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OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

Financial Audit Division Report

Office of the Attorney General
January 1, 2003, through December 31, 2004



APRIL 28, 2005

05-25

Financial Audit Division

The Office of the Legislative Auditor (OLA) is a professional, nonpartisan office in the legislative branch of Minnesota state government. Its principal responsibility is to audit and evaluate the agencies and programs of state government (the State Auditor audits local governments).

OLA's Financial Audit Division annually audits the state's financial statements and, on a rotating schedule, audits agencies in the executive and judicial branches of state government, three metropolitan agencies, and several "semi-state" organizations. The division also investigates allegations that state resources have been used inappropriately.

The division has a staff of approximately forty auditors, most of whom are CPAs. The division conducts audits in accordance with standards established by the American Institute of Certified Public Accountants and the Comptroller General of the United States.

Consistent with OLA's mission, the Financial Audit Division works to:

- Promote Accountability,
- Strengthen Legislative Oversight, and
- Support Good Financial Management.

Through its Program Evaluation Division, OLA conducts several evaluations each year.

OLA is under the direction of the Legislative Auditor, who is appointed for a six-year term by the Legislative Audit Commission (LAC). The LAC is a bipartisan commission of representatives and senators. It annually selects topics for the Program Evaluation Division, but is generally not involved in scheduling financial audits.

All findings, conclusions, and recommendations in reports issued by the Office of the Legislative Auditor are solely the responsibility of the office and may not reflect the views of the LAC, its individual members, or other members of the Minnesota Legislature.

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If you have comments about our work, or you want to suggest an audit, investigation, or evaluation, please contact us at 651-296-4708 or by e-mail at auditor@state.mn.us



Senator Ann H. Rest, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

The Honorable Mike Hatch
Attorney General

We conducted an audit of the Office of the Attorney General (Office) for the two-year period January 1, 2003, through December 31, 2004. Our audit scope included funding sources and other revenues, payroll, and administrative expenditures. Our objectives focused on a review of the Office's internal controls over these financial activities and its compliance with applicable legal provisions.

The enclosed Report Summary highlights our overall audit conclusions. The specific audit objectives and conclusions for each area are contained in the individual chapters of this report.

We would like to thank the staff from the Office of the Attorney General for their cooperation during this audit.

/s/ James R. Nobles

James R. Nobles
Legislative Auditor

/s/ Claudia J. Gudvangen

Claudia J. Gudvangen, CPA
Deputy Legislative Auditor

End of Fieldwork: February 25, 2005

Report Signed On: April 25, 2005

Office of the Attorney General

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Audit Participation

The following members of the Office of the Legislative Auditor prepared this report:

Claudia Gudvangen, CPA	Deputy Legislative Auditor
Tom Donahue, CPA	Audit Manager
Jack Hirschfeld, CPA	Auditor-in-Charge
Marisa Isenberg	Auditor
Pat Ryan	Auditor

Exit Conference

We discussed the results of the audit with the following staff of the Office of the Attorney General at an exit conference on April 20, 2005:

Rebecca Spartz	Director of Administration
Terry Pohlkamp	Fiscal Services Director
Betsy McAfee	Human Resources Director
Annette Gratke	Human Resources Generalist
Linda Jensen	Human Resources Specialist
Sharon Weiss	Purchasing Coordinator
Pat Gallatin	Docketing/Timekeeping Supervisor

Report Summary

Overall Conclusion:

- The Office of the Attorney General's internal controls provided reasonable assurance that it accurately reported its transactions in the state's accounting system, complied with material financial-related legal provisions, and safeguarded its assets.

The audit report contained no audit findings relating to internal control or legal compliance. The Office of the Attorney General implemented the finding included in our prior audit report.

Audit Scope:

Audit Period:

January 1, 2003, through December 31, 2004.

Selected Audit Areas:

- Funding sources and other revenue
- Payroll
- Administrative expenditures

Agency Background:

The Attorney General is the chief legal officer for the State of Minnesota. The Office represents the state in state and federal court, as well as in administrative adjudication and rulemaking hearings and felony criminal appeals. It also advises local prosecutors in the conduct of criminal trials. The Office bills for legal services provided to state agencies and collected approximately \$24 million during the period January 1, 2003, through December 31, 2004. Mike Hatch was elected Attorney General in November 1998.

Office of the Attorney General

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Office of the Attorney General

Chapter 1. Introduction

The Office of the Legislative Auditor audits all constitutional officers every two years according to a Legislative Audit Commission policy. We conduct our audits at the mid-point and at the end of each constitutional officer's term.

Office Overview

Article V of the Constitution of the State of Minnesota established the Office of the Attorney General. The Attorney General is the chief legal officer for the State of Minnesota. The Attorney General represents and provides legal advice to over 100 state agencies, boards, and commissions. The Attorney General represents the state in state and federal court and administrative adjudication and rulemaking hearings. In addition, the Attorney General handles felony criminal appeals, advises local prosecutors in the conduct of criminal trials, and handles cases at the request of local prosecutors.

