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OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

Financial Audit Division Report

Office of the Attorney General
January 1, 2005, through December 31, 2006



May 3, 2007

07-10

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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OFFICE OF THE LEGISLATIVE AUDITOR
State of Minnesota • James Nobles, Legislative Auditor

Representative Rick Hansen, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

The Honorable Lori Swanson
Attorney General

The Financial Audit Division has conducted an audit of the Office of the Attorney General for the two-year period January 1, 2005, through December 31, 2006. 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/ Cecile M. Ferkul

Cecile M. Ferkul, CPA, CISA
Deputy Legislative Auditor

End of Fieldwork: March 2, 2007

Report Signed On: April 30, 2007

Office of the Attorney General

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Audit Participation

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

Cecile Ferkul, CPA, CISA	Deputy Legislative Auditor
Tom Donahue, CPA	Audit Manager
Pat Ryan	Auditor-in-Charge
Sara Becker	Auditor
Mark Allen	Auditor

Report Summary

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 report contained no findings.

Audit Scope:

Audit Period:
January 1, 2005, through
December 31, 2006.

Selected Audit Areas:

- Revenues
- 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 \$23.7 million during the period January 1, 2005, through December 31, 2006. Mike Hatch was the Attorney General during the audit scope. Lori Swanson was elected Attorney General in November 2006 and took office on January 2, 2007.

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 of the Attorney General 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 2006.

Table 1-1
Sources and Uses of Funds
Fiscal Year 2006

Sources:	General Fund ⁽¹⁾	Special Revenue Fund ⁽²⁾	Agency Fund ⁽³⁾
Balance Forward In from fiscal year 2005	\$ 3,643,424	\$ 385,093	\$ 847,738
State Appropriation	24,523,000	629,000	0
Transfers In ^(Note 4)	3,884,157	0	0
Attorney General Fees ^(Note 5)	5,303,939	0	0
Restitution, Settlements	0	0	3,426,947
Other Revenue	9,620	1,212,590	53,190
Total Sources	<u>\$37,364,140</u>	<u>\$2,226,683</u>	<u>\$4,327,875</u>
Uses:			
Payroll	\$28,035,364	\$1,071,532	\$ 0
Administrative Expenditures	4,331,881	281,742	8,506
Settlement Payments	4,726	50,181	884,017
Total Uses	<u>\$32,371,971</u>	<u>\$1,403,455</u>	<u>\$ 892,523</u>
Balance Forward Out to fiscal year 2007	<u>\$ 4,992,169</u>	<u>\$ 823,228</u>	<u>\$3,435,352</u>

Notes: (1) The General Fund is used to account for the office's state appropriation and financial operations.

(2) The Special Revenue Fund is predominantly used by the office's federal Medicaid and Narcotics grant activities.

(3) The Agency Fund is used to account for settlement claims and restitutions.

(4) Transfers In are payments from agencies that the office contracts with for legal services.

(5) Attorney General Fees is revenue collected by the office and retained for operational use. In addition, the office collected \$3,494,148 that it deposited as general state revenue.

Source: Minnesota Accounting and Procurement System for budgetary fiscal year 2006.

Office of the Attorney General

The Attorney General's responsibilities and authorities are found in *Minnesota Statutes* 2006, Chapter 8. Mike Hatch was the Attorney General during the time period covered by this audit. Lori Swanson was elected Minnesota's Attorney General in November 2006 and took office on January 2, 2007.

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 the 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,¹ as our criteria to evaluate agency controls. The standards also require that we plan the audit to provide reasonable assurance that the Office of the 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 the 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.

¹ The Treadway Commission and its Committee of Sponsoring Organizations (COSO) were established in the mid-1980s by the major national associations of accountants. One of their primary tasks was to identify the components of "internal control" that organizations should have in place to prevent inappropriate financial activity.

Chapter 2. Revenues

Chapter Conclusions

The Office of the Attorney General properly collected, deposited, and recorded revenue for legal 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 revenues 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 state appropriations and legal fees paid by state agencies and retained by the office for operational use. During fiscal year 2006, the office received appropriations of \$25.2 million and retained \$9.2 million in legal fees.

The budget of the office included the cost of providing legal services to state agencies, quasi-state agencies, and political subdivisions. The appropriations 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* 2006, 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 allows the office to retain fees received under these agreements. 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. In fiscal year 2006, the office partnered with 20 state agencies.

