



Office of the Attorney General

Performance Audit

September 2023

Financial Audit Division
Office of the Legislative Auditor
State of Minnesota



Financial Audit Division

The division has authority to audit organizations and programs in the state's executive and judicial branches, metropolitan agencies, several "semi-state" organizations, state-funded higher education institutions, and state-funded programs operated by private organizations.

Each year, the division selects several of these organizations and programs to audit. The audits examine the policies and procedures—called internal controls—of the organizations to ensure they are safeguarding public resources and complying with laws that govern their financial and program operations. In addition, the division annually audits the State of Minnesota's financial statements and the financial statements of three state public pension systems. The primary objective of these financial audits is to assess whether the statements fairly present the organization's financial position according to Generally Accepted Accounting Principles.

The Office of the Legislative Auditor (OLA) also has a Program Evaluation Division. The Program Evaluation Division's mission is to determine the degree to which state agencies and programs are accomplishing their goals and objectives and utilizing resources efficiently.

OLA also conducts special reviews 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 and decides what additional action will be taken by OLA.

For more information about OLA and to access its reports, go to: www.auditor.leg.state.mn.us.

September 25, 2023

Members
Legislative Audit Commission

The Honorable Keith Ellison, Attorney General
The Office of the Attorney General

This report presents the results of our performance audit of the Office of the Attorney General for the period July 2020 through December 2022. The objectives of this audit were to determine if the office had adequate internal controls, complied with significant finance-related legal requirements, and resolved a prior audit finding.

This audit was conducted by Jordan Bjonfald, CPA (Audit Director), and auditors Nicholai Broekemeier, Sheena Kurth, and Emily Wiant.

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

Sincerely,



Judy Randall
Legislative Auditor



Lori Leysen, CPA
Deputy Legislative Auditor



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Introduction

The Minnesota Office of the Attorney General is responsible for providing legal representation to over 100 state agencies, boards, and commissions. The office also represents the State of Minnesota in state and federal court, and in administrative hearings.

Internal controls are the policies and procedures management establishes to govern how an organization conducts its work and fulfills its responsibilities. A well-managed organization has strong controls across all of its internal operations. If effectively designed and implemented, controls help ensure, for example, that inventory is secured, computer systems are protected, laws and rules are complied with, and authorized personnel properly document and process financial transactions.

Auditors focus on internal controls as a key indicator of whether an organization is well managed. In this audit, we focused on whether the office had controls to ensure that it safeguarded state resources, appropriately collected attorney fees and other receipts, appropriately spent state funds, and accurately paid its vendors and employees in compliance with state laws and policies.

Minnesota Law Mandates Internal Controls in State Agencies

State agencies must have internal controls that:

- Safeguard public funds and assets and minimize incidences of fraud, waste, and abuse.
- Ensure that agencies administer programs in compliance with applicable laws and rules.

The law also requires the Commissioner of Minnesota Management and Budget to review OLA audit reports and help agencies correct internal control problems noted in those reports.

— *Minnesota Statutes 2022, 16A.057*



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Report Summary

Conclusion

The Office of the Attorney General generally complied with the significant finance-related legal requirements we tested and generally had adequate internal controls. However, we identified some instances of noncompliance and an internal control weakness related to payroll expenditures.

Finding and Recommendations

Finding 1. The Office of the Attorney General did not always document preapprovals of employee overtime hours. (p. 13)

Recommendations

- The Office of the Attorney General should document preapproval of employee overtime.
 - The Office of the Attorney General should strengthen internal controls to ensure the office pays overtime in compliance with employment contracts.
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Background

Office of the Attorney General Overview and History

Article V of the *Minnesota Constitution* establishes the Office of the Attorney General as part of the executive branch of state government; the office operates under the authority provided in the Minnesota Constitution; *Minnesota Statutes*, Chapter 8; and various other state statutes. The Attorney General is elected to a four-year term that begins the first Monday in January following the state's general election.

