OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

Financial-Related Audit

Office of the Attorney General

January 1, 2001, through December 31, 2002

JUNE 5, 2003 03-29

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.

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

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OLA

OFFICE OF THE LEGISLATIVE AUDITOR

State of Minnesota • James Nobles, Legislative Auditor

Representative Tim Wilkin, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

The Honorable Mike Hatch
Attorney General

We have audited the Office of the Attorney General for the period January 1, 2001, through December 31, 2002. Our audit scope included funding sources and other revenue, payroll expenditures, and purchased goods and services. The audit objectives and conclusions are highlighted in the individual chapters of this report.

We conducted our audit in accordance with *Government Auditing Standards*, as issued by the Comptroller General of the United States. Those standards require that we obtain an understanding of management controls relevant to the audit. The standards also require that we design the audit to provide reasonable assurance that the Office of the Attorney General complied with provisions of laws, regulations, contracts, and grants that are significant to the audit. The management of the Office of the Attorney General is responsible for establishing and maintaining the internal control structure and complying with applicable laws, regulations, contracts, and grants.

This report is intended for the information of the Legislative Audit Commission and the management of the Office of the Attorney General. This restriction is not intended to limit the distribution of this report, which was released as a public document on June 5, 2003.

/s/ James R. Nobles

James R. Nobles
Legislative Auditor

/s/ Claudia J. Gudvangen

Claudia J. Gudvangen, CPA
Deputy Legislative Auditor

End of Fieldwork: March 21, 2003

Report Signed On: May 30, 2003

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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
Thomas Donahue, CPA	Audit Manager
Susan Rumpca, CPA	Auditor-in-Charge
Irene Hass	Auditor
Marisa Isenberg	Auditor
Jacqueline Wessel	Audit Intern

Exit Conference

We discussed the results of the audit with the following staff of the Office of the Attorney General at an exit conference held on May 29, 2003:

Rebecca Spartz	Director of Administration
Terence Pohlkamp	Fiscal Services Director

Report Summary

Overall Conclusions:

The Attorney General's Office (AGO) properly collected, deposited, and recorded revenue for AGO services, fines, restitutions, and settlements in the state's accounting system. The Attorney General's Office also properly authorized payroll transactions and payments for goods and services. The AGO accurately recorded those transactions in the state's accounting records. In addition, for the items tested, the AGO complied with material finance-related legal provisions and the bargaining unit agreements. However, as noted in prior audit reports, the AGO has not complied with the legal provision requiring the AGO to bill the full cost of providing legal services to nongeneral funded activities. The AGO has excluded rent when determining its billing rates. The AGO, Department of Finance, and other parties involved believe a reevaluation of the office's funding mechanism must occur first, since compliance with statute may have far-reaching effects on the budgets of numerous state agencies. The AGO may want to seek a change to the statute directing it to bill for the full cost of providing legal services to nongeneral funded activities.

Key Finding and Recommendation:

- The Attorney General's Office did not adequately separate duties over the recording and reconciling of select third-party receipts, namely, checks received from nongovernmental entities. The Attorney General's Office should separate duties and have someone independent of the check receipting and depositing process reconcile the receipt logs. (Finding 1, page 6)

Financial-Related Audit Reports address internal control weaknesses and noncompliance issues found during our audits of state departments and agencies. The scope of our work at the Office of the Attorney General included funding sources and other revenue, payroll expenditures, and purchased goods and services. The Office of the Attorney General's response to our recommendation is included in the report.

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Chapter 1. Introduction

The Office of the Attorney General (AGO) was established by Article V of the constitution of the State of Minnesota. The Attorney General is the chief legal officer for the State of Minnesota. The AGO represents the State of Minnesota in state and federal court and in other hearings. The AGO also provides legal advice to over 100 state agencies, boards, and commissions. The mission of the AGO is to protect the interests of Minnesota citizens through law enforcement, agency representation, and defense of claims.

The Attorney General is a member of the Executive Council, the Pardons Board, the Land Exchange Board, and the State Board of Investment. Mike Hatch was elected to a four-year term as Minnesota's Attorney General in November 1998, and he took office on January 4, 1999. He was reelected to another four-year term in November 2002.

Table 1-1 provides a summary of the AGO's sources and uses of funds for fiscal year 2002.

