	
33. Department of Personnel	Yes	08/09/1993
34. Department of Public Safety	Yes	01/01/2006
35. Capital Police	Yes	01/01/2006
36. Division of Emergency Management	Yes	01/01/2006
37. Investigations Division	Yes	01/01/2006
38. Office of Homeland Security	Yes	01/01/2006
39. State Fire Marshal	Yes	01/01/2006
40. Public Utilities Commission	No	
41. Department of Transportation	Yes	03/28/2006
42. University/Community College System	No	
43. University of Reno	No	
44. UNR – Office of Communications	No	
45. WNCC – Info and Marketing Service	No	
46. Desert Research Institute	No	
47. State Emergency Response Commission	No	
48. Board for Regulation of Liquefied Petro Gas	No	
49. Commission on Tourism	No	
50. State Board of Health	No	
	<b>17 Yes</b>	
	<b>33 No</b>	

## Appendix B

### Status of Emergency Operation or Response Plans: Sample of State Agencies, Local Jurisdictions, Charter Schools and School Districts (continued)

Local Jurisdictions		Plan on File	Date of Plan
1.	Washoe County	Yes	03/01/2006
2.	Clark County	Yes	01/01/2004
3.	White Pine County	Yes	08/01/2001
4.	Pershing County	Yes	1988
5.	Nye County	Yes	1995 *
6.	Carson City	Yes	03/28/2006
7.	Humboldt County	Yes	06/01/2000 *
8.	Lyon County	Yes	03/01/2007
9.	Storey County	Yes	07/01/2004
10.	Lincoln County	Yes	08/20/1996
11.	City of Caliente	Yes	08/20/1996
12.	City of Elko	Yes	Unknown
13.	City of Fallon	Yes	Unknown *
14.	City of Fernley	No	
15.	City of Mesquite	Yes	01/05/1999
16.	City of North Las Vegas	Yes	1998
17.	City of Sparks	Yes	2003
18.	City of West Wendover	Yes	1995 *
19.	City of Winnemucca	No	
20.	City of Yerington	No	
		<b>17 Yes</b>	
		<b>3 No</b>	

School Districts and Charter Schools		Plan on File	Date of Plan
1.	Clark County School District	No	
2.	Lyon County School District	No	
3.	Odyssey Charter Schools	No	
4.	Rainshadow Community Charter High School	No	
5.	Sierra Nevada Academy	No	
		<b>0 Yes</b>	
		<b>5 No</b>	

Source: Division of Emergency Management.

\* We also reviewed the plans on file at some local jurisdictions. The dates on these plans did not agree with the dates on the plans on file at the DEM. The following lists the local jurisdictions with the dates of the plans that differ from the date of the plans on file with DEM.

- 1.) Nye County - August 2007
- 2.) Humboldt County - March 2007
- 3.) City of Fallon - November 2004
- 4.) City of West Wendover - 2007

**Appendix C**  
**Response From the Division of Emergency Management**

**Jim Gibbons**  
*Governor*



**Jearld Hafen**  
*Director*

**Frank Siracusa**  
*Chief*

**Division of Emergency Management**  
2478 Fairview Drive  
Carson City, Nevada 89701  
Telephone (775) 687-0300 • Fax (775) 687-0322 • <http://dem.state.nv.us/>

August 29, 2008

Paul V. Townsend, CPA  
Legislative Auditor  
Legislative Counsel Bureau  
401 So. Carson St.  
Carson City, NV 89701-4747

Dear Mr. Townsend:

Pursuant to NRS 218.821(1), the following is the formal explanation concerning the findings of your audit of this Division.

In advance of our response to the findings within the audit report, the Division would like to state that the Division strongly disagrees with statements made by the Audit staff of LCB Audit Division within this report which allude to any implication that the State is not proactive in, or prepared to respond to an emergency or disaster. This is clearly a misrepresentation of the Division's capabilities, since the Division has demonstrated through consistent performance, the State's ability to effectively and expeditiously respond to and recover from, eight disasters since 2004, including the recent Fernley flood.

In addition, the Division would like to address the Audit staff's continued reference to the National Incident Management System (NIMS) requirements in this audit report. There appears to be a misunderstanding on the part of the Audit staff when referencing the NIMS requirements in conjunction with their confusion of the NIMS guidelines with Homeland Security Presidential Directives (HSPDs). Clearly some of the representations made in this audit report are in error and are misleading. For example, as it would pertain to the Audit staff's perceived requirement that it is the State's responsibility to ensure that local jurisdictions and tribal nations are NIMS compliant, this is not correct. It is the responsibility of the local jurisdictions and tribal nations to individually achieve compliance and self-certify their compliance with NIMS to the National Integration Center (NIC) through use of the NIMS-CAST system.

