



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

FOR THE YEAR ENDED
JUNE 30, 2015

Auditor of Public Accounts
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AUDIT SUMMARY

Our audit of the Office of the Attorney General and Department of Law and the Division of Debt Collection for the fiscal year ended June 30, 2015, found:

- proper recording and reporting of all transactions, in all material respects, in the Commonwealth Accounting and Reporting System and CollectMax;
- no matters involving internal control and its operation necessary to bring to management's attention;
- no instances of noncompliance with applicable laws and regulations that are required to be reported; and
- completion of corrective action with respect to the prior audit findings titled "Strengthen Procedures for Administering Federal Programs," "Improve Security Awareness Training," and "Improve Physical and Environmental Security for IT Systems."

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AGENCY HIGHLIGHTS

The Attorney General is the chief executive officer of the Commonwealth of Virginia's Department of Law. The Attorney General and Department of Law, "Office of the Attorney General," (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. The Office has five legal divisions with offices in Abingdon, Fairfax, Richmond, and Roanoke. A Deputy Attorney General heads each division and reports directly to the Chief Deputy Attorney General. The Administration Division provides finance, human resources, information systems, and operations support to the legal divisions. The following are the legal divisions.

- Civil Litigation Division (includes the Division of Debt Collection)
- Criminal Justice and Public Safety Division (includes the Medicaid Fraud Control and Tobacco Units)
- Health, Education, and Social Services Division
- Transportation, Real Estate, and Construction Division
- Commerce, Environment, and Technology Division

As of fiscal year 2013, the Office of the Attorney General also includes the Consumer Protection Section, the Division of Human Rights, and complaint-related responsibilities of the former Board for Towing and Recovery Operators.

The Division of Debt Collection is a separate agency within the Office. It provides legal services and advice related to the collection of funds owed to the Commonwealth. The following financial information presents separate information on the Office of the Attorney General and the Division of Debt Collection.

Office of the Attorney General

Historically, the Office receives approximately half of its funding from the General Fund with the remaining funding coming almost equally from special revenue and federal funds. The special revenue funds are primarily from fees charged to agencies and universities for legal services provided by the Office. 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. The Office also receives federal grants supporting Medicaid fraud control activities.

In fiscal year 2014, 58 percent of the Office's final appropriation was from federal asset forfeiture funds, which the Office received under the United States Department of the Treasury's Equitable Sharing Program as a result of the 2012 Abbott Laboratories Settlement. The Office disbursed the majority of this funding to other government entities, including other state agencies and local law enforcement agencies, to spend in accordance with the Program guidelines. In fiscal year 2015, only 11 percent of the Office's final appropriation was a result of the Abbott Laboratories Settlement as the majority of funding occurred during fiscal year 2014 and ends in fiscal year 2016. This program is discussed in more detail under the report section titled Treasury Equitable Sharing Program.

The Office's activities are budgeted in four programs, the largest of which is the Legal Advice program. Attorneys in the Legal Advice program provide legal services to state agencies. The following schedule compares the Office's original and final budgets by program with actual expenses for fiscal year 2015.

2015 Budgeted and Actual Expenses

Program	Original Budget	Final Budget	Expenses
Legal advice	\$30,520,786	\$36,746,224	\$33,616,267
Medicaid program services	12,155,121	12,305,121	11,714,759
Regulation of business practices	3,355,266	3,355,266	2,728,915
Personnel management	429,222	429,222	294,386
Total	\$46,460,395	\$52,835,833	\$48,354,327

Source: Commonwealth Accounting and Reporting System

The following schedule includes detail relating to adjustments to appropriations during fiscal year 2015.

Budget Analysis for Fiscal Year 2015

Original appropriation per Chapter 806	\$ 46,460,395
Adjustments:	
Abbott Laboratories Settlement Fund: Legal Advice	5,945,697
Special Revenue Fund	(150,000)
Increase Indirect Cost Recoveries Appropriation in accordance with cash balance to cover Legal Advice operating expenses	1,500,000
General Fund: Legal Advice	1,429,741
Federal Asset Forfeiture Fund: Legal Advice	(2,500,000)
Special Revenue Fund: Medicaid Program Services (MFCU)	150,000
Total adjusted appropriations	\$ 52,835,833

Source: Performance Budgeting System

As previously noted, State law permits the Office to bill agencies and universities for legal services if the agency receives all or a part of its funding from non-general funds. For some agencies, the Office calculates the agency's legal service charges for a fiscal year using actual attorney hours worked during the previous fiscal year. At the start of a fiscal year, the Office notifies each agency of their expected charges for the year, and at the beginning of each quarter, the Office bills the agency for that quarter's portion. Other agencies are billed based on a Memorandum of Understanding (MOU) between the Office and that agency. MOUs can be fixed price or non-fixed price. Similar to the process previously explained, the Office bills its fixed price MOUs at the beginning of each quarter. The Office bills its non-fixed price MOUs at the end of each quarter based on the conditions set forth in the MOU or agreed upon by the client agency or entity. The following table provides detail of the Office's legal service revenues for fiscal years 2011 through 2015.

