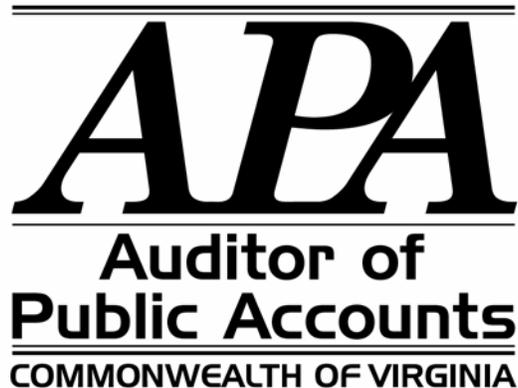


**OFFICE OF THE ATTORNEY GENERAL
and DEPARTMENT OF LAW
RICHMOND, VIRGINIA**

**REPORT ON AUDIT
FOR THE YEAR ENDED
JUNE 30, 2004**



AUDIT SUMMARY

Our audit of the Office of the Attorney General and Department of Law for the year ended June 30, 2004 found:

- proper recording and reporting of all transactions, in all material respects, in the Commonwealth Accounting and Reporting system;
- internal control matters that we consider to be reportable conditions; however, we do not consider any of these findings to be material weaknesses; and
- no instances of noncompliance required to be reported under Government Auditing Standards.

- TABLE OF CONTENTS -

	<u>Pages</u>
AUDIT SUMMARY	
ATTORNEY GENERAL AND DEPARTMENT OF LAW	1-3
Agency Background	1
Financial Information	1-2
Division of Debt Collection	3
INTERNAL CONTROL AND COMPLIANCE FINDINGS AND RECOMMENDATIONS	4
INDEPENDENT AUDITOR'S REPORT	5-6
AGENCY RESPONSE	7-9
AGENCY OFFICIALS	10

ATTORNEY GENERAL AND DEPARTMENT OF LAW

Agency Background

The Attorney General is the chief executive officer of the Commonwealth of Virginia's Department of Law. He and his staff represent the interest of the Commonwealth 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 Department of Law 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. He 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, and local constitutional officers.

Financial Information

The Office receives most of its funding from General Fund appropriations, but also collects some special revenue and federal funds. The special revenue funds include funds collected from agencies and universities for legal services provided by the Office, while the federal funds are primarily federal grants used to support Medicaid fraud control activities. The schedule below summarizes the Office of the Attorney General's budgeted and actual funding for fiscal year 2004.

Attorney General and Department of Law			
Funding Sources			
	<u>Original Budget</u>	<u>Final Budget</u>	<u>Actual Revenues</u>
General Fund Appropriations	\$ 16,133,704	\$ 16,802,562	\$ 16,802,562
Special Revenue Fund	8,095,567	8,355,907	4,506,857
Federal Trust	<u>892,856</u>	<u>2,851,843</u>	<u>2,378,396</u>
Total	<u>\$ 25,122,127</u>	<u>\$ 28,010,312</u>	<u>\$ 23,687,815</u>

General fund appropriations increased approximately \$450,000 for health insurance premium increases and base salary increases set out in the Appropriations Act. In addition, the Department of Planning and Budget reappropriated \$410,000 in unexpended funds from 2003. The difference between budgeted and actual special revenues is largely the result of an expected \$3 million transfer from the Department of Criminal Justice Services that did not occur. The increase in the original federal budget reflects more grant funding for the Medicaid Fraud Control Unit. The actual federal revenue received was less than expected due to delays in implementing the program, resulting in lower-than-anticipated reimbursed costs.

The Office also collects and deposits directly into the General Fund of the Commonwealth proceeds from fines, forfeitures, court awards, and settlements. These funds totaled approximately \$817,000 in 2004 and are not in the above table because they are not available to the Office to fund operations.

The majority of the Offices' expenses are payroll costs for its 275 employees. These expenses make up more than 80 percent of total expenses. The tables below provide information on the Office's budget and expenses for 2004.