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**FINDING: Little Is Done to Ensure Emergency Operation and Response Plans Are Current and Adequate**

The Division does not agree with the presentation of this finding since it does not accurately reflect the Division's efforts in this area. Further, the context of this finding fails to acknowledge the Division's limitations and restrictions regarding its authority and jurisdiction in "ensuring" compliance by local jurisdictions and other entities throughout the State.

It is acknowledged that NRS 414.040 and the federal Department of Homeland Security (DHS) do call for the Division to assist in the development of comprehensive, coordinated plans for emergency management for the State, its political subdivisions, private organizations, and tribal nations respectively. However, neither of these authorities or other statutory provisions grants to the Division the authority to enforce this requirement. Further explanation is contained in the following findings specific to emergency operations and response plans for the referenced entities.

The Division did request and receive a position for a "Planner" (Grants and Projects Analyst II) during the 2005 Legislative Session for the purpose of reviewing emergency operations plans for local governments, tribal nations, and state agencies in efforts to achieve compliance with the NIMS. However, again this finding is misleading since it fails to provide an accurate reflection of the Division's efforts to overcome the obstacles experienced by the Division in effectively accomplishing the stated intent of the position. Specifically, during the originally stated audit period, the Division had to recruit for the position and train the incumbent. Additionally, during the audit period, the Division was confronted with having to respond to and manage five declared disasters resulting in the addition of 181 applications with a total of 668 projects. The Division did not and does not have any staff solely dedicated to this function. When a disaster occurs, the existing staff of the Division immediately ceases its normal daily responsibilities to provide for an expeditious and effective response to and recovery from the disaster.

This finding further assumes that a single planner has the capability to receive and review all types of plans set forth in the subsequent plans-related findings. As explained to the Audit staff on numerous occasions, this is not only beyond any reasonable person's expectations, but is simply not possible. The Division attempted to submit fiscal notes as the different legislative bills were created, considered and subsequently approved throughout the past Legislative Sessions since 2001. The LCB Fiscal Division advised the Division that the requested positions were not necessary as the Division did not have any statutory responsibility with these plans, other than to receive and file them in a secure location. In this report, the LCB Audit Division is issuing the Division audit findings based upon its determination of the Division's responsibilities relating to the same legislation. There is apparently a lack of communication or consistent policy between the two LCB divisions, which is clearly a cause for concern and confusion when seeking to accurately determine the Legislature's expectations of the Division.

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Finally, the audit fails to acknowledge the unique challenges the Division is confronted with when working with Nevada's rural counties. Specifically, this finding concludes that "having entities submit plans to DEM would allow DEM to keep track of which entities had prepared plans and review the plans for completeness without having to travel to the entities' locations, saving time and travel costs". This conclusion is not realistic. When an offer to assist is accepted or assistance is requested, it has been necessary to visit many of the rural counties to assist them with not only their planning efforts but training and exercise initiatives as well.

**FINDING: DEM Lacks Adequate Oversight of Emergency Operation Plans for State Agencies**

The State has historically relied upon the State Comprehensive Emergency Operations Plan (SCEMP) as the guidance document for how the State responds to an emergency or disaster. It is not a statutory requirement for all state agencies to have separate emergency operations plans. In October, 2005 it was this Division that approached the Office of the Governor requesting the issuance of a Governor's Executive Order requiring all primary and secondary emergency support function agencies at the state level to develop and maintain emergency operations plans. At this time, the current administration has not reissued this Executive Order and the previous one is no longer valid.

It should further be noted that there was some miscommunication during the development of the Governor's Executive Order since it included all primary and secondary ESF agencies rather than just those agencies that would have an emergency response role. This issue was communicated with the existing administration at that time and was determined that only those agencies with responsibilities to respond were required to comply.

The SCEMP does require the Division to coordinate with state agencies to annually review their role in the SCEMP. However, this, too, has been taken out of context inasmuch as this requirement is specific to the sections of the SCEMP that are specific to each emergency support function not necessarily each agency.

