



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

REPORT ON AUDIT
FOR THE YEAR ENDED
JUNE 30, 2023

Auditor of Public Accounts
Staci A. Henshaw, CPA

www.apa.virginia.gov

(804) 225-3350



AUDIT SUMMARY

Our audit of the Office of the Attorney General and Department of Law (Office) and the Division of Debt Collection (Division) for the fiscal year ended June 30, 2023, included a review of internal controls over the following areas:

- Operational expenses
- Billings for legal services
- System access
- Information system security
- Division of Debt Collection
- Opioid Abatement Fund
- Federal Asset Forfeiture Fund

For the areas tested, we found:

- proper recording and reporting of all transactions, in all material respects, in the Commonwealth's accounting and financial reporting system;
- matters involving internal control and its operation necessary to bring to management's attention that also represent instances of noncompliance with applicable laws and regulations, or other matters required to be reported; and
- adequate corrective action with respect to prior audit findings identified as complete in the [Findings Summary](#) included in the Appendix.

In the section titled "Audit Findings and Recommendations," we have included our assessment of the conditions and causes resulting in the internal control and compliance findings identified through our audit as well as recommendations for addressing those findings. Our assessment does not remove management's responsibility to perform a thorough assessment of the conditions and causes of the findings and develop and appropriately implement adequate corrective actions to resolve the findings as required by the Department of Accounts in Topic 10205 – Agency Response to APA Audit of the Commonwealth Accounting Policies and Procedures Manual. Those corrective actions may include additional items beyond our recommendations.

We did not review management's corrective action on prior year findings identified as deferred in the Findings Summary included in the Appendix. We will follow up on these findings in a future audit.

- TABLE OF CONTENTS -

	<u>Pages</u>
AUDIT SUMMARY	
AUDIT FINDINGS AND RECOMMENDATIONS	1-3
AGENCY HIGHLIGHTS	4-6
INDEPENDENT AUDITOR'S REPORT	7-9
APPENDIX – FINDINGS SUMMARY	10
AGENCY RESPONSE	11

AUDIT FINDINGS AND RECOMMENDATIONS

Continue to Improve Virtual Private Network Security Controls

Type: Internal Control and Compliance

First Reported: Fiscal Year 2019

The Office of the Attorney General (Office) made significant progress since our previous review completing and approving its Information Security Program Procedures (Office Procedures) and Vulnerability Management Procedure to align with the requirements of the Commonwealth's Information Security Standard, SEC501 (Security Standard). The Office also completed baseline configurations to manage and maintain the virtual private network. However, two weaknesses continue to exist, and one new weakness exists in the Office's virtual private network. We identified and communicated the specific control weaknesses to management in a separate document marked Freedom of Information Act Exempt (FOIAE) under Section 2.2-3705.2 of the Code of Virginia due to it containing descriptions of security mechanisms.

The Office should dedicate the necessary resources to mitigate the specific risks communicated in the FOIAE document to improve the security posture of remote connections and to comply with the Office's policies and the Security Standard. The fiscal year 2024 audit will include an evaluation of the OAG's completed corrective action and determine whether the OAG satisfactorily resolved the weaknesses.

Independently Align the Information Security Officer

Type: Internal Control and Compliance

First Reported: Fiscal Year 2022

The Office made progress since our previous review but has not yet completed corrective actions. Specifically, the Office designated the Chief Financial Officer (CFO) as the Information Security Officer (ISO) that reports to the Director of Administration-General Counsel. The Office updated the CFO/ISO's Employee Work Profile (EWP) to include ISO responsibilities. However, the CFO/ISO has not yet obtained the required certification and training to function in the ISO role. Additionally, the Office has not updated the EWPs for the Director of Information Technology (IT) and the Senior Manager Cybersecurity and Project Management to remove ISO responsibilities from their EWPs.