Table 1-1
Sources and Uses of Funds
Fiscal Year 2002

	General Fund	Special Revenue Fund	Other Funds
Sources			
Balance In	$ 7,168	$ 504,696	$1,374,916
State Appropriation	28,671,124	619,000	0
Transfers In [(1)]	3,336,262	177,254	467,250
Attorney General Fees	6,037,110	0	0
Fines, Restitutions, Settlements	191,339	0	2,010,295
Other Revenue	17,415	1,304,689	22,991
Total Sources	$38,260,418	$2,605,639	$3,875,452
Uses			
Payroll and Benefits	$28,095,661	$1,282,026	$467,250
Rent	2,856,632	113,410	0
Supplies and Equipment	887,526	18,323	0
Services	1,091,695	96,301	6,207
Claims/Other Operating Costs	187,509	16,144	2,677,778
Other Expenditures	344,449	208,553	0
Transfers Out	0	12,432	2,540
Total Uses	$33,463,472	$1,747,189	$3,153,775
Balance Forward Out (to Fiscal Year 2003)	$ 4,796,946	$ 858,450	$ 721,677

Notes: 1: Transfers In includes appropriation transfers under the partner agreements for Attorney General fees.
2: This table does not include receipts collected by the AGO that cancel to the General Fund.

Source: Minnesota Accounting and Procurement System (MAPS) for fiscal year 2002 as of December 31, 2003.

Office of the Attorney General

During fiscal year 2003, the Attorney General's Office used the joint powers authority of Minn. Stat. Section 471.59 to transfer funds to other state agencies. Under an interagency agreement in November 2002, the AGO transferred $250,000 out of its General Fund budget to the Department of Administration. The purpose of the transfer was to fund the governor-elect's transition team. The agreement provided that "the Attorney General's Office is willing to transfer funds to the Department of Administration to assist in the orderly transition from the current administration to the Governor-elect's administration." The agreement was to expire "June 30, 2003 or when all obligations had been satisfactorily fulfilled, whichever occurred first." In addition, "any unused portion of the amount transferred was to be returned to the Office of the Attorney General. On April 1, 2003, $189,661 was returned to the Office of the Attorney General. Also, in fiscal year 2003, the AGO transferred approximately $361,000 to the Governor's Office, which transferred the funds to the Ombudsman for Mental Health and Mental Retardation. The interagency agreement specified that the transfer was made to ensure continuation of services that would otherwise cease due to budget restrictions.

Chapter 2. Funding Sources and Other Revenue

Chapter Conclusions

The Attorney General's Office properly collected, deposited, and recorded revenue for AGO services, fines, restitutions, and settlements. For the items tested, the Attorney General's Office complied with material finance-related legal provisions relating to fines, restitutions, and settlements. However, as noted in prior audit reports, the AGO had not complied with the legal provision requiring the AGO to bill the full cost of providing legal services to nongeneral funded activities. The AGO, the Department of Finance, and other parties involved believe a reevaluation of the office's funding mechanism must occur first, since compliance with statute may have far-reaching effects on the budgets of numerous state agencies. The AGO may want to seek a changing to the statute directing it to bill for the full cost of providing legal services to nongeneral funded activities. Finally, the AGO did not adequately separate duties over certain receipts.

The Office of the Attorney General has a unique and fairly complex funding mechanism that reflects practices developed over the last decade. The funding process included input from many agencies with differing viewpoints and perspectives, such as the Legislature, the Department of Finance, state departments and agencies, and other constituencies served by the AGO. In the past, the AGO was funded solely by a General Fund appropriation. Currently, the AGO is funded by a General Fund appropriation and dedicated receipts from partner agencies that are major users of legal services. During fiscal year 2002, the AGO received a General Fund appropriation of $26.8 million and collected approximately $10 million from partner agencies.

The budget of the AGO 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 AGO directly for legal services. Pooled agencies are state agencies that do not have an agreement with the AGO for legal services. Pooled agencies were required to pay the AGO for legal services rendered in connection with nongeneral funded activities. These reimbursements were not appropriated to the AGO but were deposited to the state's General Fund as nondedicated receipts. The AGO sent billings to the pooled agencies for all services, regardless of the funding source. The billings for general funded activities were informational only since the AGO's appropriation funded the services.

Alternatively, some agencies paid the AGO directly for legal services. These agencies are called "partners." Minn. Stat. Section 8.15, subd. 3, provides the authority for the AGO to enter into agreements with state departments and agencies for legal services. The AGO and the partner agencies worked together to anticipate the need for legal services. They used this information to negotiate agreements that specified the terms and conditions. The agreements varied from partner to partner depending on the needs of each particular agency. Some partner agencies were required to pay an additional amount for all services provided in excess of an agreed-upon level. Some partner agencies were refunded a portion of the agreement amount if the AGO provided services below an agreed-upon level. Although it varied with each agreement, as a general rule, the AGO did not "settle up" at fiscal year end for differences between actual and estimated services since the current level of services provided becomes the primary consideration for the next year's agreement.