Table 1-1 provides a summary of the Office's sources and uses of funds for fiscal year 2004.

**Table 1-1
Sources and Uses of Funds
Fiscal Year 2004**

	General Fund	Special Revenue Fund	Agency Fund
Sources:			
Balance Forward In	\$ 3,811,504	\$ 478,933	\$ 6,896,120
State Appropriation	24,171,000	629,000	0
Transfers In ^(Note 1)	3,696,532	0	0
Attorney General Fees	5,889,866	0	0
Restitution, Settlements	0	0	739,319
Other Revenue	12,540	1,283,389	37,929
Total Sources	<u>\$37,581,442</u>	<u>\$ 2,391,322</u>	<u>\$ 7,673,368</u>
Uses:			
Payroll	\$27,558,325	\$1,114,858	\$ 0
Administrative Expenditures	4,268,966	442,361	4,706
Cancellations/Reverted	422,000	0	0
Settlement Payments	0	0	6,360,810
Transfers Out	0	1,906	470,084
Total Uses	<u>\$32,249,291</u>	<u>\$1,559,125</u>	<u>\$6,835,600</u>
Balance Forward Out	<u>\$ 5,332,151</u>	<u>\$ \$832,197</u>	<u>\$ 837,768</u>

Notes: (1) Transfers include appropriation transfers under the partner agreements for Attorney General services.

(2) This table does not include receipts collected by the Office that cancel to the General Fund.

Source: Minnesota Accounting and Procurement System (MAPS) for budgetary fiscal year 2004 as of December 31, 2004.

The Special Revenue Fund is predominantly used for the Office's federal Medicaid fraud and narcotics grant activities. The Agency Fund is used for settlement claims and restitutions.

Office of the Attorney General

The Attorney General is a member of the State Executive Council, the State Board of Investment, the Pardons Board, and the Land Exchange Board. The Attorney General's responsibilities and authorities are found in *Minnesota Statutes*, Chapter 8. Mike Hatch was first elected Attorney General in 1998 and was re-elected for a four-year term in November 2002.

The Office of the Attorney General consolidated its office locations in fiscal year 2004. The Office transferred the majority of its attorneys to downtown St. Paul. In addition, two attorneys are located at the Iron Range Resources in Eveleth. The Attorney General maintains its administrative office at the State Capitol.

Audit Approach

Our audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we obtain an understanding of the Office of Attorney General's internal controls relevant to the audit objectives. We used the guidance contained in *Internal Control-Integrated Framework*, published by the Committee of Sponsoring Organizations of the Treadway Commission, as our criteria to evaluate agency controls. The standards also require that we plan the audit to provide reasonable assurance that the Office of Attorney General complied with financial-related legal provisions that are significant to the audit. In determining the department's compliance with legal provisions, we considered requirements of laws, regulations, contracts, and grant agreements.

To meet the audit objectives, we gained an understanding of the Office of Attorney General's financial policies and procedures. We considered the risk of misstatements in the accounting records and noncompliance with relevant legal provisions. We analyzed accounting data to identify unusual trends or significant changes in financial operations. We examined a sample of evidence supporting the agency's internal controls and compliance with laws, regulations, contracts, and grant provisions.

Chapter 2. Funding Sources and Other Revenue

Chapter Conclusions

The Office of the Attorney General properly collected, deposited, and recorded revenue for services, fines, restitutions, and settlements. For the items tested, the Office of the Attorney General complied with material finance-related legal provisions relating to revenue.

Audit Objective

The primary objective of our audit of the Office of the Attorney General was to answer the following questions:

- Did the Office properly collect, deposit, and record revenue for services, fines, restitutions, and settlements?
- Did the Office comply with material finance-related legal provisions relating to revenue?

Background Information

The Office of the Attorney General is funded by a General Fund appropriation and dedicated receipts from partner agencies that are major users of legal services. During fiscal year 2004, the Office received a General Fund appropriation of \$24.2 million and collected approximately \$9.6 million from partner agencies.

The budget of the Office included the cost of providing legal services to state agencies, quasi-state agencies, and political subdivisions. The General Fund appropriation covered legal services to “pooled agencies,” while partner agencies paid the Office directly for legal services. Pooled agencies are state agencies that do not have a specific agreement with the Office of the Attorney General for legal services. Pooled agencies were required to pay the Office for legal services rendered in connection with non-General Fund activities. These reimbursements are not appropriated to the Office for its use and are deposited to the state’s General Fund as nondedicated receipts.

Alternatively, some agencies paid the Office directly for legal services. These agencies are called “partners.” *Minnesota Statutes* 8.15, Subd. 3, provides the authority for the Office of the Attorney General to enter into agreements with state departments and agencies for legal services and appropriates fees received under these agreements to the Office. The Office and the partner agencies worked together to anticipate the need for legal services. They used this information to negotiate agreements that specified terms and conditions.

Office of the Attorney General

During fiscal year 2004, the Office had partner agreements with 21 agencies. The Office of the Attorney General provided nearly 125,000 hours of service and billed nearly \$11.1 million to these partners. Table 2-1 shows the hourly rates the Office charged for legal services under the partner agreements.