The Security Standard states that the ISO must annually meet the requirements to obtain or maintain the Commonwealth's ISO certification and Continuing Education requirements (Security Standard section: 2.4.7 Information Security Officer). Additionally, the Security Standard requires that the Office maintain documentation regarding specific roles and responsibilities relating to information security (Security Standard section: 1.3 Roles and Responsibilities).

Without the ISO having the required certification and training, and without correctly specifying information security roles and responsibilities, the Office may not effectively assess and recommend necessary security controls across the IT environment. The Office assigned the CFO the duties of ISO in

June 2024; therefore, the CFO/ISO has not yet had time to complete the required certification and training. The limited timeframe also contributed to the Office not yet updating the EWPs for the Director of IT and Senior Manager Cybersecurity and Project Management.

The Office should ensure that the new ISO meets the certification and continuing education requirements to manage and maintain the information security program. The Office should also remove ISO responsibilities from the EWPs for the Director of IT and the Senior Manager Cybersecurity and Project Management. Implementing the remaining corrective action will provide the necessary segregation of duties to help ensure that the ISO effectively assesses and recommends security controls, in addition to assigning security control responsibilities.

Improve IT Risk Management and Contingency Process and Documentation

Type: Internal Control and Compliance

The Office does not have an IT risk management and contingency process and supporting documentation to support and protect its sensitive systems. Specifically, the Office has not completed a comprehensive business impact analysis (BIA) to evaluate the Office's essential and non-essential business functions and their dependence on IT systems. Additionally, the Office has not performed risk assessments for any of its identified sensitive systems. Further, the Office does not have system security plans (SSPs) for any systems. Finally, the Office does not have continuity of operations and disaster recovery plans for the IT systems that support mission-essential functions and processes.

The Security Standard, section 2.4.2, requires each agency head to ensure their agency maintains, documents, and effectively communicates an information security program sufficient to protect the agency's IT systems. Section 2.5.1 requires the ISO to maintain sufficient oversight of the information security program to ensure that it meets or exceeds the requirements of the Security Standard. Section 6 and section 8.14 of the Security Standard require the Office to conduct a risk assessment of each sensitive system to detect and mitigate existing weaknesses in its sensitive systems. Section PL-2-COV requires the Office to document an SSP for the IT system. Lastly, section 8.6 of the Security Standard requires the Office to create documented contingency and recovery plans that address how the agency responds to threats.

Without a BIA, the Office may not properly identify its mission-critical and non-essential business functions and reliance on one or more IT systems. Improper identification of mission-critical or non-essential business functions relying on IT systems may result in the application of unnecessary or ineffective controls. By not having accurate and updated risk management documentation, the Office is unable to evaluate changes to systems and associate risks and vulnerabilities within the IT environment effectively, remaining unaware of potential threats. As a result, the Office may not implement appropriate security controls in a timely fashion to prevent new risks and vulnerabilities from gaining unauthorized access to sensitive information. Without having and testing continuity of operations and disaster recovery plans, the Office is unprepared to continue business operations and recover supporting IT systems in the event of a disaster. The inability to recover from disasters without effective plans may result in chaotic recovery, delayed incident response, and prolonged disruptions to normal business operations.

Prior to June 2024, the Office lacked the IT resources and governance structure to maintain its information security program, which contributed to not having an IT risk management and contingency process and supporting documentation. The Office hired a contractor to perform virtual information security officer duties that includes assistance in developing an IT risk management and contingency process and supporting documentation, as well as assistance in creating the Office policies and Office procedures. However, the Office prioritized establishing and documenting the policies and procedures, resulting in not yet having an IT risk management and contingency process and supporting documentation.

The Office should continue to work with its contractor to develop and document an IT risk management and contingency planning process and supporting documentation that consistently addresses and mitigates risks to its sensitive data and meets the requirements in the Security Standard. Having a complete information security program that includes risk management and contingency management programs will help to ensure that the Office can adequately protect sensitive systems and bring systems online in a timely manner to resume normal business operations.