Attorney General and Department of Law			
Analysis of Agency Budgeted and Actual Expenses			
<u>Funding Source</u>	<u>Original Budget</u>	<u>Final Budget</u>	<u>Actual Expenditures</u>
General Fund	\$ 16,133,704	\$ 16,802,562	\$ 16,259,097
Special Revenue Funds	8,095,567	8,355,907	3,809,453
Federal Grants	<u>892,856</u>	<u>2,851,843</u>	<u>2,390,958</u>
Total	<u>\$ 25,122,127</u>	<u>\$ 28,010,312</u>	<u>\$ 22,459,508</u>

Attorney General and Department of Law		
Breakdown of Agency Expenses:	Percent of Total	
Personal Services	\$ 18,600,009	82.8%
Contractual Services	1,638,317	7.3%
Supplies and Materials	213,983	1.0%
Transfer Payments	289,660	1.3%
Continuing Charges	1,492,031	6.6%
Equipment	<u>225,508</u>	<u>1.0%</u>
Total	<u>\$ 22,459,508</u>	<u>100.0%</u>

Division of Debt Collection

The Division of Debt Collection, organized as a separate agency within the Office of the Attorney General, collects delinquent accounts for state agencies and institutions of higher education in the Commonwealth. As of June 30, 2004, the Division was responsible for 8,312 active cases totaling over \$99.8 million. Fiscal year 2004 collections on these cases totaled \$13.1 million. The Division plans to implement a new case management information system in fiscal year 2005.

The Division funds operations with a portion of fees retained from their collections. The following tables show the Division's funding and expenses for 2004. The variance between the final budget and actual revenues is due to the Division's greater-than-anticipated collections in 2004.

Division of Debt Collection			
Revenues by Source			
	<u>Original Budget</u>	<u>Final Budget</u>	<u>Actual Revenues</u>
Special Fund	\$ 1,361,887	\$ 1,361,887	\$ 1,964,69

Division of Debt Collection		
<u>Breakdown of Agency Expenses:</u>		Percent of Total
Personal Services	\$ 889,725	86.8%
Contractual Services	35,934	3.5%
Supplies and Materials	3,673	0.4%
Transfer Payments	3,387	0.3%
Continuing Charges	90,691	8.9%
Equipment	<u>1,124</u>	<u>0.1%</u>
Total	<u>\$ 1,024,534</u>	<u>100.0%</u>

INTERNAL CONTROL AND COMPLIANCE FINDINGS AND RECOMMENDATIONS

Strengthen Agency Policies and Procedures

Best business practices require that management establish and document clear policies and procedures for employees to follow and for management to evaluate performance. The auditors found the following instances in which such policies and procedures were either not present or not complete. Management needs to train their staff in its policies and procedures and we understand that management has begun addressing this issue.

- The Purchasing Policies and Procedures, as written, do not address when employees should get prior approval to order goods or services; do not address monthly purchase limits; and do not direct employees to first consider statewide contracts for goods and services. Without clear guidance on such issues, the agency faces increased risk of unauthorized, unnecessary, or redundant purchasing.
- Of 16 vouchers examined, two were not paid within 30 days as required by the Prompt Pay Act; three were coded with incorrect accounting data; and one paid a purchase order that was incomplete as to quantity, price, terms, date, or terms.
- Additionally, examination of two SPCC vouchers revealed no evidence of supervisory review or reconciliation of the monthly American Express statements. Such errors increase the agency's risk of fraud and the risk of impaired vendor relationships, and undermine the integrity and usefulness of information entered in the accounting information system. Management should ensure controls over vouchers are adequate.

Strengthen Controls Over Contracts

The "Class Action Program" began in 2001 and started in the Virginia Beach School System. The Office paid Federal grant money under the "Class Action Program" to two vendors with inadequate supporting procurement documentation including written contracts. Although the Office stated they issued requests for proposals, they could not provide any documentation. The Federal "Common Rule" (28 CFR Part 66.36 Procurement) requires recipients of grant money to adhere to either their state's procurement regulations, which is the Public Procurement Act, or adopt Federal purchasing procedures. Public procurement procedures require written contracts, competitive bidding, sole source justifications, and acknowledgement of receipt of goods and services. Management should document all the terms of all Federal grants and contracts.