Finally, the Division does not agree with this finding for the above stated reasons. The efforts to encourage state agencies in the development of emergency operations plans was intended to improve the abilities of state agencies to support the SCEMP and their response to emergencies and disasters. Additionally, the Division has always and continues to work with each of the emergency support function agencies through on-site training in the State's Emergency Operations Center and the incident management system.

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FINDING: DEM Lacks Adequate Oversight of Emergency Response Plans for Local Jurisdictions

The Division does not agree with this finding. While the Division recognizes that it is statutorily required to assist in the development of comprehensive, coordinated plans for emergency management, this is specific to emergency operations plans not emergency response plans. There is also a misunderstanding on the part of the Audit staff relative to this difference and how they are addressed in statute. The Division's responsibilities for assisting with emergency operations plans are required under the provisions of NRS Chapter 414 and the Division's role as it relates to emergency response plans are provided for under NRS Chapter 239C, which in simple terms states that each political subdivision shall adopt and maintain a response plan and file it with the Division. There are no statutory requirements for the Division as it would relate to this statute. Again, however, there is an assumption on the part of this audit that we have the authority to "require" local jurisdictions to comply with this provision. As stated before, the Division has no authority to enforce this.

With regards to the provisions of NRS Chapter 414, the key language is "assist" and the Division has always provided assistance to local jurisdictions in the form of training, conferences and responding to requests for assistance. Additionally, the Division can only request compliance from the local jurisdictions relative to state and federal requirements. While the Division can withhold or deny federal grant funding as a method to encourage compliance, some jurisdictions do not recognize this as an incentive.

This audit report also references 3 local jurisdiction plans that the Audit staff "found no evidence of plans" for. The three referenced in the report are for cities in Humboldt and Lyon counties. These cities, while incorporated, do not have separate and distinct emergency management programs from their county and choose to remain under their respective counties for the purposes of emergency management. The Division does not fund these cities separately from their counties. This, too, was explained to the Audit staff.

While the audit reports states that "none of the files examined had evidence that DEM routinely communicated with the local jurisdiction about the status of their plans," the Audit staff was provided with the agendas for Emergency Management Director's conferences, which are held one or two times per year, which have specifically addressed the importance of these plans and the need to comply with the NIMS requirements.

The audit report calls out that some of the plans tested did not have an effective date. It should be noted that each of the jurisdictions has its own desired format for its emergency operations plan. The Division has attempted and continues to encourage the standardization of these plans but has been met with some resistance.

FINDING: DEM Lacks Adequate Oversight of Emergency Plans for School Districts, Charter Schools, and Tribal Nations

The Division strongly disagrees with this finding. As stated earlier, at the time that legislation was passed to require this of the schools, the Division provided a fiscal note requesting the necessary staff to receive, review and manage these plans and **was advised by the LCB Fiscal Division that the Division did not have any responsibilities for these plans other than to receive and file them in a secure location.** The Division accepted this determination as the Division does not have any statutory responsibilities under the provisions of the law associated with this requirement. The Division currently does not have adequate staffing to effectively perform the suggested responsibilities in this report as determined by the Audit staff.

With regards to tribal nations, the Division has made many efforts to work with the tribal nations within the state. These efforts have included training, workshops, and individual meetings to provide technical assistance. The Division has attended and provided information at Inter-Tribal Council meetings and has been recognized nationally on the State's relationship with its tribal nations. However, it must be understood that tribal nations are sovereign and therefore, do not have to comply with either federal or state requirements.

While the Secretary of the federal Department of Homeland Security has repeatedly emphasized the states' responsibility for planning, it also acknowledges that due to the varying constitutional structures of the states, that not every state has the constitutional authority to mandate some of their program eligibility requirements. They, too, understand and acknowledge that the only method of attempting to achieve compliance is to leverage cooperation through the potential for loss of eligibility for funding. In addition, they fully understand that the states do not have the authority to enforce any program requirements as it would pertain to sovereign nations.

FINDING: DEM Lacks Adequate Oversight of Emergency Response Plans for Resort Hotels

The Division strongly disagrees with this finding. As stated earlier, at the time that legislation was passed to require this of the resort hotels, the Division provided a fiscal note requesting the necessary staff to receive, review and manage these plans and **was advised by the LCB Fiscal Division that the Division did not have any responsibilities for these plans other than to receive and file them in a secure location.** The Division accepted this determination as the Division does not have any statutory responsibilities under the provisions of the law associated with this requirement.

