

Office of the Attorney General

Internal Controls and Compliance Audit

July 1, 2014, through February 28, 2017

November 2, 2017
REPORT 17-12

Financial Audit Division

OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

Office of the Legislative Auditor Financial Audit Division

The Financial Audit Division at the Office of the Legislative Auditor (OLA) performs three types of audits of entities within the state's executive and judicial branches:

- **Financial Statement** audits determine whether an entity has prepared its Comprehensive Annual Financial Report in accordance with governmental accounting principles. The division provides audit opinions on the financial reports for the State of Minnesota, the state's three large public pension plans, and the Minnesota Sports Facilities Authority.
- **Federal Grant Compliance** audits determine whether the state has complied with federal requirements for many of its largest federal programs. Often called the *Single Audit*, the federal government requires these audits as a condition of receiving federal grants.
- **Internal Controls and Legal Compliance** audits determine whether an entity has internal controls to effectively manage the risks of its financial operations and whether it has complied with legal compliance requirements chosen for testing.

The Financial Audit Division has a staff of about 35 auditors, many of whom are licensed CPAs and hold other certifications. The division conducts its audits in accordance with *Government Auditing Standards* established by the Comptroller General of the United States.

One requirement of the audit standards is a periodic review of the division's system of quality control by audit peers from across the country. The division's most recent peer review report is available at: www.auditor.leg.state.mn.us/fad/pdf/fadpeer.pdf

OLA also has a **Program Evaluation Division** that evaluates topics periodically selected by members of the Legislative Audit Commission.

In addition, OLA may conduct a **Special Review** in response to allegations and other concerns brought to the attention of the Legislative Auditor. The Legislative Auditor conducts a preliminary assessment in response to each request for a special review to determine what additional action, if any, OLA should take.



OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA • James Nobles, Legislative Auditor

November 2, 2017

Senator Mary Kiffmeyer, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

The Honorable Lori Swanson,
Attorney General

This report presents the results of our internal controls and compliance audit of the Office of the Attorney General for the period from July 1, 2014, through February 28, 2017. The objective of this audit was to determine if the office had adequate internal controls for its financial operations and complied with finance-related legal requirements.

We discussed the results of the audit with the office's staff at an exit conference on October 24, 2017. This audit was conducted by Scott Tjomsland, CPA, CISA (Audit Director); Natalie Mehlhorn (Auditor-in-Charge); Jennyfer Hildre (Senior Auditor); and Paul Rehschuh (Staff Auditor).

We received the full cooperation of the office's staff while performing this audit.

A handwritten signature in black ink that reads "James R. Nobles".

James R. Nobles
Legislative Auditor

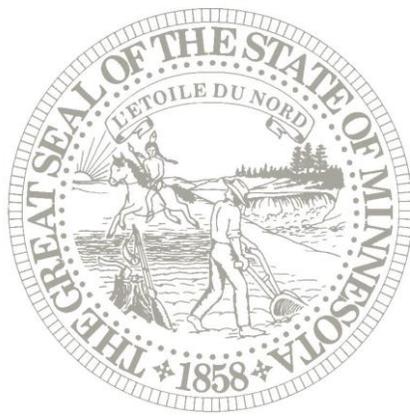


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Report Summary

The Office of the Attorney General is a constitutional office in the executive branch of Minnesota state government. Voters elect the Attorney General to serve four-year terms. The current Attorney General is Lori Swanson. Voters first elected Ms. Swanson in November 2006, and she was re-elected in November 2010 and November 2014.

We examined the office's internal controls over its financial operations and its compliance with related legal requirements during the period from July 2014 through February 2017.

Conclusion

The Office of the Attorney General had generally adequate internal controls and generally complied with the related legal requirements we audited. The office resolved all three findings from an audit report the Office of the Legislative Auditor issued in December 2013.¹ However, in this audit, we found an internal control weakness and instance of noncompliance related to employee vacation leave balances.

Finding

- The Office of the Attorney General did not ensure an employee's vacation leave balance was properly reduced. (Finding 1, page 9)

¹ Office of the Legislative Auditor, Financial Audit Division Report 13-32, *Office of the Attorney General*, issued December 19, 2013.