Legal Service Revenues

Fiscal Year	Revenues
2011	\$5,538,162
2012	6,690,691
2013	6,808,348
2014	7,010,088
2015	7,114,954

Source: Commonwealth Accounting and Reporting System

Medicaid Fraud Control Unit

The Virginia Medicaid Fraud Control Unit (MFCU) investigates and prosecutes health care provider insurance fraud against the state and federally funded Medicaid program. The MFCU is also required to investigate allegations of elder abuse and corporate neglect in nursing homes and health care facilities. Federal regulations require the Office establish the MFCU as a separate and distinct entity from the Department of Medical Assistance Services, the state agency that administers the Medicaid program. The U.S. Department of Health and Human Services has certified the MFCU, and it is one of 49 similar state units plus the District of Columbia in the United States. Federal law has expanded the scope of the MFCU to include any state and federal healthcare programs including Medicare, CHAMPUS, and others, in addition to Medicaid. MFCU has a criminal and a civil unit.

Federal grants fund the MFCU operations and require a 25 percent match of General Funds; however, in fiscal year 2008, the MFCU recovered \$39.8 million in the Purdue OxyContin criminal case and will use these funds indefinitely to provide the 25 percent Commonwealth share of the budget, as prescribed in the court order. The MFCU employs a professional staff of 106 criminal investigators, auditors, and several Assistant Attorneys General who are experienced in commercial and financial investigations.

The table below shows the total amount of MFCU recoveries over the last five years as ordered by the courts (fines, penalties, or restitutions). Because the Virginia Medicaid program is 50 percent federally funded and 50 percent state-funded, 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.

In fiscal year 2013, a \$1.5 billion settlement with Abbott Laboratories Inc. was approved. Because the MFCU was the lead investigator in this case, approximately \$1 billion of the settlement is included in the 2013 recoveries shown below. The remaining \$500 million is associated with the federal government and other states' share of the Medicaid program related recoveries.

The Commonwealth's portion of the settlement includes \$4.2 million for its share of the Medicaid program recoveries and \$1.5 million to cover MFCU investigative costs, both of which it received during fiscal year 2013. In addition, as part of the settlement the Commonwealth will also receive \$115 million from criminal asset forfeiture penalties. The United States Department of the Treasury awarded these funds through its Equitable Sharing Program. The Commonwealth received \$10.4 million of this amount in fiscal year 2013, \$92.9 million in fiscal year 2014, and \$5.2 million in fiscal year 2015 and will receive the remaining portion in fiscal year 2016. The \$108.5 million received by the Commonwealth in fiscal years 2013, 2014, and 2015 are not reflected in the MFCU recoveries table, but are discussed in more detail below.

MFCU Recoveries by Year

Fiscal Year	Total Recoveries
2011	\$14,573,789
2012	47,212,652
2013	1,028,948,442
2014	32,389,971
2015	1,503,938

Source: Medicaid Fraud Case Tracking System

Treasury Equitable Sharing Program

The United States Department of the Treasury's Executive Office for Asset Forfeiture (TEOAF) guidelines mandate that state or local government organizations must use these funds for law enforcement purposes. The Office disbursed all of the Abbott settlement equitable sharing funds received during fiscal year 2014 and 2015 to other entities, including other state agencies and local law enforcement agencies. Approximately \$5.2 million was transferred in fiscal year 2015. Those entities are responsible for complying with the Equitable Sharing Program guidelines regarding the use of the funds.

Division of Debt Collection

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. The Division receives delinquent accounts from state agencies and takes appropriate action, including litigation, to collect them.

The 2004 General Assembly passed legislation requiring agencies to forward past due accounts over \$3,000 and 60 days old to the Division. This 2004 legislation also mandated the allocation of collections among the creditor agency, the General Fund, and an amount to fund the Division's operations. The General Assembly removed the General Fund allocation in 2008, and the current allocation of collections is between the creditor agency and the Division.