Keith Ellison was first elected as Attorney General in November 2018 and was re-elected in November 2022. The Attorney General may appoint, and at their pleasure remove, 6 deputy attorneys general and 35 assistant attorneys general.¹

The office is divided into five sections:

- **Government Support** provides legal representation to the State of Minnesota, including representing state agencies and boards in disciplinary and enforcement proceedings in administrative hearings, and state and federal courts.
- **Health and Safety** provides legal services to protect public safety and taxpayer dollars, including assisting county attorneys and local law enforcement agencies in prosecuting serious crimes and in prosecuting healthcare providers committing Medicaid fraud.
- **Consumer Protections** investigates potential violations of and enforces laws related to antitrust, consumer protection, and worker protection.
- **Solicitor General** provides legal advice and representation to the State of Minnesota in civil cases.
- **Administrative Operations** provides accounting, administrative, human resources, and information technology services to the office.

To finance its operations, the office receives a state appropriation, mostly from the General Fund, collects fees from state agencies for legal services provided, and receives grants from the federal government to investigate Medicaid fraud. The office also collects civil penalties, settlements, and various registration fees. These receipts are generally deposited into the General Fund and not used for operations. Additionally, the office collects court-ordered restitutions and distributes the funds to harmed individuals or organizations. The office transfers undistributed restitution funds to the General Fund.

¹ *Minnesota Statutes* 2022, 8.02, subd. 1.

Audit Scope, Objectives, Methodology, and Criteria

The Office of the Legislative Auditor (OLA) conducted this audit to determine whether the Office of the Attorney General had adequate internal controls, complied with significant finance-related legal requirements, and resolved a prior audit finding.² The audit scope included payroll and nonpayroll expenditures, and receipts. The period under examination went from July 1, 2020, through December 31, 2022. Exhibit 1 shows the appropriations, receipts, and expenditures during the audit.

Exhibit 1

Appropriations, Receipts, and Expenditures, July 1, 2020, through December 31, 2022

Appropriations	Amount
State Appropriations	
General Fund	\$78,399,000
Special Revenue Fund	7,563,000
Environmental Fund	435,000
Remediation Fund	750,000
Coronavirus Relief Fund	1,200,000
Cancelled Appropriations ^a	<u>(1,531,626)</u>
Total	\$86,815,374
Receipts	Amount
Fees and Donations	\$32,879,498
Restitutions, Settlements, Civil Penalties	22,236,359
Federal Grants	6,682,083
Other Receipts	<u>885,256</u>
Total	\$62,683,647
Expenditures	Amount
Payroll Expenditures	\$ 90,295,430
Nonpayroll Expenditures	19,091,049
Restitution Disbursements	<u>2,018,147</u>
Total	\$111,404,626

^a The office did not spend \$37,379 from the Fiscal Year 2021 appropriation, which cancelled back to the General Fund. The office did not spend \$704,246 from the Fiscal Year 2021 appropriation, which cancelled back to the Special Revenue Fund. The office did not spend \$145,000 from the Fiscal Year 2020 appropriation and \$145,000 from the Fiscal Year 2021 appropriation, which cancelled back to the Environmental Fund. The office did not spend \$250,000 from the Fiscal Year 2020 appropriation and \$250,000 from the Fiscal Year 2021 appropriation, which cancelled back to the Remediation Fund.

Source: Office of the Legislative Auditor, based on data in the state's accounting system.

² Office of the Legislative Auditor, Financial Audit Division, *Office of the Attorney General: Internal Controls and Compliance Audit* (St. Paul, 2017).

Payroll Expenditures

This part of the audit focused on the accuracy of the compensation paid to employees. We designed our work to answer the following questions:

- Were the Office of the Attorney General’s internal controls in place and operational to ensure it accurately compensated employees in compliance with applicable legal requirements?
- Did the Office of the Attorney General accurately compensate employees in compliance with applicable legal requirements?
- Did the Office of the Attorney General resolve the prior audit finding?

To gain an understanding of the office’s internal controls and compliance over payroll expenditures, we interviewed office staff. We also analyzed compensatory time, holiday pay, leave balance adjustments, and paid parental leave payments to determine compliance with the employment contracts and the office’s compensation plan. Additionally, we:

- Tested the starting salaries for a sample of employees hired during the scope of the audit, all pay rate changes for AFSCME employees, a sample of pay rate changes for Attorney General employees, a sample of retroactive pay rate adjustment payments, and the salary of the Attorney General.³
- Tested a sample of employee timesheets.
- Tested a sample of overtime payments.
- Tested a sample of separation payments, including compensatory time payoffs, vacation payoffs, and severance payments.
- Tested all payments made to a sample of employees who received paid COVID-19 leave.