The Audit staff noted that one of the files did not have evidence that it had been evaluated by DEM staff. The evaluations were an effort on the Division's part to have a record of those plans received in conjunction with a report of compliance on the statutorily established components of the plans for each property. These evaluations were developed only for the purpose of having a standardized method for providing

information that was necessary as a result of the media frenzy that immediately ensued following the passing of the legislation. The evaluations were not developed with the intent of an ongoing process to be performed by the Division. The Division currently does not have adequate staffing to effectively perform the responsibilities suggested in this report as determined by the Audit staff.

The requirement for resort hotels to file this information is further challenged by the affected resort hotels under the premise that the required information for such plans violates their right of not having to share proprietary information with those who have no need to access that information.

**FINDING: DEM Does Not Have Effective Processes to Track Emergency Equipment**

The Division does not agree with this finding. This audit report cites the NIMS requirement for Resource Management as the mandate requiring accomplishment of a system capable of achieving this initiative. However, the federal Department of Homeland Security has acknowledged that there are many obstacles in successfully achieving this goal within all of the states and territories. Primarily, the most significant obstacle is the lack of personnel resources to effectively develop, build and maintain such a system. Specifically, while the Division is working with a contractor to build a user friendly system that may be used by all jurisdictions within the state, the most significant problem is observed in the lack of adequate staffing at all levels to input information and maintain resource availability information continuously. The State cannot independently perform this function alone without local jurisdiction cooperation and the majority of the local jurisdictions maintain that they do not have the staff to sustain this function.

To date, the Division has been working in the field with local jurisdictions to obtain at least, an inventory of existing resources. However, without the cooperation of each jurisdiction to regularly update and continuously record the movement and availability of its resources, the information obtained initially will rapidly become outdated and be of little benefit in an emergency response situation, possibly resulting in unnecessary delays if the system should be relied upon under these circumstances. In summation, the system is only as good as the information that is put into it.

**Recommendations:**

- 1. Develop detailed policies and procedures to monitor emergency operations and response plans, including identification of delinquent or outdated plans, evaluation of the completeness of plans on file, and communication with entities with delinquent, outdated, or inadequate plans.**

**Response: Partially Reject**

*The planning position that was granted during the 2005 Legislative Session was approved for the purpose of managing the emergency operations plans for local*

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jurisdictions, state agencies and tribal nations. This position was not requested nor intended to be utilized for the purpose of managing these plans along with the plans for utilities, resort hotels, schools or local jurisdiction emergency "response" plans. As a result of the discrepancies in direction currently being provided by the LCB Audit Division versus the direction that was previously provided by the LCB Fiscal Division delineating what the Division's role is or is not as it would relate to utilities, resort hotels, schools or local jurisdiction emergency "response" plans, **the Division is respectfully requesting a legal opinion defining exactly what the Division's role is pertaining to these plans, taking into consideration the potential for staffing shortfalls.**

2. **Prepare periodic reports for management review on the status of emergency operation and response plans.**

**Response: Partially Reject**

*The Division accepts this recommendation as a positive method for those plans that the Division is adequately staffed to manage. However, the Division wants the record to reflect that it is impossible for the Division to comply fully with this recommendation without the staffing to perform the functions suggested within this audit report. Additionally, please refer to the response to recommendation number 1.*

3. **Continue with the implementation of the new system that will allow for tracking of emergency equipment and resources, develop procedures for using and maintaining the system, and ensure more than one employee knows how to use and maintain the system.**

**Response: Partially Reject**

*The Division accepts the general concepts of this recommendation. However, as explained previously, this initiative has numerous unresolved issues that are recognized at the federal level and nationwide. The system's success is solely dependent upon the cooperation of local jurisdictions and their ability to staff this function. It should further be recognized that these types of systems are complex and the training of staff on the use, management and administration of this system is extensive and very costly.*

**FINDING: Complaint Alleging Conflict of Interest Not Handled Properly**

The Division strongly disagrees with this finding. The Division followed proper chain of command with regards to this incident as it was reported to and discussed with the Director of the Department. The Director was completely briefed on the situation, advised that it had also been discussed with legal counsel who was looking into it through the Attorney General's office, and asked if this should be referred to the Office of Professional Responsibility (OPR). The Director advised the Chief of the Division that it

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was not a situation that needed to be referred to the OPR as he felt that the Division had handled it appropriately. It should also be noted that the OPR reports to the Director; and, therefore according to the law of agency, the Director is the OPR.

