



Mary Taylor, CPA
Auditor of State

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* - Numbers represent fund identifiers in the State of Ohio's accounting system

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Mary Taylor, CPA

Auditor of State

INDEPENDENT ACCOUNTANTS' REPORT

Honorable Nancy Hardin Rogers
Ohio Attorney General
Office of the Attorney General
30 East Broad Street, 17th Floor
Columbus, OH 43215

We conducted a special audit of the Office of the Ohio Attorney General (Office) by performing the procedures enumerated in the attached Supplement to the Special Audit Report for the period January 8, 2007 through May 14, 2008, corresponding to Marc Dann's service as Ohio's Attorney General. The purpose of the special audit was solely to determine whether certain expenditures made during the period were for purposes related to the operations of the Office, were supported by documentation indicating that the Office received the goods or services, and complied with Ohio Revised Code requirements governing competitive bidding and controlling board approval, where applicable.

This engagement was conducted in accordance with the Quality Standards for Inspections established by the President's Council on Integrity and Efficiency (January 2005). The procedures and associated findings are detailed in the attached Supplement to the Special Audit Report. A summary of our procedures and significant results follows.

We selected certain expenditures made by the Office for examination based on information gathered during the course of the special audit to determine whether the selected expenditures were supported, were for purposes related to the operations of the Office, and paid from an allowable source. Where applicable, we contacted certain vendors to obtain documentation of purchases made by the Office to identify items purchased and/or corroborate that the goods or services were provided to the Office. We also traced significant assets purchased to the Office's asset list.

Significant Results – It appears that the Office was either not aware of, or did not fully consider, statutory requirements that restricted the nature and purpose of expenditures from various funds under the Office's control. We noted the Office expended a significant amount from restricted funds that did not comply with the stated purpose for which the fund was established. These expenditures were for vehicle purchases, grants to non-profit organizations, cash awards to individuals for distinguished law enforcement service, and certain miscellaneous expenses. While not considered illegal expenditures requiring recovery of the monies, we reported findings for adjustments totaling \$661,834 to charge the expenses to unrestricted funds, or another allowable fund, and return the monies to the restricted funds.

We proposed two findings; one for \$101 to recover a duplicate reimbursement to an Office employee, and one for \$2,060 related to disallowed temporary living expenses for an Office employee. Both proposed findings were repaid under audit.

We reported four noncompliance citations with requirements governing timely payment of regular and payment card expenses incurred, use of payment cards by assigned users, and proper contracting procedures for obtaining goods and services.

We offered 11 management comments for the Office's consideration to improve consistency, transparency, internal control, management, and oversight of the operational areas examined during the special audit. The areas containing more significant management comments for the Office's consideration included travel and personal reimbursement payments, evaluating and awarding grants, use of cell phones and BlackBerry devices, use of the state airplane for official business, and use of payment cards.

On December 11, 2008, we held an exit conference with representatives of the Office of the Ohio Attorney General. The attendees were informed that they had an opportunity to formally respond to this special audit report. A response was received on December 18, 2008. The response was evaluated and changes were made to this report as we deemed necessary.

A handwritten signature in black ink that reads "Mary Taylor". The signature is written in a cursive, flowing style.

Mary Taylor, CPA
Auditor of State

December 9, 2008

Supplement to the Special Audit Report

Background

In April 2008, two employees of the Ohio Attorney General's Office (Office) filed sexual harassment complaints against then Director of General Services, Anthony Gutierrez. The allegations initiated an internal investigation by the Office. During the internal investigation, numerous newspaper articles reported various incidents involving Mr. Gutierrez and other Office employees' use of state issued equipment and expenditures of public funds.

On May 2, 2008, the Office released the results of their internal investigation. As a result of the investigation, Attorney General Dann terminated Mr. Gutierrez and Leo Jennings, Director of Communications. In addition, Attorney General Dann accepted the resignation of Edgar Simpson, Chief of Policy & Administration. Attorney General Dann also admitted to a romantic affair with a subordinate. On May 13, 2008, the Ohio Legislature and governor enacted legislation (Senate Bill 3) authorizing the Ohio Inspector General to conduct an investigation of the Ohio Attorney General's Office. Under scrutiny and threats of impeachment, Attorney General Dann resigned on May 14, 2008.