The cost of legal services for a state agency with an agreement with the AGO was generally provided for within that partner agency's budget. The partner agency then remitted the agreed-upon amount to the AGO based on the agreement terms. Partner agencies paid for services through interagency payments or appropriation transfers. In accordance with Minn. Stat. Section 8.15, subd. 3, funds received under the agreements were collected and deposited to the General Fund and were appropriated to the AGO. Fees paid in excess of the agreement amounts are not appropriated to the AGO and are deposited to the state's General Fund as nondedicated receipts.

During fiscal year 2002, the AGO had partner agreements with 19 agencies. The AGO provided nearly 150,000 hours of service and billed nearly $12.4 million to these partners. Table 2-1 shows the hourly rates the AGO charged for legal services under the partner agreements.

Table 2-1
AGO Billing Rates
Fiscal Year

	2000	2001	2002
Attorneys	$82	$84	$89
Legal Assistants	$57	$59	$55

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

During the audit period, the AGO used a billing system to track attorney and legal assistant charges. Data entry personnel entered project and hour data from manual time reporting worksheets into a computerized system. The AGO sent out monthly invoices and informational reports to both partner and pooled agencies for general and nongeneral funded activities. The agencies used the reports to monitor the legal services provided by the AGO. During our audit work, we found some data input errors, resulting in slight over billings to partner agencies. Since the end of the audit period, the AGO implemented a computerized time tracking system where employee-entered data electronically populated the billing system. This process eliminated the keying of data from a paper worksheet, decreasing the number of data input errors.

The AGO also collected and deposited fines, restitutions, and settlements received as a result of court cases. Generally, the AGO collected these receipts at multiple locations and forwarded them to the administrative office for deposit and recording. The AGO 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 2002, the AGO collected and deposited approximately $56,000 in fines, $549,000 in restitutions, and $2.9 million in settlements. It paid over $2.7 million to claimants in fiscal year 2002.

Audit Objectives and Methodology

Our review of funding sources and other revenue focused on the following questions:

- Did the AGO properly collect, deposit, and record revenue for AGO services, fines, restitutions, and settlements?

- Did the AGO comply with material finance-related legal provisions relating to AGO services, fines, restitutions, and settlements?

To answer these questions, we interviewed AGO employees to gain an understanding of the process used to bill, collect, deposit, and record revenue. We reviewed a sample of partner agency agreements and accounting records to determine if the AGO received all the revenue it was entitled to receive under the agreements. We reviewed the process used to record hours worked on each project. We also reviewed the determination of the attorney and legal assistant billing rates to determine if the process was systematic and reasonable and complied with applicable legal provisions. Finally, we reviewed the process of making restitution payments to claimants according to a court order.

Conclusions

The Attorney General's Office properly collected, deposited, and recorded revenue for AGO services, fines, restitutions, and settlements. For the items tested, the Attorney General's Office complied with material finance-related legal provisions relating to fines, restitutions, and settlements. However, as noted in prior audit reports, the AGO has not complied with the legal provision requiring the AGO to bill the full cost of providing legal services to nongeneral funded activities. The AGO has excluded rent when determining its billing rates. The AGO, Department of Finance, and other parties involved believe a reevaluation of the funding mechanism of the office must occur first, since compliance with statute may have far-reaching effects on the budgets of numerous state agencies. The AGO may want to seek a change to the statute directing it to bill for the full cost of providing legal services to nongeneral funded activities. Finally, the AGO did not adequately separate duties over certain receipts, as discussed in Finding 1.

1. 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 did not adequately separate duties over the recording and reconciling of select third-party receipts, namely, checks received from nongovernmental entities. These receipts comprise approximately 40 percent of all AGO receipts. Currently, there are two individuals who job share. These employees access receipts, record receipts from the various AGO locations on the centralized receipt log, and compare the receipts on this log to the receipts recorded on the location logs. This comparison ensures that the administrative office received all applicable receipts from the locations. However, it does not ensure that the AGO deposited all of these checks, since the employees performing the reconciliation also have access to the receipts. Good internal controls require an adequate separation of duties between access to the receipts and reconciliations that ensure the AGO deposited all receipts.