This information was also provided to the Audit staff in addition to a copy of a letter from the Attorney General's office advising the Chief of the Division that there were no facts to substantiate the claims against the employee in question. Also of importance, it has been stated to the Divisions that unless there is a reasonable level of evidence for wrongdoing by way of misconduct that it is the Division's responsibility to resolve its own internal issues such as personnel related matters.

The Division maintains that it followed proper procedure and direction from the Director of the Department.

**FINDING: Weak Travel Controls Resulted in Numerous Problems**

The Division agrees with and accepts this finding. However, the Division feels it prudent to provide facts surrounding the circumstances that resulted in this finding. During the audit period, the Division experienced a staffing problem due to one of the two positions handling travel arrangement and claims being out for months on medical leave, the Accountant Tech III being vacant and only an ASO I being responsible for handling all Division accounting functions. It should further be noted that the two staff members that are responsible for travel related functions are Administrative Assistants and not clerical level accounting staff. The issues identified in this finding have since been corrected.

**FINDING: Personnel Management Controls Do Not Ensure Compliance**

The Division agrees with and accepts this finding. While the Division recognizes that procedures need to be updated, the Division feels that the Audit staff did not accurately portray the difficulties that the Division is experiencing. These difficulties are due to ever increasing workload and multiple new federal requirements, in addition to the management of numerous disasters that still remain open. Because of the multitude of projects, mandates and steady deadlines, management and supervisors have had a difficult time meeting personnel requirements. The Division is working to address these issues.

**Recommendations:**

- 4. Submit complaints of employee misconduct to the Office of Professional Responsibility in accordance with Department of Public Safety policy.**

**Response: Rejected**

*The Division followed proper chain of command and followed the direction as provided by the Director of the Department. If faced with the same situation, the*

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same actions would be taken. After looking into the issue, there was absolutely no evidence of misconduct or reason to suspect such. The Attorney General's office also agreed that there was nothing concrete suggesting that the employee acted improperly.

- 5. Develop written policies and procedures that are consistent with department policy over employee travel to ensure compliance with state laws and regulations and ensure travel related documents are complete and submitted timely.**

**Response:** Accepted

*The Division has been working with the Internal Auditor of the Department for updates and revisions to the Division's policies. Additionally, the Division has implemented practices to ensure that travel related documents are complete and submitted timely.*

- 6. Encourage management and staff to use state credit cards rather than using travel advances.**

**Response:** Accepted

*The Division recognizes that it cannot require this but will encourage use of state credit cards rather than the use of travel advances.*

- 7. Develop written policies and procedures to ensure overtime is approved prior to being earned and regularly monitor employee overtime accrual to ensure compliance with state laws and regulations.**

**Response:** Accepted

*The Division is currently working on updating internal policies and procedures and language will be included to reflect the requirements of this recommendation. This practice has already been implemented.*

- 8. Develop procedures for preparing and updating work performance standards for each employee in accordance with state laws and regulations.**

**Response:** Accepted

*The Division continues to update its internal policies and procedures and language will be included to adequately address the requirement of this recommendation.*

- 9. Develop procedures for conducting performance evaluations in accordance with state laws and regulations.**

**Response:** Accepted

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*The Division continues to update its internal policies and procedures and language will be included to adequately address the requirement of this recommendation.*

**10. Monitor managers and supervisors who prepare work performance standards and employee evaluations to ensure they have taken the required training in accordance with regulations and retain documentation of the training.**

**Response: Accepted**

*The Division has established a method for tracking completion of work performance standards and employee evaluations as well as developed employee training files. The Division will continue to strive for success in satisfying these requirements.*

In closing, I want to extend my sincerest appreciation for the efforts of you and your staff in assisting the Division with the identification of areas needing improvement. If I can provide any further information, please feel free to give me a call at (775)687-0300.