Nonpayroll Expenditures

This part of the audit focused on nonpayroll expenditures. We designed our work to address the following questions:

- Were the Office of the Attorney General’s internal controls in place and operational to ensure it obtained and accurately paid for goods and services in compliance with applicable legal requirements?
- Did the Office of the Attorney General obtain and accurately pay for goods and services in compliance with applicable legal requirements?

³ The office employs staff under two employment contracts: American Federation of State, County, and Municipal Employees (AFSCME) and the Office of the Minnesota Attorney General Compensation Plan.

To gain an understanding of the office's internal controls and compliance over nonpayroll expenditures, we interviewed office staff. We also reviewed employee access rights to the state's accounting system and tested all rent expenditures. Additionally, we:

- Tested a sample of professional/technical contracts.
- Tested purchases made on state purchasing cards for a sample of monthly invoices.
- Tested a sample of employee expense reimbursements.
- Tested a sample of expenditures for other goods and services.

Attorney Fees, Registration Fees, and Donations

This part of the audit focused on fees collected for legal services, charity and club registration fees, and donations received by the office. We designed our work to answer the following questions:

- Were the Office of the Attorney General's internal controls in place and operational to ensure attorney fees, registration fees, and donations were collected in compliance with applicable legal requirements?
- Did the Office of the Attorney General collect attorney fees, registration fees, and donations in compliance with applicable legal requirements?

To gain an understanding of the office's internal controls and compliance, we interviewed office staff. We analyzed charity and club registrations fees to determine if the office collected fees in compliance with state statutes. We tested all donations received by the office to determine if they were received in compliance with state statutes. We also tested all expenditures associated with the donations to determine whether the monies were used for appropriate purposes. Additionally, we:

- Reviewed the office's procedures for developing attorney billing rates.
- Tested all attorney billings for legal services provided under contract and a sample of attorney billings for legal services provided not under a contract.
- Tested a sample of attorney billings for legal expenses incurred, such as court fees or travel.

Restitutions, Settlements, and Civil Penalties

This part of the audit focused on restitutions, settlements, and civil penalties collected by the office. We designed our work to answer the following questions:

- Were the Office of the Attorney General’s internal controls in place and operational to ensure restitutions, settlements, and civil penalties were collected and disbursed in compliance with applicable legal requirements?
- Did the Office of the Attorney General collect and disburse restitutions, settlements, and civil penalties in compliance with applicable legal requirements?

To gain an understanding of the office’s internal controls and compliance, we interviewed office staff. We tested a sample of restitutions, settlements, and civil penalties to determine if they were collected in compliance with legal requirements. We tested all restitution disbursements to determine if they were disbursed in compliance with legal requirements.

We conducted this performance audit in accordance with generally accepted government auditing standards.⁴ 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 believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. When sampling was used, we used a sampling method that complies with generally accepted government auditing standards and that supports our findings and conclusions. That method does not, however, allow us to project the results we obtained to the populations from which the samples were selected.

We assessed internal controls against the most recent edition of the internal control standards, published by the U.S. Government Accountability Office.⁵ To identify legal compliance criteria for the activity we reviewed, we examined state laws, state administrative rules, state contracts, and policies and procedures established by Minnesota Management and Budget and the Minnesota Department of Administration.

⁴ Comptroller General of the United States, Government Accountability Office, *Government Auditing Standards* (Washington, DC, July 2018).

⁵ Comptroller General of the United States, Government Accountability Office, *Standards for Internal Control in the Federal Government* (Washington, DC, September 2014). In September 2014, the State of Minnesota adopted these standards as its internal control framework for the executive branch.



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Payroll Expenditures

As of December 2022, the Office of the Attorney General employed 355 staff. During the scope of the audit, the office had \$90,295,430 in payroll expenditures. Exhibit 2 shows the payroll expenditures by type.