Office of the Attorney General

Agency Overview

The Office of the Attorney General is an office in the executive branch of state government. Article V of the Minnesota Constitution established the Attorney General as one of the five executive officers of the state, elected to serve four-year terms. Minnesota voters first elected Lori Swanson as Attorney General in November 2006, and she was re-elected in November 2010 and November 2014.

The office operates under *Minnesota Statutes 2017*, Chapter 8. The main functions of the office include providing legal advice to state agencies, boards, and commissions; representing the State of Minnesota in state and federal court and administrative hearings; enforcing state consumer protection and antitrust laws; and regulating charities. The office also provides legal assistance to rural county prosecutors in major felony trials and appeals.

To finance its operations, the office receives state appropriations, mostly from the General Fund. It collects fees from state agencies under agreements for legal services. Some of these fees are deposited into a Special Revenue Fund account and are available to the office; others go into the General Fund and are not available to the office. In addition, the office collects registration fees from charities, receives grants from the federal government to investigate Medicaid fraud, and obtains money from certain civil penalties and court-ordered settlements.

Table 1 summarizes the office's appropriations, receipts, and expenditures for fiscal years 2015 and 2016.

Table 1
Appropriations, Receipts, and Expenditures
July 1, 2014 through June 30, 2016^a
By Fiscal Year

<u>Appropriations by Fund</u>	<u>2015^b</u>	<u>2016</u>
General	\$22,125,000	\$22,125,000
Health Related Boards	1,822,000	1,823,000
Remediation	250,000	250,000
Environmental	145,000	145,000
Total Appropriations	<u>\$23,342,000</u>	<u>\$24,343,000</u>
<u>Receipts</u>		
Client Fees – dedicated	\$11,268,746	\$9,664,384
Client Fees – nondedicated	1,107,437	1,639,352
Federal Grants ^c	1,133,900	1,881,853
Club and Charity Registration Fees – nondedicated	657,455	649,435
Other – dedicated	353,807	393,520
Other – nondedicated	7,955	473
Total Receipts	<u>\$14,529,300</u>	<u>\$14,229,017</u>
<u>Expenditures</u>		
Payroll	\$27,354,002	\$29,831,706
Office Rent	2,285,465	2,336,990
Supplies ^d	1,923,554	274,887
Computer and System Services	651,893	547,305
Equipment	564,170	251,956
Communications	367,746	268,689
Professional/Technical Services	317,113	87,921
Expense Reimbursements	204,423	186,072
Other	1,051,744	977,151
Total Expenditures	<u>\$34,720,110</u>	<u>\$34,762,677</u>

^a The scope of our audit also included the portion of fiscal year 2017 from July 1, 2016, through February 28, 2017.

^b The office did not spend all the money appropriated and returned \$5,769,853 to the General Fund; \$650,844 to the Health Related Boards Fund; \$250,000 to the Remediation Fund; and \$145,000 to the Environmental Fund.

^c We conduct annual audits of the state's major federal program grants for compliance with federal requirements. The office received federal grants from the Medical Assistance Program (Catalog of Federal Domestic Assistance 93.778), which was a major federal program we audited in fiscal years 2015 and 2016. Our audits of the program only included federal grants to the Department of Human Services. We did not test those grants for compliance with federal requirements as part of this audit.

^d The office renewed its biannual law library subscriptions for just over \$1 million in fiscal year 2015.

Source: State of Minnesota's accounting system.

The office also collects court-ordered restitutions, which it deposits and retains in a custodial capacity in Agency Fund accounts. The office distributes restitutions to harmed individuals or organizations and transfers any undistributed portions to the General Fund. Table 2 summarizes the activity in the Agency Fund accounts during fiscal years 2015 and 2016.

Table 2
Agency Fund Accounts Activity
July 1, 2014, through June 30, 2016^a
By Fiscal Year

	<u>2015</u>	<u>2016</u>
Beginning Balance	\$7,033,882	\$8,459,260
Receipts	4,052,497	2,498,279
Expenditures	(1,848,709)	(815,555)
Transfers Out	<u>(778,410)</u>	<u>(2,336,969)</u>
Ending Balance	<u>\$8,459,260</u>	<u>\$7,805,015</u>

^a The scope of our audit also included the portion of fiscal year 2017 from July 1, 2016, through February 28, 2017.