AGENCY HIGHLIGHTS

The Attorney General is the chief executive officer of the Commonwealth of Virginia's Department of Law. The 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. The Attorney General is responsible for providing all legal services for the Commonwealth and its agencies unless it is impracticable and uneconomical to do so. If the Commonwealth uses outside counsel, the Attorney General supervises the appointment and payment of private attorneys hired by other state agencies for various matters.

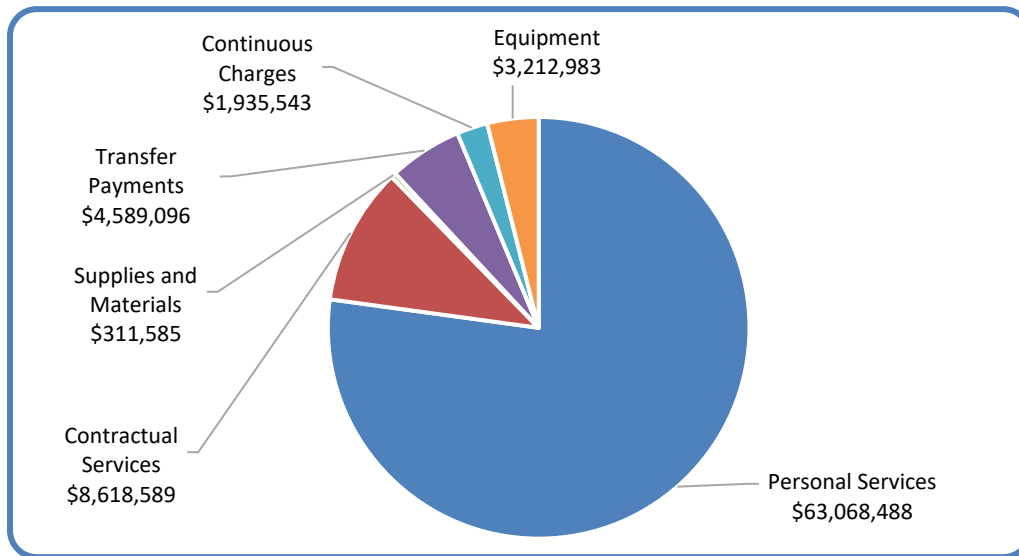
The Office's organizational structure is like a private law firm, with divisions devoted to legal specialties. In addition to the main office in Richmond, there are regional offices in Abingdon, Fairfax, Hampton Roads, and Roanoke. The Administration Division provides finance, human resources, information technology, and operations support to the legal divisions.

Expenses

Chart 1 provides a breakdown of total operational expenses by type for all funds for fiscal year 2023 for both the Office and the Division of Debt Collection (Division). Expenses increased from \$65.3 million in fiscal year 2022 to \$81.7 million in fiscal year 2023. This expense increase was primarily attributable to a \$12.2 million increase in personal services, which is the result of a statewide salary increase of five percent and a large growth in legal billings. Specifically, there were increases in attorney salaries, the number of attorneys hired, and the number of agencies billed during the year for attorney services. Another driver of this yearly expense increase includes an increase of \$2.8 million spent on hardware, software, and software-related services. These additional expenses include new computer equipment and the introduction of new timekeeping, case management, and documentation management systems. Due to increases in these expense categories, we included internal controls over general expense processing and billings for legal services within our audit objectives for fiscal year 2023.

Operational Expenses by Type for Fiscal Year 2023

Chart 1



Source: Commonwealth accounting and financial reporting system

Opioid Abatement Fund

The Opioid Abatement Fund is used to provide grants and loans to any agency of the Commonwealth or participating locality for the purposes established by Code of Virginia § 2.2-2374. The funds come from settlements with opioid manufacturers or retailers. In fiscal year 2023, revenues in the fund totaled \$62.7 million, which was an increase of \$50.8 million over the prior year. The Commonwealth began receiving opioid settlement funds in fiscal year 2022. The Commonwealth receives funds based on a planned schedule for each settlement. Fiscal year 2023 included a large payment for one settlement resulting in the variance over the prior year. The settlement funds pass through the Office to the Opioid Abatement Authority which administers and distributes the funds to state agencies and localities.