Exhibit 2 Payroll Expenditures, July 1, 2020, through December 31, 2022

Type of Expenditure	Gross Pay	Employer Expenses ^a	Total
Hours Worked and Leave Taken	\$67,487,055	\$21,972,125	\$89,459,180
Retroactive Pay Rate Adjustments	68,672	20,470	89,142
Separation Pay	641,528	28,757	670,285
Other ^b	999	75,824	76,823
Total	\$68,198,254	\$22,097,176	\$90,295,430

^a "Employer Expenses" includes the employer's shares of FICA, insurance, and retirement contributions.

^b "Other" includes \$59,018 paid to the Minnesota Department of Administration for worker's compensation, \$16,292 paid to the Department of Employment and Economic Development for unemployment compensation, and \$1,512 for miscellaneous payroll costs. We did not test these expenditures.

Source: Office of the Legislative Auditor, based on data in the state's accounting system.

Employee Pay Rates

The Office of the Minnesota Attorney General Compensation Plan establishes salary ranges for its attorneys, legal assistants, and management.⁶ The office sets the starting salaries of new employees in this plan at the discretion of management.

The office also employs staff classified under the American Federation of State, County, and Municipal Employees (AFSCME) employment agreement, which establishes salary ranges for employee positions throughout state government. Under Minnesota rules, individual departments have the authority to set the starting salaries for new employees within the salary range for a position, up to certain limits.⁷ To exceed those limits, departments must obtain approval from Minnesota Management and Budget.

During the scope of the audit, the office hired or rehired 144 employees. We tested the starting salaries for a random sample of 24 of those employees and found no issues.

⁶ Office of the Attorney General, *Office of the Minnesota Attorney General Compensation Plan*, July 1, 2017 – June 30, 2019; and *Office of the Minnesota Attorney General Compensation Plan*, July 1, 2019 – June 30, 2021. The 2017-2019 plan was in effect until Minnesota Management and Budget approved the 2019-2021 plan on August 5, 2022.

⁷ *Minnesota Rules*, 3900.2100, <https://www.revisor.mn.gov/rules/3900.2100/>, accessed August 14, 2023.

The Minnesota Constitution states that the salaries of executive officers, including the Governor, Lieutenant Governor, Secretary of State, State Auditor, and Attorney General, “shall be prescribed by law.”⁸ The last salary increase authorized by the Legislature for those officers occurred on January 1, 2016.⁹ We confirmed the accuracy of the salary paid to the Attorney General.

Pay Rate Increases

Employees receive periodic pay rate increases based on provisions in applicable employment contracts.

Under the state’s employment contract with AFSCME, all employees receive an annual general salary increase, and eligible employees receive a semiannual or annual step progression salary increase.¹⁰ Employees are eligible for the step progression increase if they are not at the top of the salary range assigned to their job; the increase may be withheld by the appointing authority due to an employee’s unsatisfactory job performance. We tested all pay rate increases granted to AFSCME employees and found no issues.

Under the office’s compensation plan, eligible employees may receive an annual salary increase, within the established salary range, at the discretion of the Attorney General.¹¹ During the scope of the audit, the office provided 653 pay rate increases to 333 employees. We tested a random sample of 40 of those increases and found no errors.

Pay rate increases are recorded in the state’s payroll system with an effective date. If that effective date is within the current or a future pay period, the payroll system will calculate pay at the new rate starting on the effective date. If that effective date is in a prior pay period, a retroactive pay rate adjustment is paid to the employee. During the audit period, the office paid retroactive pay rate adjustments totaling \$89,143 to 86 employees. We tested the accuracy of a random sample of 16 of those payments and found no issues.

⁸ *Minnesota Constitution*, art. V, sec. 4.

⁹ *Laws of Minnesota* 2013, chapter 142, art. 6, sec. 12. During the scope of the audit, the Attorney General’s salary was \$121,250.

¹⁰ American Federation of State, County, and Municipal Employees (AFSCME) agreements 2019-2021 and 2021-2023, art. 18, secs. 3-5. The agreements provided for general salary increases of 2.50 percent effective on July 1 in 2020, 2021, and 2022.

¹¹ Office of the Attorney General, *Office of the Minnesota Attorney General Compensation Plan*, July 1, 2017 – June 30, 2019; and *Office of the Minnesota Attorney General Compensation Plan*, July 1, 2019 – June 30, 2021. The sum of salary increases for all employees may not exceed 5 percent of the aggregate salaries of all eligible employees.