Sincerely,



Frank Siracusa  
Chief

FS/kc

Cc: Jearld Hafen, Director, Department of Public Safety  
Jay Giovacchini, Internal Auditor, DPS

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## Division of Emergency Management Response to Audit Recommendations

<u>Recommendation Number</u>		<u>Accepted</u>	<u>Rejected</u>
1	Develop detailed policies and procedures to monitor emergency operation and response plans, including identification of delinquent or outdated plans, evaluation of the completeness of plans on file, and communication with entities with delinquent, outdated, or inadequate plans .....	_____	_____X*
2	Prepare periodic reports for management review on the status of emergency operation and response plans ....	_____	_____X*
3	Continue with the implementation of the new system that will allow for tracking of emergency equipment and resources, develop procedures for using and maintaining the system, and ensure more than one employee knows how to use and maintain the system.....	_____	_____X*
4	Submit complaints of employee misconduct to the Office of Professional Responsibility in accordance with Department of Public Safety policy.....	_____	_____X
5	Develop written policies and procedures that are consistent with department policy over employee travel to ensure compliance with state laws and regulations and ensure travel related documents are complete and submitted timely .....	_____X	_____
6	Encourage management and staff to use state credit cards rather than using travel advances .....	_____X	_____
7	Develop written policies and procedures to ensure overtime is approved prior to being earned and regularly monitor employee compensatory time accrual to ensure compliance with state laws and regulations.....	_____X	_____
8	Develop procedures for preparing and updating work performance standards for each employee in accordance with state laws and regulations .....	_____X	_____
9	Develop procedures for conducting performance evaluations in accordance with state laws and regulations.....	_____X	_____
10	Monitor managers and supervisors who prepare work performance standards and employee evaluations to ensure they have taken the required training in accordance with regulations and retain documentation of the training.....	_____X	_____
TOTALS		<u>6</u>	<u>4</u>

\* Partially rejected. See "Auditor's Comments on Agency Response" on page 39 for additional discussion.



## Appendix D

### Auditor's Comments on Agency Response

The Division of Emergency Management, in its response, does not agree with certain of our findings, conclusions, and recommendations. The Division has rejected 1 and partially rejected 3 of our 10 recommendations; however, our analysis shows that 4 of the recommendations have been rejected. The following identifies some sections of the report where the Division has taken exception to our position. We have provided our comments on the issues raised in the Division's response to assure the reader that we believe our findings, conclusions, and recommendations, as stated in the report, are appropriate.

1. The Division partially rejected our recommendation to develop policies and procedures to monitor emergency operations and response plans, including identification of delinquent or outdated plans, evaluation of the completeness of plans on file, and communication with entities with delinquent, outdated, or inadequate plans. (See page 33) The Division comments it is requesting a legal opinion to define what the Division's role is pertaining to these plans (utilities, resort hotels, schools or local jurisdiction emergency "response" plans), taking into consideration the potential for staffing shortfalls. (See page 34)

The Division believes it does not have responsibility to follow-up with entities regarding missing, outdated, or inadequate plans. The Division maintains that neither the statutes nor federal standards require this. Further, it maintains the Executive Order requiring certain state agencies to have emergency operation plans is outdated and no longer valid. (See page 30)

The Division stated that the three incorporated cities listed as not having plans have chosen to remain under their respective counties (Humboldt and Lyon) for the purposes of emergency management and are not funded separately from their counties. (See page 31)

The Division's response also stated it evaluated resort hotels' plans for providing information that was necessary as a result of the media frenzy that immediately ensued following the passing of this legislation. (See pages 32 and 33)

#### Legislative Auditor's Comments

As stated in the report on page 12, NRS 414.040 requires the Division to conduct activities to prepare state and local governmental agencies and private organizations to respond to an emergency or disaster by fostering the adoption of plans for emergency operations and conducting exercises to test those plans.

As stated in the report on page 14, the Governor's Executive Order from October 2005 required agencies to develop or update their plans by March 31, 2006. In September 2006, the Division reported to the Governor's Office that it had received a plan from each Executive Branch agency with a primary or secondary role in the State Comprehensive Emergency Management Plan, as discussed in the report on page 13. The Executive Order was issued and the agencies' plans were to be developed or updated during the 18 month period reviewed during the audit. (See page 10)

While NRS 239C requires local governments to file emergency response plans with the Division, the Department of Homeland Security calls for the Division to ensure local governments have emergency operation plans. (See pages 12 and 15) During audit testing, we considered the presence of either an emergency operation or an emergency response plan to fulfill the statutory requirement for an emergency response plan.

Regarding the three cities for which the Division could not locate a plan (Fernley, Winnemucca, and Yerington), NRS 239C does not distinguish between local jurisdictions who receive funding and those who do not. (See page 15) We requested in writing the Division confirm it did not have plans for these three cities. In its written response to our request, the Division confirmed it did have plans on file for the City of Caliente and the City of Elko, as well as other cities funded through the Emergency Management Preparedness Grant program. Division management also stated that cities historically have fallen under their respective county's plan. Division management did not confirm they had located the plans for these three cities and did not indicate plans for these three cities were included in their counties' plans.

