



OFFICE OF THE ATTORNEY GENERAL  
AND DEPARTMENT OF LAW  
AND DIVISION OF DEBT COLLECTION

FOR THE YEAR ENDED  
JUNE 30, 2016

Auditor of Public Accounts  
Martha S. Mavredes, CPA  
[www.apa.virginia.gov](http://www.apa.virginia.gov)  
(804) 225-3350



## AUDIT SUMMARY

Our audit of the Office of the Attorney General and Department of Law and the Division of Debt Collection (Division) for the fiscal year ended June 30, 2016, found:

- proper recording and reporting of all transactions, in all material respects, in the Commonwealth's accounting and financial reporting system and the Division's internal debt collection management system;
- certain matters involving internal control and its operation necessary to bring to management's attention; and
- instances of noncompliance with applicable laws and regulations or other matters that are required to be reported.

## - TABLE OF CONTENTS -

	<u>Pages</u>
AUDIT SUMMARY	
AUDIT FINDINGS AND RECOMMENDATIONS	1-2
AGENCY HIGHLIGHTS	3-6
INDEPENDENT AUDITOR'S REPORT	7-9
AGENCY RESPONSE	10
AGENCY OFFICIALS	11

## AUDIT FINDINGS AND RECOMMENDATIONS

### Develop and Approve Backup and Restoration Policies and Procedures

The Office of the Attorney General and Department of Law (Office) does not have formally approved information technology (IT) backup and restoration policies and procedures that meet the requirements in the Commonwealth's Information Security Standard, SEC 501-09 (Security Standard). The Office has a document that describes the backup schedule and the steps to review backup logs. The document also has a brief description on restoring individual files. However, the document has no formal approvals and does not have the following elements required in the Security Standard:

- Requirements for off-site storage of backup media, including a requirement and process for backup media stored in an off-site location that is separate from the primary location; requirements for the protection of backup media during transport off-site; requirements and process for recording authorizations to transfer backup media; and a requirement and process for recording the deposits and removals of backup media between the Office and the off-site location. *(Security Standard: CP-9-COV Information System Backup)*
- A requirement that authorized personnel perform backups and review the backup logs to verify successful completion; and a procedure for testing that IT systems and data backups function as expected and the data is present in a usable form. *(Security Standard: CP-9-COV Information System Backup)*
- Requirements and a procedure for the recovery and reconstitution of the Office's information systems after a disruption, compromise, or failure, including a requirement and process for periodic testing of the recovery procedures to determine that they effectively restore and recover data. *(Security Standard: CP-10 Information System Recovery and Reconstitution)*

The Office's recent turnover in the IT department has contributed to the backup and restoration weaknesses. The Office has limited IT resources and is working to fill the vacant positions.

It is essential for the Office to have complete and effective backup and restoration procedures because the agency handles confidential and sensitive information on a daily basis. By not having complete and approved policies and procedures to restore and recover sensitive data, the Office increases the risk of mission essential applications and data being unavailable.

The Office should develop their backup and restoration policies and procedures to meet the requirements in the Security Standard. The Office should also formally approve the policies and procedures through the appropriate governance process and ensure users are aware of their responsibilities. Complete backup and restoration policies and procedures will help ensure the availability of the agency's mission critical applications and data after a disruption or failure.

## **Improve Physical and Environmental Security**

The Office does not have adequate physical and environmental security controls in place that meet the requirements in the Security Standard and protect technical assets that support daily business functions from physical and environmental risks.

The Security Standard requires the Office to develop, document, and implement physical and environmental protection policies and procedures to ensure appropriate controls are implemented to protect information systems and data from human and environmental risks. We communicated six physical and environmental control weaknesses in detail to management in a separate document marked Freedom of Information Act (FOIA) Exempt under Section 2.2-3705.2 of the Code of Virginia, due to the sensitivity and description of security controls.

The Office has experienced turnover in the information technology department, which has affected the Office's ability to maintain sufficient oversight over the information security program, including physical and environmental protection. Not implementing appropriate physical and environmental safeguards and supporting procedures will decrease the Office's ability to protect sensitive information systems from physical and environmental risks.