Division Operating Statistics for 2011-2015

	2011	2012	2013	2014	2015
Maximum employment level	24	24	24	24	26
Division budget	\$1,932,884	\$1,899,884	\$1,916,448	\$2,064,183	\$2,375,196
Number of accounts	14,818	16,386	18,608	17,798	15,883
Active accounts (\$ in millions)	\$193.5	\$215.6	\$256.4	\$274.6	\$304.1
Gross collections (\$ in millions)	\$9.3	\$10.5	\$11.3	\$11.9	\$23.0

Source: Commonwealth Accounting and 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 1st of each year. The Division can request to keep more of the balance, but the Department of Planning and Budget must approve this request. Due to a timing error in the recognition of collections, the Department of Planning and Budget approved the Division to retain an additional \$323,151 and make a transfer of \$421,508 to the General Fund for fiscal year 2015.

During the year, the Division performed a review of the rates it charges agencies for collection services. As a result of this review, the Division lowered its rates and processed revenue refunds of \$1,035,000 to the various agencies that utilized its collection services during the year. The following table details the Division's operating revenues and expenses for the last five fiscal years.

Revenues and Expenses – Fiscal Years 2011 – 2015

	2011	2012	2013	2014	2015
Beginning balance	\$ 887,987	\$ 761,709	\$ 403,366	\$ 608,067	\$ 649,238
Collection fee revenue	2,075,208	2,354,751	2,495,749	2,604,633	3,895,377
Expenses	(1,748,728)	(1,842,861)	(1,787,682)	(1,865,395)	(2,315,718)
Net Transfers	(452,758)	(375,233)	(3,366)	(113,067)	(49,238)
Revenue Refunds	-	(495,000)	(500,000)	(585,000)	(1,035,000)
Ending balance	\$ 761,709	\$ 403,366	\$ 608,067	\$ 649,238	\$ 1,144,659

Source: Commonwealth Accounting and Reporting System



Martha S. Mavredes, CPA
Auditor of Public Accounts

Commonwealth of Virginia

Auditor of Public Accounts

P.O. Box 1295
Richmond, Virginia 23218

January 11, 2016

The Honorable Terence R. McAuliffe
Governor of Virginia

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

We have audited the financial records and operations of the **Office of the Attorney General and Department of Law and the Division of Debt Collection** for the year ended June 30, 2015. 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 primary audit objectives include the following:

- evaluate the accuracy of recorded financial transactions in the Commonwealth Accounting and Reporting System and CollectMax and in the Office of the Attorney General and Department of Law's and the Division of Debt Collection's accounting records;
- review the adequacy of the Office of the Attorney General and Department of Law's and the Division of Debt Collection's internal controls;
- test compliance with applicable laws, regulations, contracts, and grant agreements; and
- review corrective actions of audit findings from prior year reports.

Audit Scope and Methodology

The Office of 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 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, 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
- Small purchase charge card Legal service revenue
- Medicaid Fraud Control Unit
- Division of Debt Collection
- Information System Security

We performed audit tests to determine whether the Office of 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 and records including vouchers, reconciliations, deposit certificates, billings, creditor agency collections and distributions, receipts from recoveries, and contracts; and observation of the Office of the Attorney General and Department of Law's and the Division of Debt Collection's operations. We tested transactions and performed analytical procedures, including budgetary and trend analyses.

Conclusions

We found that the Office of 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 Accounting and Reporting System and CollectMax. The Office of the Attorney General and Department of Law and the Division of Debt Collection record its financial transactions on the cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The financial information presented in this report came directly from the Commonwealth Accounting and Reporting System and CollectMax.

We noted no matters involving internal control and its operation that we consider necessary to be reported to management. The results of our tests of compliance with applicable laws, regulations, contracts, and grant agreements disclosed no instances of noncompliance or other matters that are required to be reported under Government Auditing Standards.

The Office has taken adequate corrective action with respect to audit findings reported in the prior year that are not repeated in this letter.

Exit Conference and Report Distribution

We discussed this report with management on January 17, 2016.

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/clj

AGENCY OFFICIALS

Office of the Attorney General and Department of Law

As of June 30, 2015

Mark R. Herring
Attorney General

Cynthia E. Hudson
Chief Deputy Attorney General

Leigh E. Archer
Director of Administration

Christie A. Wells
Director of Finance