Federal Asset Forfeiture Fund

The Federal Asset Forfeiture Fund represents proceeds from the forfeiture of assets from drug cases. In fiscal year 2023, revenues in the fund totaled \$30.4 million, which was much higher than revenues in fiscal year 2022 of only \$2,876. The unusual amount of revenue received is a result of the Federal Equitable Sharing Program. Under this program, state and local law enforcement agencies that participate in law enforcement efforts resulting in federal forfeitures can request an equitable share of the net proceeds from liquidated seized assets. During fiscal year 2023, the Office received funding from the Department of Criminal Justice Services that originated from the Reckitt Benckiser Group settlement. The total settlement with the U.S. government was \$1.4 billion to resolve its potential criminal and civil liability related to a federal investigation of the marketing of the opioid addiction treatment drug Suboxone. To resolve its potential criminal liability stemming from the alleged conduct, Reckitt Benckiser Group has executed a non-prosecution agreement that requires the company to forfeit \$647

million in proceeds and not to manufacture, market, or sell Schedule I, II, or III controlled substances in the United States for three years. The Commonwealth's share of this agreement was \$30.0 million.

As a result of the increased revenue activity within the Opioid Abatement and Federal Asset Forfeiture funds, our audit objectives included testing for the proper recording and reporting of all transactions, in all material respects, in the Commonwealth's accounting and financial reporting system and ensuring that the Office conducted all activity in accordance with the funds' applicable guidelines.

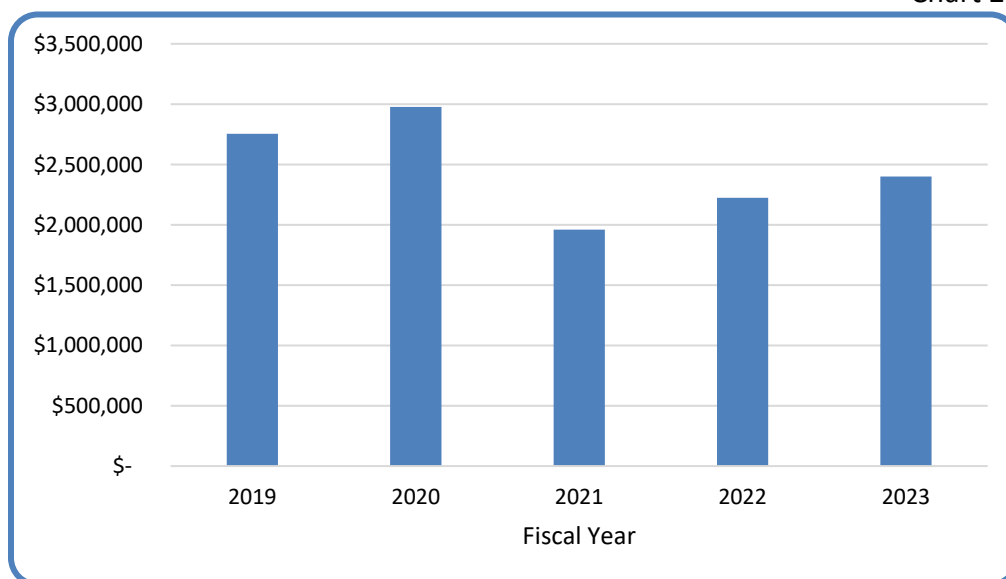
Division of Debt Collection

The Division is a separate agency within the Office. The Division collects delinquent accounts for state agencies and 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.

The Division retains up to 30 percent of any funds recovered on behalf of the Commonwealth, as well as any separate attorney's fees awarded to the Commonwealth. The Division uses these funds to pay operating costs. At the conclusion of each fiscal year, the Division retains up to \$400,000 as operating capital and transfers any excess amounts to the General Fund of the Commonwealth. Given the increase in activity in fiscal year 2023, we included internal controls over debt collection in our audit objectives for fiscal year 2023.