The Office should remediate the physical and environmental control weaknesses discussed in the communication marked FOIA Exempt and improve the existing physical and environmental security policy to meet the requirements in the Security Standard. Remediating the weaknesses and improving the policy will help to protect the Office's sensitive systems against physical and environmental threats.

## **Improve Firewall Management**

The Office does not properly secure its firewall in accordance with the Security Standard and industry best practices.

We communicated essential control weaknesses to management in a separate document marked Freedom of Information Act (FOIA) Exempt under Section 2.2-3705.2 of the Code of Virginia, due to it containing descriptions of security mechanisms. The Security Standard requires the documentation and implementation of certain controls that reduce unnecessary risk to the confidentiality, integrity, and availability of Office's information systems and data.

The Office's recent turnover in the information technology department affected the Office's ability to properly manage the firewall. The Office should implement the controls discussed in the communication marked FOIA Exempt in accordance with the Security Standard in a timely manner to safeguard the Office's network and protect its systems and data from threats.

## AGENCY HIGHLIGHTS

The Attorney General is the chief executive officer of the Commonwealth of Virginia's Department of Law. The Office of the Attorney General and Department of Law (Office) acts as the Commonwealth's law firm. The Attorney General and his staff represent the Commonwealth's interests in all civil cases naming the Commonwealth, or any of its agencies or officials, as a party, and in criminal cases on appeal to the Court of Appeals of Virginia and the Supreme Court of Virginia. In cases involving federal law, the Attorney General represents the Commonwealth's interests in federal court. The Office also enforces consumer protection laws and investigates Medicaid fraud.

The Attorney General is also the legal advisor to the Governor and more than 200 state agencies, boards, commissions, and institutions. The Attorney General renders official opinions on the application of the law upon written request of the Governor, members of the General Assembly, members of the judiciary, state officials, or local constitutional officers. The Office handles criminal convictions on appeal and defends the state when prisoners sue concerning their incarceration. In addition, the Office defends legal challenges of the constitutionality of state laws and supervises the appointment and payment of private attorneys hired by other state agencies for various matters. The Office also administers grants to help reduce crimes involving gangs, drugs, and sex predators.

The Office's organizational structure is similar to a private law firm, with divisions devoted to legal specialties. In addition to the main office in downtown Richmond, the Office has operations in Abingdon, Fairfax, and Roanoke. The Administration Division provides finance, human resources, information systems, and operations support to the legal divisions. The Division of Debt Collection, a separate agency within the Office, provides legal services and advice related to the collection of funds owed to the Commonwealth.

### Office of the Attorney General

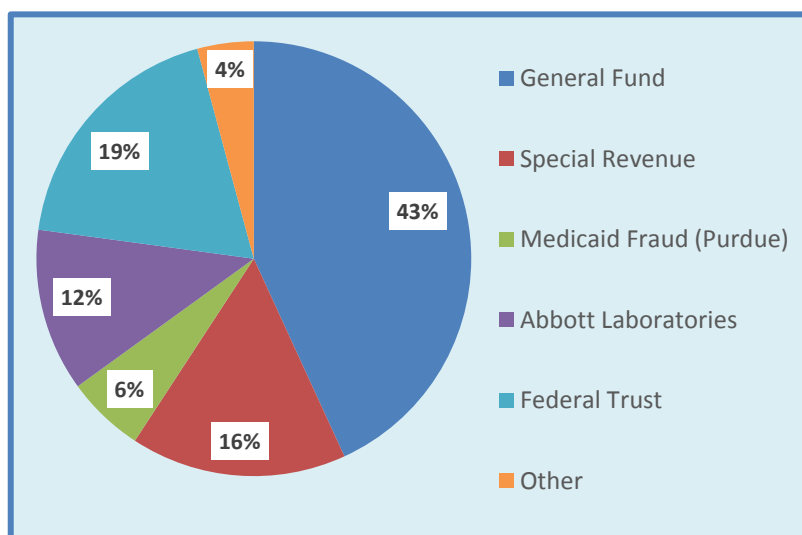
#### *Revenue and other Funding Sources*

The Office received 43 percent of its funding from the General Fund, with the remainder split between special revenue and federal funds. Special revenue funds are primarily collected through fees charged to agencies and universities for legal services provided by the Office. The Office also receives federal grants supporting Medicaid fraud control activities. See Chart 1 for fiscal year 2016 funding and analysis.