Recommendation

- *The Attorney General's Office should have someone independent of the check receipting and depositing process reconcile the receipt logs.*

Chapter 3. Payroll Expenditures

Chapter Conclusions

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

The Attorney General's Office expended approximately $30 million on payroll during fiscal year 2002. Payroll was the largest expenditure category for the AGO. It consisted of regular pay, part-time pay, overtime pay, separation pay, and other benefits. The Attorney General's Office currently employs approximately 413 full-time or part-time employees. AGO employees are represented by various compensation plans or bargaining units based on their position within the office. Most AGO employees follow the Attorney General's Plan. The Commissioners Plan, agreements with the American Federation of State, County, and Municipal Employees, Middle Management Association, and Minnesota Association of Professional Employees cover other employees.

Audit Objectives and Methodology

Our review of payroll expenditures focused on the following questions:

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

To answer these questions, we analyzed personnel and payroll transactions. We interviewed AGO employees to gain an understanding of the personnel and payroll processes. We tested a sample of the AGO's payroll transactions to determine if they were properly authorized, adequately supported, and accurately recorded. We also tested a sample of pay rate changes to determine if they complied with bargaining unit provisions.

Conclusions

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

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Chapter 4. Purchased Goods and Services

Chapter Conclusions

The Attorney General's Office properly authorized the purchase of goods and services and accurately recorded expenditures in the state's accounting records. In addition, for the items tested, the office complied with material finance-related legal provisions over the purchase of goods and services and adequately safeguarded its assets.

The Attorney General's Office expended approximately $3 million on rent, $1.2 million on services, and $906,000 on supplies and equipment during fiscal year 2002. Currently, AGO employees are housed in three locations, the State Capitol, the Capitol Office Building, and the NCL Tower. During the audit period, the AGO also rented space from the Department of Administration's Real Estate Management Division (REM) for offices in the Department of Revenue building. The office signed multi-year leases with REM and private real estate companies that defined the terms of agreement. The AGO also had contract parking arrangements with both REM and private parking companies. During the audit period, the AGO purchased technology, communication, consultant, and printing services. Its primary purchases were computers, modular furniture, office equipment, office supplies, and publications for its legal library.

Audit Objectives and Methodology

Our review of purchased goods and services focused on the following questions:

- Did the AGO properly authorize the purchase of goods and services and accurately record expenditures in the state's accounting records?

- Did the AGO comply with material finance-related legal provisions over the purchase of goods and services?

- Did the AGO adequately safeguard its assets?

To answer these questions, we analyzed purchased goods and services expenditures. We interviewed AGO employees to gain an understanding of the process used to purchase goods and services, including the process to ensure receipt of goods and services before payment. We tested a sample of expenditure transactions to determine if they were properly authorized, adequately supported, and accurately recorded. We determined if a sample of expenditure transactions complied with purchasing guidelines and prompt payment guidelines. In addition, we determined if the AGO adequately safeguarded assets.

Conclusions

The Attorney General's Office properly authorized the purchase of goods and services and accurately recorded expenditures in the state's accounting records. In addition, for the items tested, the office complied with material finance-related legal provisions over the purchase of goods and services and adequately safeguarded its assets.

Status of Prior Audit Issues
As of March 21, 2003

Most Recent Audit

Legislative Audit Report 01-27, issued in May 2001, covered AGO funding sources and other revenue, payroll, employee travel expense reimbursements, and purchased goods and services for the period January 1, 1999, through December 31, 2000. The report contained two findings. The first finding was an unresolved prior finding that the Attorney General's Office did not bill its full cost for legal services provided to state agencies for nongeneral funded activities. The AGO has not yet complied with this legal provision. The parties involved feel a reevaluation of the funding mechanism of the office must occur first, since compliance with statute may have far-reaching effects on the budgets of numerous state agencies.

The second finding was that the AGO used the incorrect liability date when entering expenditures into the accounting system. We found that the AGO implemented the recommendation relating to this issue.

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STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL

MIKE HATCH
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May 27, 2003

Mr. James R. Nobles
Legislative Auditor
Office of the Legislative Auditor
140 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Re: AUDIT OF THE ATTORNEY GENERAL'S OFFICE

Dear Mr. Nobles:

This is in response to the report you provided following the completion of your audit of the Attorney General's Office.

During your recent audit your staff recommended that the office further separate the recording of checks that were sent to 102 State Capitol. Our Director of Administration implemented that recommendation immediately rather than waiting for the audit report. The receptionist at 102 records the checks sent from other sections and the administrative assistant continues to reconcile check logs from other sections with the 102 check log.

As usual, it has been a pleasure for our staff to work with your audit team. If my office can be of further assistance, please contact Rebecca Spartz or me.

Very truly yours,

/s/ Mike Hatch

MIKE HATCH
Attorney General

(651) 296-6196