Source: State of Minnesota's accounting system.

Objective, Scope, and Methodology

The objective of our audit of the Office of the Attorney General for the period July 1, 2014, through February 28, 2017, was to answer the following questions:

- Did the Office of the Attorney General have adequate internal controls to ensure that it safeguarded its financial resources, accurately paid employees and vendors in accordance with management's authorizations, complied with finance-related legal provisions, and created reliable financial data?
- Did the Office of the Attorney General comply with significant finance-related legal requirements?
- Did the Office of the Attorney General resolve prior audit findings?²

To answer these questions, we interviewed office management and staff to gain an understanding of the office's internal controls over its operations. We analyzed accounting data and employee access rights to the state's accounting system. We considered the risk of errors in the accounting records and noncompliance with relevant legal requirements. Our audit work included the following testing procedures:

- For all receipts, we reconciled receipt logs to bank deposits and transactions recorded in the state's accounting system. We also tested samples of receipts to determine whether the office collected fees at the appropriate rates, timely deposited receipts, and properly recorded the receipts as dedicated or nondedicated.

² Office of the Legislative Auditor, Financial Audit Division, Report 13-32, *Office of the Attorney General*, issued December 19, 2013.

- For restitutions, we tested samples of Agency Fund accounts to determine whether the office collected the proper amounts based on court orders, reasonably distributed the restitutions to harmed individuals or organizations, and properly transferred any undistributed portions to the General Fund.
- For payroll expenditures, we determined whether the office properly used bi-weekly payroll system reports to monitor payroll activity. We tested samples of bi-weekly pay periods to determine whether the office properly approved employee timesheets. We also tested samples of employee pay rate increases and employee leave balance adjustments to determine whether they were appropriate and accurate. Finally, we tested samples of nonroutine payroll expenditures, including overtime, separation payments, and payments for retroactive pay rate adjustments, to determine whether the office accurately compensated employees eligible for those payments.
- For expense reimbursements to employees, we tested samples to determine whether the office accurately reimbursed employees for legitimate business expenses.
- For other expenditures, we tested samples of contracts (if applicable) or invoices to determine whether the office properly obtained goods or services and accurately paid for goods or services actually received.
- For asset management, we determined whether the office properly conducted physical inventories of its assets.

We conducted the audit in accordance with generally accepted government auditing standards.³ Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives.

We used various criteria to evaluate internal controls and compliance. We used, as our criteria to evaluate office controls, the guidance contained in the Standards for Internal Control in the Federal Government, published by the U.S. Government Accountability Office.⁴ We used state and federal laws, regulations, and contracts, as well as policies and procedures established by the departments of Management and Budget and Administration and the office's internal policies and procedures as evaluation criteria over compliance.

³ U.S. Government Accountability Office, *Government Auditing Standards*, December 2011.

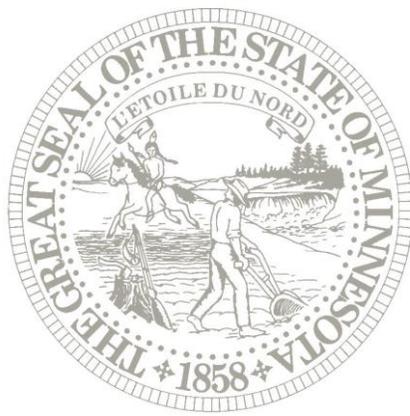
⁴ The State of Minnesota adopted these standards as its internal control framework for the executive branch. See the Department of Management and Budget Statewide Operating Policy, 0102-01, *Internal Control System*.

Conclusion

The Office of the Attorney General had generally adequate internal controls and generally complied with the related legal requirements we audited. The office resolved all three findings from an audit report the Office of the Legislative Auditor issued in December 2013.⁵ However, in this audit, we found an internal control weakness and instance of noncompliance related to employee vacation leave balances.

The following *Finding and Recommendation* section further explains the internal control weakness and noncompliance.