Commonwealth of Virginia

Walter J. Kucharski, Auditor

**Auditor of Public Accounts
P.O. Box 1295
Richmond, Virginia 23218**

August 30, 2004

The Honorable Mark R. Warner
Governor of Virginia
State Capitol
Richmond, Virginia

The Honorable Lacey E. Putney
Chairman, Joint Legislative Audit
and Review Commission
General Assembly Building
Richmond, Virginia

INDEPENDENT AUDITOR'S REPORT

We have audited the financial records and operations of the **Office of the Attorney General and Department of Law** for the year ended June 30, 2004. We conducted our audit in accordance with Government Auditing Standards, issued by the Comptroller General of the United States.

Audit Objectives, Scope, and Methodology

Our audit's primary objectives were to evaluate the accuracy of recording financial transactions on the Commonwealth Accounting and Reporting System, review the adequacy of the Office's internal control, and test compliance with applicable laws and regulations.

Our audit procedures included inquiries of appropriate personnel, inspection of documents and records, and observation of the Office's operations. We also tested transactions and performed such other auditing procedures as we considered necessary to achieve our objectives. We reviewed the overall internal accounting controls, including controls for administering compliance, with applicable laws and regulations. Our review encompassed controls over the following significant cycles, classes of transactions, and account balances:

- Expenditures, including payroll and contracts
- Revenues
- Debt Collections

We obtained an understanding of the relevant internal control components sufficient to plan the audit. We considered materiality and control risk in determining the nature and extent of our audit procedures. We performed audit tests to determine whether the Office'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 and regulations.

The Office's management has responsibility for establishing and maintaining internal control and complying with applicable laws and regulations. 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 and regulations.

Our audit was more limited than would be necessary to provide assurance on internal control or to provide an opinion on overall compliance with laws and regulations. Because of inherent limitations in internal control, errors, irregularities, or noncompliance may nevertheless occur and not be detected. Also, projecting the evaluation of internal control to future periods is subject to the risk that the controls may become inadequate because of changes in conditions or that the effectiveness of the design and operation of controls may deteriorate.

Audit Conclusions

We found that the Office properly stated, in all material respects, the amounts recorded and reported in the Commonwealth Accounting and Reporting System. The Office records its financial transactions on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles. The financial information presented in this report came directly from the Commonwealth Accounting and Reporting System.

We noted certain matters involving internal control and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of internal control that, in our judgment, could adversely affect the Office's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial records. Reportable conditions entitled "Strengthen Agency Policies and Procedures" and "Strengthen Controls Over Contracts" are described in the subsection titled "Internal Control and Compliance Findings and Recommendations." We believe that none of the reportable conditions is a material weakness.

The results of our tests of compliance with applicable laws and regulations disclosed no instances of noncompliance that are required to be reported under Government Auditing Standards.

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

EXIT CONFERENCE

We discussed this report with management on September 8, 2004.

AUDITOR OF PUBLIC ACCOUNTS

LCR:whb
whb:27



COMMONWEALTH of VIRGINIA

Office of the Attorney General
Richmond 23219

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Attorney General

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MEMORANDUM

TO: Karen Killian
Auditor in Charge
Linda Ramthun
Audit Director

FROM: Anne P. Petera *APP*
Director of Administration

DATE: September 14, 2004

SUBJECT: Response to Management Letter Comment

Thank you for providing us with the advanced copy of your management letter comment and the opportunity to provide some perspective on the findings mentioned. I would like to address each of the items and to provide some additional information on how current office operations relate to each point, and how each can be instrumental for positive change within the office. I will address each of the items in the same order as presented in your memorandum.