In fiscal year 2016, 12 percent of the Office's final appropriation was from the Abbott Laboratories Settlement. This funding is the result of the fiscal year 2013, \$1.5 billion

**2016 Funding Analysis**

Chart 1



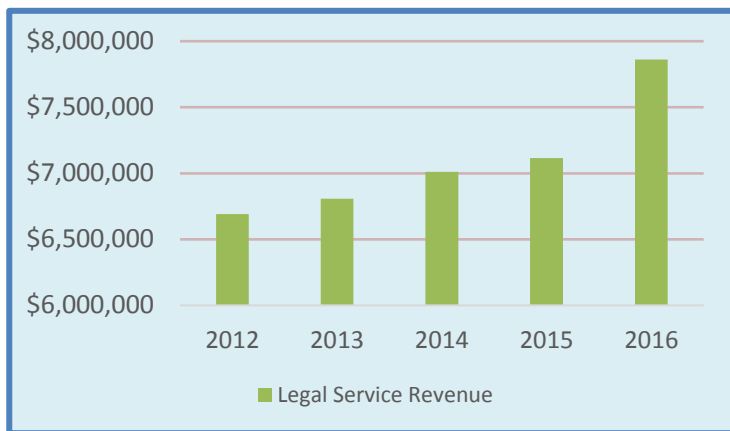
Source: The Commonwealth's accounting and financial reporting system

settlement with Abbott Laboratories Inc. Since most of the award monies have already been distributed in prior years through the Equitable Sharing Program, the current year amount represents the final year of payments expected from this fund.

The Medicaid Fraud (Purdue) fund comprised six percent and Federal Trust comprised 19 percent of the Office’s funding during fiscal year 2016. The Virginia Medicaid Fraud Control Unit (MFCU) investigates and prosecutes health care provider insurance fraud against the state and federally funded Medicaid program. Federal grants fund the MFCU operations and require a 25 percent match of state funds. Since 2008, when the MFCU recovered \$39.8 million in the Purdue OxyContin criminal case, the Purdue funds have been used to provide the 25 percent Commonwealth share of the budget. The Virginia Medicaid program is 50 percent federally funded and 50 percent state-funded; therefore, Virginia receives half of Medicaid program related recoveries. All recoveries go into the Virginia Health Care Fund established by the General Assembly in 2004 and must support health care services. The amount collected by MFCU fluctuates yearly depending on the specific cases won. In fiscal year 2015, MFCU received \$1.5 million in cash collections, and in fiscal year 2016, \$13.3 million was received. These amounts include both the state and federal portions.

**2016 Legal Service Revenue**

Chart 2



Source: The Commonwealth’s accounting and financial reporting system

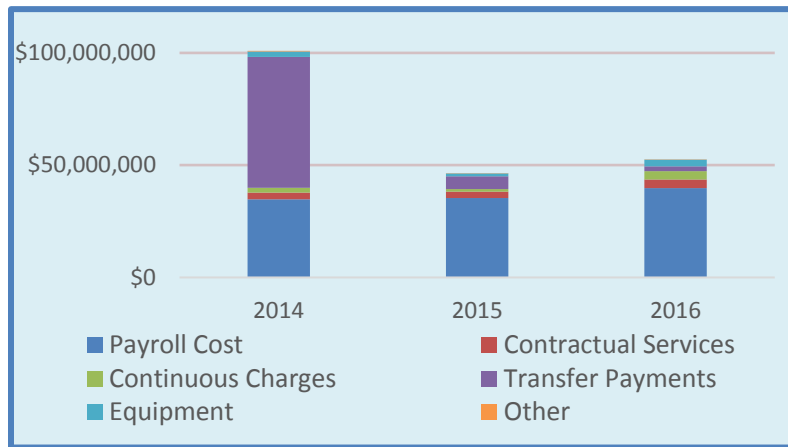
Special Revenue funds, consist primarily of legal service revenues, and were 16 percent of the Office’s final appropriation. State law permits the Attorney General to bill agencies for the legal services if the agency receives all or a part of its funding from non-general funds. Billings for these services may be based on a set hourly rate, or a Memorandum of Understanding between the Office and the agency. The Office adopted an increased billing rate during fiscal year 2016, which contributed to an increase in legal service revenues received during the year.