Payroll Processing

State employees are paid biweekly. The office follows state policy, which requires both employees and their supervisors to approve timesheets.¹² Employees classified under the office's compensation plan enter their hours worked in the office's billing system. Once approved, payroll staff manually enter these employees' hours in the state's payroll system. All other employees enter their hours worked directly into the state's payroll system.

During the scope of the audit, office employees completed 21,471 biweekly timesheets. We tested the completion and approval of a random sample of 60 timesheets and found no issues.

Overtime Pay

The employment contracts for office employees include provisions that allow the employees to earn overtime. Overtime can be compensated in the forms of money added to the employees' paychecks or compensatory time that can be used as paid time off in future pay periods. For the employment contract with AFSCME, employees earn overtime at time-and-one-half.¹³ For the office's compensation plan, eligible employees can earn overtime at straight-time or at time-and-one-half, based on hours worked.¹⁴

During the scope of the audit, the office paid \$139,859 of overtime in money and \$71,683 in overtime as compensatory time on a total of 521 timesheets. We tested a sample of overtime compensation on 25 timesheets.

FINDING 1

The Office of the Attorney General did not always document preapprovals of employee overtime hours.

The office did not retain documentation of preapprovals for overtime worked for 8 of 25 samples, as required by state policy and the office's compensation plan.¹⁵ The office paid \$1,063 to those eight employees.

¹² Minnesota Management and Budget, Statewide Operating Policy and Procedures PAY0017, *Self Service Time Entry*, issued February 2011.

¹³ American Federation of State, County, and Municipal Employees (AFSCME) agreements 2019-2021 and 2021-2023, art. 6, sec. 2.

¹⁴ Office of the Attorney General, *Office of the Minnesota Attorney General Compensation Plan*, July 1, 2017 – June 30, 2019, sec. IV; and *Office of the Minnesota Attorney General Compensation Plan*, July 1, 2019 – June 30, 2021, sec. IV. Employees earn straight-time when they work in excess of 40 hours in a week that includes paid leave, and earn time-and-one-half when they work hours in excess of 40 regular hours in a week. Attorneys and managers are not eligible for overtime under the office's compensation plan.

¹⁵ Minnesota Management and Budget, Statewide Operating Policy and Procedure PAY0012, *Requesting and Reporting Overtime*, issued September 2009; Office of the Attorney General, *Office of the Minnesota Attorney General Compensation Plan*, July 1, 2017 – June 30, 2019, sec. IV; and *Office of the Minnesota Attorney General Compensation Plan*, July 1, 2019 – June 30, 2021, sec. IV.

Seven of those employees worked overtime without obtaining preapproval from their supervisor. For these payments, the employees did not fully understand how deviations from their normal work schedule would result in overtime. For example, one employee worked four additional hours to make up for time off taken earlier in that pay period; however, the employee did not realize that overtime is determined based on a 40-hour work-week, rather than based on the two-week pay period. One employee requested overtime from their supervisor; however, the office did not retain the approval from the supervisor.

For all eight employees, the supervisor subsequently approved the overtime payments. However, without documentation of preapproval for overtime, we cannot determine whether the overtime was necessary. Without obtaining preapproval for overtime, the office is at a higher risk of paying for unnecessary overtime.

RECOMMENDATIONS

- **The Office of the Attorney General should document preapproval of employee overtime.**
 - **The Office of the Attorney General should strengthen internal controls to ensure the office pays overtime in compliance with employment contracts.**
-

Separation Pay

Upon separation from state service, employees may be eligible to receive various types of separation payments. All employees receive payments for unused vacation leave and compensatory time, up to limits established in the employment contracts. Employees that meet certain eligibility requirements related to age and years of service also receive severance payments for a percentage of unused sick leave.

During the scope of the audit, the office made \$670,284 in separation payments to 89 employees. We tested the accuracy and eligibility for one judgmental sample and a random sample of 15 separation payments and found no issues.

Holiday Pay

The office's compensation plan and the AFSCME contract provided employees with 10 paid holidays in Fiscal Year 2021 and 11 paid holidays in fiscal years 2022 and 2023. Additionally, they provided employees with one floating holiday each fiscal year.