Office of the Attorney General

During fiscal year 2006, the office provided nearly 292,000 hours of legal service. Table 2-1 shows the hourly rates the office charged for legal services.

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

	<u>2005</u>	<u>2006</u>	<u>2007</u>
Attorneys	\$100	\$101	\$101
Legal Assistants	\$ 55	\$ 55	\$ 55

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

During the audit period, the office used a billing system to track time charged by attorneys and legal assistants. Attorneys and legal assistants electronically entered their own time into the billing system; data entry personnel manually entered some data from time reporting worksheets. The office sent out monthly invoices and informational reports to both partner and pooled agencies for general and nongeneral fund activities. The agencies could use the reports to monitor the level of legal services provided by the Office of the Attorney General. The office maintained accounts receivable and collection records for partner agencies. These records were tracked and reconciled to the state's accounting system monthly.

Restitution, Settlement, and Civil Penalty Revenue

The office also collected and deposited restitutions, settlements, and civil penalties received as a result of court cases and legal settlements. The office collected these receipts in multiple locations and forwarded them to the administrative offices for depositing and recording. The office deposited the civil penalties and most settlements as general state revenue. The office deposited and retained restitution revenues until they could be paid to the claimants specified in the respective court orders. During fiscal year 2006, the Office of the Attorney General collected and deposited \$2,514,271 in restitutions, \$1,828,826 in settlements, and \$70,500 in civil penalties. In fiscal year 2006, the office paid about \$939,000 to claimants.

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.

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 2006, the Office of the Attorney General spent \$29.1 million on payroll, which was its largest expenditure category. As of April 2007, the office employed 360 full-time or part-time employees.

Table 3-1
Summary of Payroll Expenditures
Fiscal Year 2006

<u>Earnings Type</u>	<u>FY 2006</u>
Full Time	\$26,307,494
Part Time, Seasonal	2,338,871
Separation Expense	320,333
Overtime Pay	63,346
Workers Compensation	61,054
Other Benefits	15,797
Total	<u>\$29,106,895</u>

Source: Minnesota Accounting and Procurement System for budgetary fiscal year 2006.

Office of the Attorney General

The Office of the Attorney General's employees are represented by various compensation plans or bargaining units: attorneys and legal assistants follow the Attorney General's Compensation Plan; other employees are covered by the American Federation of State, County, and Municipal Employees or the Minnesota Association of Professional Employees.

Some employees had an incompatible ability to update both personnel and payroll functions in the State Employment Management System. The office appropriately justified this incompatible access in writing to the state's security administrator at the Department of Employee Relations indicating a limited number of staff were available. As an alternative to separating these incompatible duties, the office instituted mitigating detective controls to independently review timesheet hours, hourly rates, and special transactions recorded on the biweekly payroll register.

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

Chapter 4. Administrative Expenditures

Chapter Conclusions

The Office of the Attorney General properly authorized the purchase of goods and services and accurately recorded the financial transactions in the state's accounting system.

For the items tested, the office complied with material finance-related legal provisions over the purchases of goods and services and adequately safeguarded the assets.

Audit Objective

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

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

Background Information

During fiscal year 2006, the Office of the Attorney General incurred approximately \$4.6 million in nonpayroll administrative expenditures. The office procurement process included requisition and management review before a purchase order was issued. The office reconciled the purchase order, invoice, and evidence that goods or services were received prior to making 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.

The office expended approximately \$223,000 on travel expenses during fiscal year 2006. The office reimbursed employees for travel expenses consisting of mileage, parking, lodging, and other miscellaneous expenditures incurred for business purposes. The office also paid travel expenditures directly to vendors. These expenditures included car rentals, lodging, and airfare.

Office of the Attorney General

Table 4-1
Summary of Nonpayroll Administrative Expenditures
Fiscal Year 2006

<u>Expenditure Category</u>	<u>2006</u>
Space Rental	\$2,567,812
Communications	401,544
Professional/Technical Services	368,540
Supplies	302,224
Travel	222,697
Indirect Costs	191,566
Equipment	165,334
Computer Systems and Services	138,608
Other Expenditures	<u>263,804</u>
Total	<u>\$4,622,129</u>

Source: Minnesota Accounting and Procurement System for budgetary fiscal year 2006.

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

Status of Prior Audit Issues

Most Recent Audit

April 2005 Legislative Audit Report 05-25 covered the two calendar years ending December 31, 2004. 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 contained no audit findings.

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.