On May 20, 2008, representatives of the Auditor of State met with representatives of various investigating agencies to discuss the nature of various allegations and the issues being examined. The Auditor of State considered the information from the meeting, and on May 29, 2008, initiated a special audit of the Ohio Attorney General's Office corresponding to Marc Dann's service as Ohio's Attorney General. In addition to the special audit, the Ohio Inspector General, Ohio State Highway Patrol, Department of Administrative Services, Secretary of State, and Ohio Ethics Commission conducted investigations into activities of the Office.

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Issue No. 1 – General Testing Approach and Results

OBJECTIVE

Determine whether certain expenditures made during the audit period were for purposes related to the operations of the Office, were supported by documentation indicating the Office received the goods or services, were paid from an allowable source, and complied with Ohio Revised Code requirements governing competitive bidding and controlling board approval, where applicable.

PROCEDURES

Using information from the State of Ohio's accounting system in which the Office's financial activity is recorded, we selected certain Office expenditures for examination based on information gathered prior to and during the special audit. Where applicable, we contacted certain vendors to obtain documentation of purchases made by the Office to identify items purchased and/or corroborate that the goods or services were provided to the Office. We also traced significant assets purchased to the Office's asset list.

Our examination was limited to financial activity which occurred between January 8, 2007, and May 14, 2008, corresponding to Marc Dann's service as Ohio's Attorney General. We selected the items for examination from the following general categories which were determined based on the information received while planning the special audit. The balance of the Supplement to the Special Audit Report is segregated based on these categories. Any additional procedures which relate specifically to these categories are identified in the appropriate section of this report.

Part	Area Examined
1	Travel and Personal Reimbursement Payments
2	Vehicle Purchases
3	Non-Profit Grant Expenditures
4	Cell Phone and BlackBerry Payments
5	Voyager Fleet Card Activity
6	ODOT Airplane and Other Aircraft Expenditures
7	Payment Card Activity
8	Crime Victims Funds (3830*, 4020*) Expenditures
9	Charitable Foundations Fund (4180*) Expenditures
10	General Reimbursement Fund (1060*) Expenditures
11	General Holding Account (R004*) Expenditures
12	Miscellaneous Funds Expenditures

*This represents the fund number in the State of Ohio's accounting system.

Our procedures were limited to examining selected transactions and available supporting documentation to determine if expenditures were paid using an appropriate funding source, related to the operations of the Office, were properly supported, and followed applicable Ohio Revised Code requirements for bidding and timely payment. With regard to assets purchased, we attempted to trace the items to the Office's fixed asset listing. We did not evaluate the appropriateness of decisions made by Office management where such decisions were at management's discretion.

Supplement to the Special Audit Report

RESULTS

Results unique to the specific areas examined are presented in the corresponding part of this Supplement to the Special Audit Report. This includes any applicable findings for recovery, findings for adjustment, noncompliance citations, and management comments. Examination results common to multiple areas are identified below.

NONCOMPLIANCE

Prompt Payment

Ohio Rev. Code 126.30 (A) states:

Any state agency that purchases, leases, or otherwise acquires any equipment, materials, goods, supplies, or services from any person and fails to make payment for the equipment, materials, goods, supplies, or services by the required payment date shall pay an interest charge to the person in accordance with division (E) of this section, unless the amount of the interest charge is less than ten dollars. Except as otherwise provided in division (B), (C), or (D) of this section, the required payment date shall be the date on which payment is due under the terms of a written agreement between the state agency and the person or, if a specific payment date is not established by such a written agreement, the required payment date shall be thirty days after the state agency receives a proper invoice for the amount of the payment due.

We noted several instances where the Office did not pay invoices in a timely manner and, when applicable, did not pay interest to the vendors. These payments, summarized in the following table, ranged from 31 to 183 calendar days late.