During the scope of the audit, the office paid employees \$3,542,741 for holidays and \$328,677 for floating holidays. We tested all holiday and floating holiday pay and found no issues.

Leave Balance Adjustments

The calculation of employee leave balances in the state's payroll system is mostly automated, but some users have the ability to manually adjust those balances.

Employees earn between four and nine hours of vacation leave each biweekly pay period, based on length of service. Employees may accumulate a vacation leave balance to any amount, provided it is reduced to a cap of 275 hours at least once each fiscal year. If the vacation leave balance is not reduced to the cap during the fiscal year, the balance is automatically reduced to the cap by the state's payroll system at the end of the fiscal year. The Attorney General may temporarily suspend the automatic reduction to the cap in emergency situations.

During the scope of the audit, 21 employees did not reduce their vacation leave balances to the cap during one or more fiscal years. The office extended the deadline to reduce the balances for those employees, due to the COVID-19 pandemic. We tested the vacation leave balances of all 21 employees to verify that the balance was automatically reduced to the cap or the employee obtained an extension and found no issues, which includes resolution of the prior audit finding.¹⁶

Under the office's compensation plan, attorneys and managers who work on a holiday are eligible to have those hours added to their vacation balance. During the scope of the audit, the office made 276 adjustments for 133 employees. We reviewed these adjustments and found no issues.

Other Paid Leave

The office's compensation plan and AFSCME contract provide for up to 240 hours of paid parental leave following the birth or adoption of a child. During the scope of the audit, the office paid ten employees \$41,099 for paid parental leave. We reviewed all of these payments and verified that no employee exceeded the limits for paid parental leave.

The office adopted the state policy for COVID-19 leave, which paid leave for various reasons related to COVID-19, with different limits for each reason.¹⁷ During the scope of the audit, the office paid \$93,529 to 47 employees for COVID-19 leave. We tested one judgmental sample and a random sample of payments to eight of those employees and found no issues.

¹⁶ Office of the Legislative Auditor, Financial Audit Division, *Office of the Attorney General: Internal Controls and Compliance Audit* (St. Paul, 2017).

¹⁷ Minnesota Management and Budget, Human Resources/Labor Relations Policy #1440, *Paid COVID-19 Leave*, issued March 18, 2020, revised April 1, 2020, April 7, 2020, and July 22, 2020; Minnesota Management and Budget, Human Resources/Labor Relations Policy #1441, *Expanded FMLA for COVID-19 Related School/Child Care*, issued July 22, 2020, revised September 18, 2020; and Minnesota Management and Budget, Human Resources/Labor Relations Policy #1443, *Expanded Leave for COVID-19 Related School/Child Care*, issued January 1, 2021, revised January 8, 2021.



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Nonpayroll Expenditures

During the scope of the audit, the Office of the Attorney General had \$19,091,050 in nonpayroll expenditures. Exhibit 3 shows the nonpayroll expenditures by type.

Exhibit 3 Nonpayroll Expenditures, July 1, 2020, through December 31, 2022

Type of Expenditure	Amount
Rent	\$ 7,060,543
Professional/Technical Services	5,086,688
Purchases with State Purchasing Cards	164,582
Employee Expense Reimbursements	185,897
Other Goods and Services	6,571,104
Expenditure Reductions ^a	(887,908)
Other ^b	910,144
Total	\$19,091,050

^a "Expenditure Reductions" includes \$404,168 in billings and \$439,960 in employee deductions, both of which we examined. This category also includes \$55,648 in miscellaneous expenditure reductions that we did not test.

^b "Other" includes \$906,718 in indirect costs and \$3,426 in miscellaneous expenditures. We did not test these expenditures.

Source: Office of the Legislative Auditor, based on data in the state's accounting system.

Rent

During the scope of the audit, the office paid \$6,634,024 for rental leases, and \$426,519 for parking spaces in various state lots. We tested expenditures for rent and analyzed all of the expenditures for parking spaces and found no issues.

Professional/Technical Services

During the scope of the audit, the office paid \$5,086,688 on 42 professional/technical service contracts. The majority of professional/technical service contracts were for expert witness or court-ordered mediation services. We tested a random sample of seven of those contracts, and two additional contracts selected based on our analysis, and found no issues.