The office does have published purchasing procedures that are available for all employees on the office intranet page, and though it may not explicitly state in the procedures when prior approval needs to be requested, prior approval would mean that it be approved before the good or service would be purchased. In terms of established limits there is documentation where limits were established in a memorandum from G. Bryan Slater, *Levels of Purchasing Authority*, dated February 3, 1994. Though these limits are dated, they still provide reasonable delegation of purchasing authority. It is agreed that without clear guidelines in this area that there is an increased risk of unauthorized, unnecessary, or redundant purchasing, and the office will take this opportunity to improve, and make more clear, the requirements for purchasing throughout the office.

In terms of the 16 voucher sample, the office promptly addressed this issue and was in compliance for the fiscal year. The Division of Debt Collection (DDC) had a small number of payments processed on their behalf, and DDC has been in compliance on a monthly basis since January 2004. In terms of incorrect accounting data, the items brought to our attention were items minor in nature (e.g. a payment coded to object code 1226 and not 1227) which were keying or other minor errors and not indicative of a lack of proper control. In terms of the

Karen Killian
Linda Ramthun
September 14, 2004
Page 2

purchase order in question, we are not familiar with this specific instance but there is a possibility that for a minor purchase, which of necessity was made quickly, all of the documentation may not have been present. Again, this is an exception and not the rule.

As for the two points related to the Small Purchase Charge Card (SPCC) we do have a single person who receives the goods and reconciles the statements; however, this individual does not pay the bill. The bill is paid by the grants administrator who is also responsible for processing the payments. Furthermore, the statement once reconciled is reviewed and coded by the Director of Finance and Budget to ensure legitimacy and accuracy before being processed, which is documented by the coding sheet with each statement being paid. It is admitted that there are no additional notations on the statement itself, and for ease of audit the Director will establish a tic-mark schedule so that this process can be noted on the bill itself. Management is aware that it is important to maintain adequate internal controls over all purchasing, and that this does involve proper separation of duties. However, 60% of the staff is involved with the processing of the SPCC - and up to 75% if you eliminate the individual dedicated to payroll and Division of Debt Collection processing. Therefore, there are adequate internal controls over this process since the purchasing and statement are independently reviewed.

Regarding the payment of Federal grant money under the CLASS ACTION Program to two vendors, we have submitted documentation from the Department of Justice's COPS Office authorizing the reallocation of funds under this grant from "Personnel" expenses into "Contracts/Consultants" for payment to RJK Associates for its principal to act as Program Director. This document further states that no competitive bidding process for these services was necessary as the total amount expended for these services was less than \$100,000. We are also providing a copy of the proposal from RJK Associates to provide these services under CLASS ACTION as evidence of our contract with RJK Associates.

The second vendor in question, Liskey and Sons Printing, has been providing printing services to this program since 2001. There have been three audits by the APA beginning in 2001 and prior to the present audit, and there were no exceptions noted with this vendor until now. A review of this vendor relationship has shown that bids were routinely submitted for various projects, and the vendor produced a copy of the letter he received from this office indicating his firm had been awarded the contract to provide these services. During the audit year in question, the program changed both location and leadership. This office has submitted documents concerning the vendor bidding and contractual process. However, the previous director, whose employment predates this administration, either destroyed past documents or did not leave documentation with the office upon her separation. The current director was able to provide one additional bid from a second vendor from the same time frame as the letter of contract award to Liskey and Sons. The documentation supplied clearly indicates a bidding process was followed

Karen Killian
Linda Ramthun
September 14, 2004
Page 3

and an intention to comply. The current director has begun the request for proposal procedure for printing services and will ensure total program compliance within sixty days.

The office is appreciative of the Auditor of Public Accounts bringing these matters to the attention of office management and it is the intention of management to take action to address and improve each of the areas mentioned. It is noted that there is no indication of fraud or other gross inefficiencies in the operations discussed.

It is hoped that the above explanations provide some insight on the points mentioned in your memorandum; however, if you have further questions, or require additional detail in any area, please let me know.

OFFICE OF THE ATTORNEY GENERAL
Richmond, Virginia

As of June 30, 2004

Jerry W. Kilgore, Attorney General

Joseph R. Carico, Chief Deputy Attorney General

Anne Petera, Director of Administration

John H. Vance, Director of Finance and Operations