Area Examined	Exceptions / Tested	Value of Exceptions	Calculated Interest
Travel and Personal Reimbursement Payments	8 of 97	\$ 4,109	N/A
Vehicle Purchases	4 of 56	185,673	\$ 818
ODOT Airplane and Other Aircraft Expenditures	1 of 16	15,040	120
Crime Victims Funds Expenditures	1 of 108	93,029	103
General Reimbursement Fund Expenditures	5 of 69	850	N/A
General Holding Account Expenditures	1 of 27	400	N/A
Miscellaneous Funds Expenditures	12 of 175	28,112	245

N/A – Interest payments are not required for travel reimbursements or where the amount owed is less than \$10.

MANAGEMENT COMMENT

Purchase Orders

Policy #10, part 7.0 C 5, from the Attorney General's Policies and Procedures Manual states "The goods or services may be ordered by the requesting section only after receipt of the approved purchase order from the Finance Section." However, we noted the following instances where the Office did not follow this policy:

- ODOT Airplane and Other Aircraft Expenditures - We noted four of four (100%) expenditures requiring a purchase order, totaling \$99,200, did not have an approved purchase order prior to the purchase of goods or services. Purchase orders for these items were dated from 11 to 73 calendar days after the purchase date.

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- Charitable Foundations Fund (4180) - The Office incurred \$312,000 for professional services provided by the Chartis Group between November 2007 and February 2008. However, the purchase order was not approved until April 29, 2008.
- General Reimbursement Fund (1060) Expenditures - We noted five of 12 (42%) expenditures requiring a purchase order, totaling \$4,680, did not have an approved purchase order prior to the purchase of goods or services. Purchase orders for these items were dated from 15 to 75 calendar days after the purchase date.
- Miscellaneous Funds Expenditures - We noted 10 of 30 (33%) expenditures requiring a purchase order, totaling \$27,456, did not have an approved purchase order prior to the purchase of goods or services. Purchase orders for these items were dated from eight to 105 calendar days after the purchase date. In addition, a purchase order could not be located for two items totaling \$102,928.

We recommend the Office reinforce the current policy regarding purchase orders with all staff. Training should be provided to employees involved in the purchasing and payment approval processes to help ensure these employees are aware of the requirements and their responsibilities. We also recommend management implement procedures to periodically monitor this activity to verify the intended policies and procedures are in place and operating as intended.

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Issue No. 1 – Part 1: Travel and Personal Reimbursement Payments

PROCEDURES

We identified 17 Office employees and one external individual for examination related to travel and personal expense reimbursements. We identified any expenditures made to the selected individuals during the audit period. We identified 97 payments to these individuals, totaling \$26,762, as summarized below.

Name	Title	Assigned Area	Expenditures	
			# of Payments	Amount
Anthony Gutierrez	Director	General Services	4	\$ 2,617
Charlie Rosol	Deputy Director	General Services	2	126
Cindy Stankoski	Administrative Assistant	General Services	0	0
Edgar Simpson	Chief of Policy & Administration	Administration	2	928
Erika Haske	Fixed Asset Manager	General Services	3	1,144
Erin Rosen	Assistant Attorney General	Special Prosecutions	21	2,554
Jeanne Johns	Chief Deputy Attorney General	Public Protection	14	4,050
Jennifer Brindisi	Press Secretary	Administration	7	3,046
Jennifer Urban	Assistant Attorney General	Charitable Law	18	4,867
Jessica Utovich	Director of Travel Services	Finance	1	57
Kathleen Walley	Administrative Assistant	Youngstown	1	80
Kristy August	Administrative Secretary	General Services	1	28
Leo Jennings	Director of Communications	Administration	1	20
Marc Dann	Attorney General	Administration	5	1,379
Mary Beth Snyder	Regional Public Affairs Director	Youngstown	6	2,456
Nadine Ballard	Section Chief	Consumer Protection	11	3,410
Vanessa Stout	Special Program Coordinator	Information Technology	0	0
Alyssa Lenhoff	Attorney General Dann's Wife	N/A	0	0

We examined vouchers and available supporting documentation related to these 97 transactions. We also examined the Office's Travel Expense Reimbursement Policy which stated the Office adhered to the travel and personal reimbursement policies outlined by the state's Office of Budget and Management. We evaluated each payment for adherence to these policies.