⁵ Office of the Legislative Auditor, Financial Audit Division Report 13-32, *Office of the Attorney General*, issued December 19, 2013.



Finding and Recommendation

The Office of the Attorney General did not ensure an employee's vacation leave balance was properly reduced.

Finding 1

The office did not ensure an employee's vacation leave balance was properly reduced in accordance with provisions in the Attorney General Compensation Plan. Section V.B.2. of the plan states:

Vacation leave may be accumulated to any amount, provided that once during each calendar year an employee's accumulation must be reduced to 280 hours or less. If this is not accomplished prior to the last day of the calendar year, the employee's accumulation shall automatically be reduced to 280 hours on December 31.

Since the employee's vacation leave balance exceeded 280 hours for all of calendar year 2015, the balance should have been reduced by the 54.5 hours excess on December 31, 2015.

The office relied on an automated process in the state's payroll system to reduce employee vacation leave balances in accordance with employment contracts. However, the office did not recognize that the automated process did not properly reduce the employee's vacation leave. A payroll system report that listed employees that required vacation leave balance reductions omitted the employee, and the office did not have alternative procedures to independently identify reductions needed for its employees. Without the reduction, the office could have potentially overcompensated the employee by about \$1,391 in paid vacation leave, calculated at the employee's pay rate at the time of our audit. The office reduced the employee's vacation leave balance by 54.5 hours after we told them about the error and before any overcompensation occurred.

Recommendation

- *The Office of the Attorney General should strengthen its internal controls to ensure it reduces employee vacation leave balances in compliance with applicable employment contracts.*





STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

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LORI SWANSON
ATTORNEY GENERAL

October 30, 2017

Mr. James Nobles
Legislative Auditor
Office of the Legislative Auditor
First Floor South, Centennial Building
658 Cedar Street
St. Paul, MN 55155

Dear Mr. Nobles:

Thank you for your Internal Control Compliance Audit for the period July 1, 2014 through February 28, 2017. We appreciate the thorough review undertaken by your staff. Please accept this response to the Finding and Recommendation:

Finding:

The Office of the Attorney General did not ensure an employee's vacation leave balance was properly reduced.

Response:

Pursuant to the Attorney General's Office ("AGO") Compensation Plan, an employee's vacation balance "shall automatically be reduced to 280 hours on December 31." Minnesota Management and Budget ("MMB"), through the state's human resources/payroll system, SEMA4, makes this reduction for agencies on December 31 of each calendar year. Agencies, including the AGO, do not make the adjustment.

MMB provides a report entitled "Report of Employees Who Have Not Reached the Required Vacation Minimum" to state agencies near the end of each calendar year. Based on the report, AGO payroll staff notify the employees listed on MMB's report that MMB will reduce their vacation balance to the minimum specified in the compensation plan at the end of the calendar year. MMB's "Report of Employees Who Have Not Reached the Required Vacation Minimum", dated December 1, 2015, however, did not list the employee at issue. MMB therefore did not reduce the vacation balance of that employee in December 2015. The AGO did not independently verify the accuracy of MMB's report because that report is generated and made available by MMB to state agencies for the purpose of determining which employees have not yet reduced their vacation balance.

Mr. James Nobles
Legislative Auditor
October 30, 2017
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Fortunately, as you know, MMB has recently begun to provide state agencies with previously unavailable applications of the Oracle Business Intelligence Enterprise Edition (OBIEE™). With this new tool, state agencies can now obtain data/reports from SEMA4 which allow an agency to quickly and cost-effectively confirm the accuracy of MMB vacation leave balance reports. Previously, an agency would have needed to manually tabulate and review every employees' vacation leave balance to verify the accuracy of the MMB report. The OBIEE data, which was not available in 2015, is how the OLA identified the issue with the employee who was omitted by MMB from its report in 2015.

We appreciate your recognition that the AGO reduced the subject employee's vacation balance by 54.5 hours, and that the employee did not use vacation hours in excess of the legally permitted amount. We have directed our staff to use the OBIEE data to confirm the accuracy of MMB's report.

I thank you again for your comments and your office's thorough and professional review. If you have any questions, please contact me.

Sincerely,



RAYMOND SMITH
Director of Finance

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