Debt Collection Fees

Chart 2



Source: Commonwealth's accounting and financial reporting system



Commonwealth of Virginia

Auditor of Public Accounts

Staci A. Henshaw, CPA
Auditor of Public Accounts

P.O. Box 1295
Richmond, Virginia 23218

September 24, 2024

The Honorable Glenn Youngkin
Governor of Virginia

Joint Legislative Audit
and Review Commission

The Honorable Jason S. Miyares
Attorney General of Virginia

We have audited the financial records and operations of the **Office of the Attorney General and Department of Law and Division of Debt Collection** (Office) for the year ended June 30, 2023. 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; review the adequacy of the Office's internal controls; test compliance with applicable laws, regulations, contracts, and grant agreements; and review corrective actions of audit findings from prior reports. See the [Findings Summary](#) included in the Appendix for a listing of prior findings and the status of follow-up on management's corrective action.

Audit Scope and Methodology

The Office'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.

- Operational expenses
- Legal services billings
- System access
- Information system security
- Division of Debt Collection
- Opioid Abatement Fund
- Federal Asset Forfeiture Fund

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, regulations, contracts, and grant agreements. Our audit procedures included inquiries of appropriate personnel, inspection of documents, records, and contracts, and observation of the Office's operations. We performed analytical procedures, including budgetary and trend analyses, and tested details of transactions to achieve our audit objectives.

A nonstatistical 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 Office properly stated, in all material respects, the amounts recorded and reported in the Commonwealth's accounting and financial reporting system. The financial information presented in this report came directly from the Commonwealth's accounting and financial reporting 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 titled "Audit Findings and Recommendations."

The Office has taken adequate corrective action with respect to audit findings reported in the prior year that are listed as complete in the [Findings Summary](#) in the Appendix.

Exit Conference and Report Distribution

We discussed this report with management on October 17, 2024. 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.

Staci A. Henshaw
AUDITOR OF PUBLIC ACCOUNTS

DBC/clj

FINDINGS SUMMARY

Finding Title	Status of Corrective Action *	First Issued
Continue to Improve Firewall Management	Complete	2016
Improve Information Security Program and IT Governance	Complete	2021
Continue to Improve Virtual Private Network Security Controls	Ongoing	2019
Independently Align the Information Security Officer	Ongoing	2022
Improve IT Risk Management and Contingency Process and Documentation	Ongoing	2023
Comply with Federal Regulations for Documentation of Employment Eligibility**	Deferred	2022
Develop and Implement a Process to Maintain Oversight Over Service Providers***	Deferred	2022
Improve Controls Over Payroll**	Deferred	2022

*A status of Complete indicates adequate corrective action taken by management. A status of Ongoing indicates new and/or existing findings that require management's corrective action as of fiscal year end. A status of Deferred indicates that we will follow up on management's assertion that corrective action has been taken in the future.

**This prior year audit finding is not included in the scope of our audit. Per inquiry with management, we determined that corrective action was ongoing as of June 30, 2023.

***This prior year audit finding is not included in the scope of our audit. Through review of documentation, we verified that corrective action was ongoing as of June 30, 2023.



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Steven G. Poppo
Chief Deputy 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

October 25, 2024

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

Dear Ms. Henshaw:

On behalf of the Attorney General Jason S. Miyares and the Office 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 2023 audit of the Office of the Attorney General.

I am very pleased that you and your team "found that the Office properly stated, in all material respects, the amounts recorded and reported in the Commonwealth's accounting and financial reporting system."

Management recognizes the need to continue to strengthen our internal controls and compliance with all sections of SEC 501 and for the areas identified for Information Technology Section. We are actively working towards redressing the concerns noted in the prior audit report and this current audit report.

As always, management of this agency continues to recognize the need for compliance with applicable standards and requirements, and for adequate internal controls and polices to ensure security and compliance by our agency. We will work expeditiously to address the items you have noted.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven G. Poppo".

Steven G. Poppo
Chief Deputy Attorney General