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RESULTS

FINDINGS FOR RECOVERY REPAID UNDER AUDIT

Duplicate Payment – Erin Rosen

Ohio Rev. Code 126.31(B) states:

Any officer, member, or employee of, or consultant to, any state agency, other than a state agency described in division (A) of this section, whose compensation is paid in whole or in part from state funds may be reimbursed directly for traveling and other expenses incurred while the officer, member, employee, or consultant is attending any meeting, conference, retreat, convention, or similar gathering, or while the officer, member, employee, or consultant is performing official duties, inside or outside this state, if authorized by that state agency, or the provider of goods or services to the officer, member, employee, or consultant may be reimbursed directly for those traveling or other expenses. Notwithstanding any other statute to the contrary, reimbursement to the officer, member, employee, consultant, or provider shall be made in the manner, and at rates that do not exceed those, provided by rule of the director of budget and management adopted in accordance with section 111.15 of the Revised Code. . .

On November 11, 2007, Erin Rosen, Assistant Attorney General, received reimbursement for travel expenses incurred on August 3, 2007. However, these expenses were previously reimbursed on September 17, 2007, resulting in a duplicate payment. The supporting documentation for the September 17, 2008, payment included a note indicating the original travel reimbursement request form was lost. On December 10, 2008, Ms. Rosen repaid the full amount owed. These monies were deposited with the Treasurer of State and recorded in the state's accounting system on December 11, 2008.

Temporary Living Expenses – Jennifer Brindisi

Ohio Rev. Code 126.32(B) states:

If a person is appointed to a position listed in section 121.03 of the Revised Code, to the position of chairperson of the industrial commission, adjutant general, chancellor of the Ohio board of regents, superintendent of public instruction, chairperson of the public utilities commission of Ohio, or director of the state lottery commission, to a position holding a fiduciary relationship to the governor, to a position of an appointing authority of the department of mental health, mental retardation and developmental disabilities, or rehabilitation and correction, to a position of superintendent in the department of youth services, or to a position under section 122.05 of the Revised Code, and if that appointment requires a permanent change of residence, the appropriate state agency may reimburse the person for the person's actual and necessary expenses, including the cost of in-transit storage of household goods and personal effects, of moving the person and members of the person's immediate family residing in the person's household, and of moving their household goods and personal effects, to the person's new location.

Ohio Rev. Code 121.03 states: "The following administrative department heads shall be appointed by the governor, with the advice and consent of the senate, and shall hold their offices during the term of the appointing governor, and are subject to removal at the pleasure of the governor." This section goes on to identify the directors of 22 state agencies who could receive reimbursement for moving expenses.

Office travel policies indicated the Office adhered to the policies outlined by the Office of Budget and Management (OBM). OBM policies regarding temporary living and travel expenses refer to Ohio Revised Code Section 126.32, which allows payment only for those positions specified. Press Secretary for the Attorney General was not one of the specified positions.

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Beginning January 8, 2007, Jennifer Brindisi was employed by the Office of the Attorney General to perform the duties of Press Secretary headquartered in Franklin County, Ohio. On February 28, 2007, Ms. Brindisi received reimbursement for travel and temporary living expenses for January 9, 2007, through January 26, 2007, as detailed below. Edgar Simpson, Chief of Policy & Administration, approved payment of these expenses on February 7, 2007.

<u>Description</u>	<u>Amount</u>
Lodging	\$ 1,023
Meals	428
Mileage	420
Parking	189
Total	<u>\$ 2,060</u>

On December 15, 2008, Ms. Brindisi repaid the full amount owed. These monies were deposited with the Treasurer of State and recorded in the state's accounting system on December 16, 2008.