*Expenses*

Payroll-related costs comprise 76 percent of the Office’s total expenses. Other significant costs necessary to support operations include: contractual services, continuous charges, and equipment purchases. Transfer payments are also significant, and represent indirect cost recoveries for the Medicaid Fraud Control Unit, and grants transferred to other agencies and localities. As the chart below depicts, the percent of expense by type has remained relatively stable across years, with the exception of transfer payments. These expenses have decreased due to exhaustion of the Abbott Laboratories Settlement fund.

### Major Expenses\*

Chart 3



Source: The Commonwealth's accounting and financial reporting system

\*Increase in transfer payments during fiscal year 2014 is attributed to the Abbott Laboratories Settlement funds, which were received during the year and paid out to localities and the Virginia Retirement System.

### Division of Debt Collection

#### *Revenues and Expenses*

The Division of Debt Collection (Division) is a separate agency within the Office. It collects delinquent accounts for state agencies, state-supported institutions of higher education, and their hospitals. Upon receiving delinquent accounts from state agencies, the Division will take appropriate action, including litigation, to collect them. During fiscal year 2016, the Division began collecting funds associated with settlements by the Commonwealth in Virginia Fraud Against Taxpayers Act (FATA) cases. In fiscal year 2016, \$64 million in fraud recovery fund revenues were received by the Division. Of this amount, \$63 million was transferred to the relator and the Virginia Retirement System (VRS). The Division retained \$437,632 for their role in the recovery. The remainder of Division funds are received through Special Revenue from collections, as depicted below. There are no other sources of funding, as the Division is funded entirely from Special Revenue funds. Excluding transfer payments related to FATA funds, the primary division expense is payroll, which comprised 86 percent of total expenses. Other significant expenses are contractual and continuous charge expenses necessary to sustain operations.

### **Division Operating Statistics for Collection Revenue 2012-2016 (Non-FATA)**

Table 1

	2012	2013	2014	2015	2016
Maximum employment level	24	24	24	26	26
Division budget	\$1,899,884	\$1,916,448	\$2,064,183	\$2,375,196	\$2,380,898
Number of accounts	16,386	18,608	17,798	15,883	12,778
Active accounts (\$ in millions)	\$215.6	\$256.4	\$274.6	\$304.1	\$316.0
Gross collections (\$ in millions)	\$10.5	\$11.3	\$11.9	\$23.0	\$24.4

Source: The Commonwealth's accounting and financial reporting system and the Division of Debt Collection



The Division funds operations with a portion of fees retained from their collections. The Appropriation Act allows the Division to keep \$400,000 as operating capital and requires the transfer of any excess collections to the General Fund by September 1 of each year. The Division can request to keep more of the balance, but the Department of Planning and Budget must approve this request. The following table details the Division’s operating revenues and expenses for the last five fiscal years.

**Revenues and Expenses – Fiscal Years 2012-2016 ( Non-FATA)**

Table 2

	2012	2013	2014	2015	2016
Beginning balance	\$ 761,709	\$ 403,366	\$ 608,067	\$ 649,238	\$1,144,659
Collection fee revenue	2,354,751	2,495,749	2,604,633	3,895,377	2,360,131
Expenses	(1,842,861)	(1,787,682)	(1,865,395)	(2,315,718)	(2,668,451)
Net Transfers	(375,233)	(3,366)	(113,067)	(49,238)	(421,508)
Revenue Refunds	(495,000)	(500,000)	(585,000)	(1,035,000)	-
<b>Ending balance</b>	<b>\$ 403,366</b>	<b>\$ 608,067</b>	<b>\$ 649,238</b>	<b>\$ 1,144,659</b>	<b>\$ 414,831</b>

Source: The Commonwealth’s accounting and financial reporting system



# Commonwealth of Virginia

*Auditor of Public Accounts*

Martha S. Mavredes, CPA  
Auditor of Public Accounts

P.O. Box 1295  
Richmond, Virginia 23218

March 28, 2017

The Honorable Terence R. McAuliffe  
Governor of Virginia

The Honorable Robert D. Orrock, Sr.  
Chairman, Joint Legislative Audit  
and Review Commission

We have audited the financial records and operations of the **Attorney General and Department of Law and the Division of Debt Collection** for the year ended June 30, 2016. We conducted this performance audit in accordance with generally accepted government auditing standards. 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.