Purchases with State Purchasing Cards

The office utilized state purchasing cards to pay for certain goods and services, the most common of which during the scope of the audit were court fees. State policy establishes guidelines for the use of state purchasing cards, including permissible and prohibited uses; maximum amounts for individual transactions (\$5,000) and total transactions in a billing cycle (\$20,000); and recordkeeping requirements.¹⁸ U.S. Bank provides the state purchasing cards and invoices to each participating state agency monthly.

During the scope of the audit, the office used state purchasing cards for \$164,582 in expenses. We tested all of the state purchasing card activity for a random sample of 6 of 30 months in the scope of the audit and found no issues.

Employee Expense Reimbursements

The office reimburses expenses incurred by employees for legitimate state business. During the scope of the audit, the office reimbursed employees for \$185,897 in business expenses submitted on 896 separate expense reports. We tested a random sample of 40 of those expense reports and found no issues.

Other Goods and Services

During the scope of the audit, the office had 3,401 expenditures totaling \$6,571,104 for various other types of goods and services. These include purchases made on state contracts, such as office supplies and computer equipment, and other purchases made through a purchase order, such as employee training. We tested a random sample of 40 of those expenditures, and 2 additional expenditures selected based on our analysis, and found no issues.

¹⁸ Minnesota Department of Administration, Office of State Procurement, Purchasing Policy 1b, *Purchasing Card Use Policy*, 2.44, issued November 1, 2013, revised April 2018.

Attorney Fees, Registration Fees, and Donations

The Office of the Attorney General collects fees for legal services provided to clients, charity and club registration fees, and donations. During the scope of the audit, the office collected \$32,879,948 in fees, donations, and other receipts. Exhibit 4 shows the receipts by type.

Exhibit 4
Attorney Fees, Registration Fees, and Donations, July 1, 2020, through December 31, 2022

Type of Receipt	Amount
Attorney Fees	\$30,328,203
Charity Registration Fees	1,875,509
Club Registration Fees	59,550
Donations	562,400
Other ^a	54,286
Total	\$32,879,948

^a "Other" includes forfeited property, seminar fees, and copy reimbursements. We did not test these receipts.

Source: Office of the Legislative Auditor, based on data in the state's accounting system.

Attorney Fees

The office provides legal services to clients, such as state agencies, political subdivisions, or quasi-state agencies, and bills those clients for those services. Every two years, the office develops an hourly rate for its attorneys and legal assistants, which it uses to bill clients for legal services provided. During the scope of the audit, the office collected \$26,403,324 from 39 entities for legal services provided. We reviewed the office's procedures for developing its hourly rates and tested a random sample of 40 of 1,256 billings and found no issues.

The office also bills its clients for expenses incurred, such as travel expenses or court filing fees. During the scope of the audit, the office collected \$418,669 on 418 expense billing invoices. We tested 3 judgmental samples and a random sample of 40 of those billings and deposits and found no issues.

The office enters into contracts for legal services with three state entities. For those entities, the office bills the clients for a set amount on a quarterly basis. During the scope of the audit, the office collected \$3,924,879 from those entities. We reviewed all collections and deposits from those three entities and found no issues.

Registration Fees

State law requires charities and clubs to register with the Office of the Attorney General and pay the following fees:

- \$25 annual fee for charity registration.¹⁹
- \$250 initial club registration fee.²⁰
- \$150 annual club registration renewal fee.²¹

During the scope of the audit, the office collected \$1,875,509 in charity registration fees and \$59,550 in club registration fees. We analyzed those collections to determine the accuracy of the amounts and whether they were properly deposited and found no issues.

Donations

State law authorizes the Commissioner of Minnesota Management and Budget “to receive and accept, on behalf of the state, any gift, bequest, devise, or endowment...for the benefit of the state, or any of its departments or agencies...”²² Under this law, the office obtains approval from Minnesota Management and Budget prior to accepting donations.

During the scope of the audit, the office accepted ten donations totaling \$562,400. We examined all donations to verify that they were approved by the Commissioner of Minnesota Management and Budget and properly deposited. We also analyzed all related expenditures to determine if the office spent funds for the stated purposes of the donations and found no issues.