MANAGEMENT COMMENT

Travel Form Management and Processing

We noted a number of control weaknesses involving supervisor approval and adherence to policies related to travel and personal reimbursements, as demonstrated by the following:

- Eighteen of the 97 (19%) travel reimbursement forms examined were not completed correctly by the employee. The incorrectly completed forms were all signed by an approving supervisor suggesting the supervisors did not thoroughly review the information prior to approval. While most were identified and corrected by the Office's Finance Section prior to payment, we noted two were not, resulting in insignificant overpayments. The incorrect and incomplete information included incorrect reimbursement rates, missing times of travel to and from each location, and incomplete addresses for points of travel.
- One travel form was approved by the traveler's subordinate and one was approved by the traveler with no documented supervisory review.
- Two of the 97 travel reimbursement forms tested did not have documentation to indicate how the expenditure related to the operations of the Office. One related to the purchase of gasoline on a state holiday. The other was a reimbursement for a Hepatitis shot. Both reimbursements were below the threshold at which the Auditor of State issues findings for recovery.

In conjunction with our examination of the Voyager fleet cards, we noted one instance where an employee received mileage reimbursement for travel to and from the airport using her personal vehicle even though a state vehicle was assigned to her during this period. There was no documentation maintained with the vehicle log or with the travel reimbursement request to substantiate the reason for using a personal vehicle and incurring mileage reimbursement costs.

In conjunction with our examination of Miscellaneous Funds, we noted one travel reimbursement for gas purchased for a state vehicle. According to a note on the travel reimbursement request form, the gas station would not accept the Voyager fleet card. However, the receipt for the gas purchase was not included as support for the reimbursement request.

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We recommend the Office evaluate the travel rules and regulations established by the State and update their policies and procedures as necessary to identify specifically the rules that apply to Office employees. The policies and procedures should require an appropriate level of supervisory approval for all reimbursement requests and prohibit travel reimbursements for mileage when a state vehicle is assigned to the employee unless there is an approved, documented reason for the use of the employee's personal vehicle. We also recommend the Office provide training to all employees regarding its travel policies and procedures, completing a travel reimbursement request form, and the timing requirements for reimbursement. Additional training should be provided to supervisors regarding their responsibilities to review and evaluate documentation submitted to ensure it is in accordance with established policies and management's control objectives prior to approving the payment.

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Issue No. 1 – Part 2: Vehicle Purchases

PROCEDURES

We identified expenditures made for vehicle purchases during the audit period. We examined vouchers and available supporting documentation for all vehicle purchases identified. For selected vehicles, we obtained information from the Office regarding the location or section to which the selected vehicles were assigned.

RESULTS

During the audit period, the Office purchased 99 vehicles, totaling \$1,936,476, from 24 different dealerships throughout the state. Based on the location or section to which the vehicles were assigned, we identified 16 vehicle purchases, totaling \$308,968, which were paid from an unallowable funding source.

FINDING FOR ADJUSTMENT

Disallowed Vehicle Charges

Ohio Rev. Code 183.10 (Repealed May 6, 2008, per HB 544 – originally found in SB 192, 123rd Assembly), states:

The law enforcement improvements trust fund is hereby created in the state treasury. Money credited to the fund shall be used by the attorney general to maintain, upgrade, and modernize the law enforcement training and laboratory facilities of the office of the attorney general. All investment earnings of the fund shall be credited to the fund.

Ohio Rev. Code 1345.51 states:

There is hereby created in the state treasury the consumer protection enforcement fund. The fund shall include civil penalties ordered pursuant to divisions (A) and (D) of section 1345.07 of the Revised Code and paid as provided in division (G) of that section, all civil penalties assessed under division (A) of section 1349.192 of the Revised Code, all costs awarded to the attorney general and all penalties imposed under section 4549.48 of the Revised Code, and all money unclaimed under section 4549.50 of the Revised Code. The money in the consumer protection enforcement fund shall be used for the sole purpose of paying expenses incurred by the consumer protection section of the office of the attorney general.