Table 2-1
Office of the Attorney General's Billing Rates by Fiscal Year

	<u>2003</u>	<u>2004</u>	<u>2005</u>
Attorneys	\$92	\$96	\$100
Legal Assistants	\$56	\$53	\$55

Source: Office of the Attorney General's billing rate history.

During the audit period, the Office used a billing system to track attorney and legal assistant charges. The billing system is electronically populated by employee-entered data and by some manual entering of time reporting worksheets by data entry personnel. The Office sent out monthly invoices and informational reports to both partner and pooled agencies for general and non-general funded activities. The agencies could use the reports to monitor the level of legal services provided by the Office of the Attorney General.

The Office of the Attorney General also collected and deposited fines, restitutions, and settlements received as a result of court cases. Generally, the Office collected these receipts in multiple locations and forwarded them to the administrative offices for deposit and recording. The Office deposited the fines and most settlements to the state's General Fund as nondedicated receipts. The office deposited most restitution receipts to an agency fund and later distributed the funds to the claimants specified in the respective court orders. During fiscal year 2004, the Office of the Attorney General collected and deposited approximately \$66,000 in fines, \$889,000 in restitutions, and \$2 million in settlements. It paid about \$6.4 million to claimants in fiscal year 2004.

There were no written findings as a result of our work in this area.

Chapter 3. Payroll Expenditures

Chapter Conclusions

The Office of the Attorney General properly authorized and accurately recorded payroll expenditures in the state's accounting records. In addition, for the items tested, the Office complied with material finance-related legal provisions and the bargaining unit agreements governing payroll expenditures.

Audit Objective

The primary objective of our audit of payroll expenditures was to answer the following questions:

- Did the Office properly authorize payroll expenditures and accurately record the expenditures in the state's accounting records?
- Did the Office comply with material finance-related legal provisions and the bargaining unit agreements governing payroll expenditures?

Background Information

During fiscal year 2004, the Office of the Attorney General expended approximately \$28.7 million on payroll, which was its largest expenditure category. It consisted of regular pay, part-time pay, overtime pay, separation pay, and other benefits. The Office currently employs approximately 365 full-time or part-time employees. It had about 435 employees in December 2003. The number of employees declined mainly due to terminations, resignations, and retirements.

The Office of the Attorney General's employees are represented by various compensation plans or bargaining units based on their position within the office. Attorneys and legal assistants follow the Attorney General's Plan. Other plans include the Commissioner's Plan and agreements with the American Federation of State, County, and Municipal Employees, Middle Management Association, and Minnesota Association of Professional Employees.

There were no written findings as a result of our work in this area.

Office of the Attorney General

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Chapter 4. Administrative Expenditures

Chapter Conclusion

The Office of the Attorney General properly authorized the purchase of goods and services, safeguarded its assets, and accurately recorded financial transactions in the state accounting system. In addition, for the items tested, the Office complied with material finance-related legal provisions over the purchases of goods and services.

Audit Objective

The primary objective of our audit of administrative expenditures was to answer the following questions:

- Did the Office properly authorize and accurately record its financial transactions in the state's accounting system?
- Did the Office comply with material finance-related legal provisions over the purchase of goods and services?
- Did the Office adequately safeguard its assets?

Background Information

During fiscal year 2004, the Office of the Attorney General incurred approximately \$4.4 million in nonpayroll administrative expenditures for rent, technology, communication, professional/technical services, equipment, and other goods or services. Office rent of approximately \$2.4 million, which included contract parking, was the largest administrative expenditure for fiscal year 2004. The Office procurement process includes requisition and management reviews before a purchase order is issued. The Office reconciles the purchase order, invoice, and delivery receipt prior to making the payment. Also, it made several contract purchases in accordance with the Department of Administration's state contract procedures. Equipment purchases costing over \$2,000 are included on the fixed asset inventory listing.

There were no written findings as a result of our work in this area.

Office of the Attorney General

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**Status of Prior Audit Issues
As of February 25, 2005**

Most Recent Audit

June 2003 Legislative Audit Report 03-29 covered the two calendar years ending December 31, 2002. The audit focused on the internal control structure over receipts, payroll, and administrative expenditures, as well as testing for compliance with finance-related legal provisions.

The report cited one audit finding. We found that the Office of the Attorney General did not adequately separate duties over the recording and reconciling of certain receipts. The Office of the Attorney General has resolved this issue.

State of Minnesota Audit Follow-Up Process

The Department of Finance, on behalf of the Governor, maintains a quarterly process for following up on issues cited in financial audit reports issued by the Legislative Auditor. The process consists of an exchange of written correspondence that documents the status of audit findings. The follow-up process continues until Finance is satisfied that the issues have been resolved. It covers entities headed by gubernatorial appointees, including most state agencies, boards, commissions, and Minnesota state colleges and universities. It is not applied to audits of the University of Minnesota and quasi-state organizations, such as the metropolitan agencies or the State Agricultural Society, the state constitutional officers, or the judicial branch.