¹⁹ *Minnesota Statutes* 2022, 309.52, subd. 2.

²⁰ *Minnesota Statutes* 2022, 325G.27, subd. 1.

²¹ *Ibid.*

²² *Minnesota Statutes* 2022, 16A.013, subd. 1.

Restitutions, Settlements, and Civil Penalties

The Office of the Attorney General collects and disburses money recovered through court orders that result from litigation. During the scope of the audit, the office collected \$22,236,359 in restitutions, settlements, and civil penalties. Exhibit 5 shows these receipts by type.

Exhibit 5
Restitutions, Settlements, and Civil Penalties, July 1, 2020, through December 31, 2022

Type of Receipt	Amount
Restitutions	\$10,410,763
Settlements	3,467,728
Civil Penalties	<u>8,357,868</u>
Total	\$22,236,359

Source: Office of the Legislative Auditor, based on data in the state's accounting system.

State law requires money recovered by a state official in litigation or settlement to be deposited in the General Fund, unless the state official is operating on behalf of a specific harmed party. If the litigation or settlement is collected on behalf of a harmed party, the money may be distributed to that harmed party.²³

The office collects restitutions, settlements, and civil penalties approved through court orders. Each court order identifies the amount owed to the state and whether payment must be remitted to the General Fund or paid to claimants.

During the scope of the audit, the office collected 346 payments totaling \$22,236,359. We tested 8 judgmental samples and a random sample of 40 of those payments and found no issues.

During the scope of the audit the office disbursed \$2,018,147 to claimants. We tested all disbursements to verify they were accurately paid according to the court order and found no issues.

²³ *Minnesota Statutes 2022*, 16A.151, subs. 1(c) and 2(a).



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September 12, 2023

Ms. Judy Randall
Legislative Auditor
Office of the Legislative Auditor
First Floor South, Centennial Building
658 Cedar Street
St. Paul, MN 55155

Dear Ms. Randall:

Thank you for the opportunity to respond to the Office of the Attorney General's Internal Control Compliance Audit Report for the period July 1, 2020 through December 31, 2022. We appreciate the thorough and professional review undertaken by your staff. We welcomed the opportunity for reflection and improvement, as the Office continues its commitment to excellence surrounding financial controls. Please accept this response to the finding and recommendation in the report:

Finding:

The Office of the Attorney General did not always document preapprovals of employee overtime hours.

Recommendations:

- The Office of the Attorney General should document preapproval of employee overtime.
- The Office of the Attorney General should strengthen internal controls to ensure they pay overtime in compliance with employment contracts.

Response:

The Office of the Minnesota Attorney General accepts this finding and agrees with the recommendations. The COVID-19 pandemic changed the work environment for state employees. Our Office, along with many other state agencies, had to quickly transition to more flexible work locations and schedules. That movement to flexible schedules resulted in some staff errors when balancing/flexing their hours between pay weeks. Those errors resulted in overtime being incurred without preapproval. In addition, moving from the use of in-person paper overtime preapproval

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forms to electronic approvals as our Office moved to a flexible work environment, upon reflection, created the need for greater overtime documentation and strengthening our internal controls to ensure overtime compliance with both the AFSCME contract and Office of the Attorney General compensation plan.

Implementation of these recommendations is already underway. Human Resources staff has implemented payroll and overtime training for new employee orientation and is developing additional resources and training to supplement for all staff. This training includes balancing/flexing hours, pay weeks, and policies and procedures surrounding overtime requirements, including when an employee should request the preapproval of overtime and reinforcing the documentation process to ensure compliance. These resources and trainings will also be provided to all approving supervisors and managers. Lastly, payroll staff has implemented a compliance check in payroll audits.

Human Resources Director Sarah Spence-Koivisto will be responsible for the implementation of these recommendations by November 2023 end.

We appreciate the collaborative approach to this audit between our Offices, resulting in these recommendations to strengthen our internal controls and ensure proper documentation. Thank you again for your office's thorough and professional review of the Office of the Attorney General's internal controls.

Sincerely,

Quin Charnell
QUIN CHARNELL

Director of Administration
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