## **Audit Objectives**

Our audit's primary objectives were to evaluate the accuracy of recorded financial transactions in the Commonwealth's accounting and financial reporting system and its internal debt collection management system, and review the adequacy of internal controls, test compliance with applicable laws, regulations, contracts, and grant agreements. The Attorney General and Department of Law and the Division of Debt Collection transitioned to using the Commonwealth's new accounting and financial reporting system on February 1, 2016.

## **Audit Scope and Methodology**

The Attorney General and Department of Law's and the Division of Debt Collection's management has responsibility for establishing and maintaining internal control and complying with applicable laws, regulations, contracts and grant agreements. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws, regulations, contracts, and grant agreements.

We gained an understanding of the overall internal controls, both automated and manual, sufficient to plan the audit. We considered significance and risk in determining the nature and extent of our audit procedures. Our review encompassed controls over the following significant cycles, classes of transactions, and account balances.

- Federal grant expenses
- Operational expenses
- Payroll expenses
- Legal Service Revenue
- Medicaid Fraud Control Unit
- Division of Debt Collection
- State vehicles
- Information system security

We performed audit tests to determine whether the Attorney General and Department of Law's and the Division of Debt Collection's controls were adequate, had been placed in operation, and were being followed. Our audit also included tests of compliance with provisions of applicable laws, regulations, contracts, and grant agreements. Our audit procedures included inquiries of appropriate personnel, inspection of documents, records, and contracts, and observation of the Attorney General and Department of Law's and the Division of Debt Collection's operations. We performed analytical procedures, including budgetary and trend analyses. We also tested details of transactions to achieve our objectives.

A statistical sampling approach was used. Our samples were designed to support conclusions about our audit objectives. An appropriate sampling methodology was used to ensure the samples selected were representative of the population and provided sufficient, appropriate evidence. We identified specific attributes for testing each of the samples and when appropriate, we projected our results to the population.

## **Conclusions**

We found that the Attorney General and Department of Law and the Division of Debt Collection properly stated, in all material respects, the amounts recorded and reported in the Commonwealth's accounting and financial reporting system and its internal debt collection management system. The financial information presented in this report came directly from the Commonwealth's accounting and financial reporting system and its internal debt collection management system.

We noted certain matters involving internal control and its operation and compliance with applicable laws, regulations, contracts and grant agreements that require management's attention and corrective action. These matters are described in the section entitled "Audit Findings and Recommendations."

### **Exit Conference and Report Distribution**

We discussed this report with management on April 4, 2017. Management's response to the findings identified in our audit is included in the section titled "Agency Response." We did not audit management's response and, accordingly, we express no opinion on it.

This report is intended for the information and use of the Governor and General Assembly, management, and the citizens of the Commonwealth of Virginia and is a public record.

AUDITOR OF PUBLIC ACCOUNTS

KJS/alh



## COMMONWEALTH of VIRGINIA

Office of the Attorney General

Mark R. Herring  
Attorney General

202 North Ninth Street  
Richmond, Virginia 23219  
804-786-2071  
Fax 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

April 27, 2017

Ms. Martha Mavredes  
Auditor of Public Accounts  
101 N. 14<sup>th</sup> Street  
Richmond, VA 23219

Dear Ms. Mavredes:

On behalf of the Attorney General, I would like to thank you for providing us an opportunity to comment on the findings and recommendations in the Fiscal Year 2016 audit of the Office of the Attorney General.

Management continues to recognize the need for compliance with SEC 501-9, CP-9-COV and CP-10 requirements. We will actively work towards redressing the concerns noted in the current audit report.

Sincerely,

A handwritten signature in cursive script that reads "Leigh E. Archer".

Leigh E. Archer  
Director of Administration

**OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF LAW**

As of June 30, 2016

Mark R. Herring  
Attorney General

Cynthia E. Hudson  
Chief Deputy Attorney General

Leigh E. Archer  
Director of Administration

Christie A. Wells  
Director of Finance