As stated in the report on page 12, the Division rated the state's efforts in planning as a 5, which means "the output has been achieved and resources are devoted to sustain the effort. The description of this planning goal is to ensure all state agencies and local jurisdictions continue to have current emergency operations plans. Further, in the same document, the Division states it monitors local jurisdictions' adoption of NIMS through self-certification, review of local emergency operations plans, and random local reviews. This document was part of a federal monitoring site visit in April 2007.

The Chief of the Division is responsible for carrying out the program for emergency management in the State pursuant to NRS 414.040(3). (See page 12) School districts and charter schools are included in the statutory definition of emergency management found in NRS 414.035. This definition includes "a crisis involving violence on school property, at a school activity or on a school bus."

As stated on page 16 of the report, the Division could not locate almost half (7 of 15) of resort hotel plans we tested. Of the eight plans it did locate, there was evidence the Division reviewed seven; only two of those seven were determined to be in compliance with statutory requirements. There was no evidence the Division communicated plan deficiencies with the five that were not in compliance.

2. The Division partially rejected our recommendation to prepare reports for management review on the status of emergency operation and response plans. The Division stated it wants the record to reflect that it is impossible for the Division to comply fully with this recommendation without the staffing to perform the functions suggested. (page 34)

#### Legislative Auditor's Comments

The Division requested and received staff to monitor and review other entities' plans during the 2005 Legislative Session, which is discussed in the report on page 13. We believe the Division currently has staff to perform the functions suggested, if the position is used in an efficient manner and for the purpose it was requested. As stated in Appendix A, we identified 63 state agencies, 37 local jurisdictions, 104 resort hotels, 35 school districts and charter schools, and 24 tribes, for a total of 263 entities. These numbers do not include utilities. We believe the Division can monitor these entities' submission of plans and notify those who have not submitted plans with existing staff. In addition, existing staff should be able to review a reasonable number of these plans each year. As Recommendation Number 1 on page 18 suggests, the Division should adopt policies and procedures to guide staff regarding the plans to be reviewed. Plans may be selected for review based on risk factors or on a periodic basis.

3. The Division partially rejected our recommendation to continue with the implementation of the new system that will allow for tracking of emergency equipment and resources, develop procedures for using and maintaining the system, and ensure more than one employee knows how to use and maintain the system. The Division states the system's success is solely dependent upon the cooperation of local jurisdictions and their ability to staff this function. The Division states that these types of systems are complex and the training of staff on the use,

management and administration of this system is extensive and very costly. (See pages 33 and 34)

Legislative Auditor's Comments

As stated in the audit report on page 17, the Division stopped using the prior system to track equipment because only one employee knew how to update and maintain the database and the Division had no policies and procedures. The Division has already contracted with a vendor to install the new system. Recommendation Number 3 on page 18 is intended to prevent some of the problems that occurred in the prior system, which led to the Division discontinuing its use.

4. The Division rejected the recommendation to submit complaints of employee misconduct to the Office of Professional Responsibility in accordance with Department of Public Safety policy. The Division's response states it provided a copy of a letter from the Attorney General's Office advising the Chief of the Division that there were no facts to substantiate the claims against the employee in question. The Division also stated this incident was reported to and discussed with the Director of the Department, who advised that this was not a situation that needed to be referred to the Office of Professional Responsibility. The Division also believes that, unless there is a reasonable level of evidence for wrongdoing by way of misconduct, it is the Division's responsibility to resolve its own internal issues such as personnel related matters. Further, the Division's response states that, if faced with the same situation, the same actions would be taken. (See pages 34, 35, and 36)

Legislative Auditor's Comments

As stated on page 19 of the report, a thorough investigation was not done to determine whether the employee used his position to obtain favorable treatment for the corporation of which he was an officer. We verified the employee was the company's Secretary from information on the Secretary of State's web site. We twice requested in writing the Division provide us with any documentation or notes of any investigation they performed. They provided us with a letter from the company president that stated the employee received no compensation and a letter from their Deputy Attorney General that was prepared after our second request for documentation. They did not provide us with an Investigation Report or a Case Summary, which are both required under the Department's policy. Therefore, we conclude the Division did not comply with the Department's policy regarding complaints of employee misconduct.