Ohio Rev. Code 109.32 states:

All annual filing fees obtained by the attorney general pursuant to section 109.31 of the Revised Code, all receipts obtained from the sale of the charitable foundations directory, all registration fees received by the attorney general, bond forfeitures, awards of costs and attorney's fees, and civil penalties assessed under Chapter 1716. of the Revised Code, and all license fees received by the attorney general under section 2915.08, 2915.081, or 2915.082 of the Revised Code shall be paid into the state treasury to the credit of the charitable law fund. The charitable law fund shall be used insofar as its moneys are available for the expenses of the charitable law section of the office of the attorney general, except that all annual license fees that are received by the attorney general under section 2915.08, 2915.081, or 2915.082 of the Revised Code and that are credited to the fund shall be used by the attorney general, or any law enforcement agency in cooperation with the attorney general, for the purposes specified in division (H) of section 2915.10 of the Revised Code and to administer and enforce Chapter 2915. of the Revised Code. The expenses of the charitable law section in excess of moneys available in the charitable law fund shall be paid out of regular appropriations to the office of the attorney general.

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The purchase of 12 vehicles from Fund J087 - Law Enforcement Improvement, one from Fund 6310 - Consumer Protection, and three from Fund 4180 - Charitable Law were not allowable uses of these funds' proceeds based on the limitations set forth in these Ohio Revised Code sections.

A finding for adjustment is hereby issued against the General Revenue Fund, or another appropriate funding source, for \$308,968 in favor of the Law Enforcement Improvement Fund (Fund J087) for \$237,138; Consumer Protection Fund (Fund 6310) for \$17,726; and Charitable Law Fund (Fund 4180) for \$54,104.

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Issue No. 1 – Part 3: Non-Profit Grant Expenditures

PROCEDURES

We identified grant expenditures paid from Fund 6310 - Consumer Protection Enforcement. We examined vouchers and available supporting documentation related to the identified transactions. We also examined the cancelled warrants for the identified payments obtained from the Ohio Treasurer of State. In addition, we interviewed Office personnel to obtain an understanding of the solicitation and evaluation process in place for awarding the grants from Fund 6310.

RESULTS

We identified expenditures to six non-profit organizations from Fund 6310 - Consumer Protection Enforcement Fund during the audit period. Each organization received a \$25,000 Financial Literacy Grant from the Office. The vouchers were processed in the state's accounting system on May 14, 2008, Attorney General Dann's last official day in office. The six organizations that received a Financial Literacy Grant were as follows:

Non-profit Organization
Northwest Ohio Development Agency
Home Ownership Center of Greater Dayton
Home Ownership Center of Greater Cincinnati
Family Service Agency of Youngstown
Columbus Housing Partnership
East Side Organizing Project of Cleveland

According to Office personnel, monies used for these awards came from a specific court settlement which required the funds to be spent on consumer protection staffing needs and consumer education. The Office elected to deposit the monies into Fund 6310 - Consumer Protection Enforcement. As a result, the expenditures of the settlement funds became subject to statutory restrictions on the use of funds from Fund 6310.

FINDING FOR ADJUSTMENT

Disallowed Grant Expenditures

Ohio Rev. Code 1345.05 states, in part:

(A) The attorney general shall:

...

(4) Inform consumers and suppliers on a continuing basis of acts or practices that violate Chapter 1345 of the Revised Code by, among other things, publishing an informational document describing acts and practices in connection with residential mortgages that are unfair, deceptive, or unconscionable, and by making that information available on the attorney general's official web site;

...

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Ohio Rev. Code 1345.51 states:

There is hereby created in the state treasury the consumer protection enforcement fund. The fund shall include civil penalties ordered pursuant to divisions (A) and (D) of section 1345.07 of the Revised Code and paid as provided in division (G) of that section, all civil penalties assessed under division (A) of section 1349.192 of the Revised Code, all costs awarded to the attorney general and all penalties imposed under section 4549.48 of the Revised Code, and all money unclaimed under section 4549.50 of the Revised Code. The money in the consumer protection enforcement fund shall be used for the sole purpose of paying expenses incurred by the consumer protection section of the office of the attorney general.

The mission of the Consumer Protection Section, as shown on the Attorney General's web site, is as follows:

The mission of the Consumer Protection Section of the Ohio Attorney General's Office is to protect the interests of Ohio consumers through the enforcement of consumer laws, complaint mediation, consumer and business education, and litigation.

Although Ohio Revised Code Section 1345.05(A)(4) requires the Attorney General to inform consumers on a continuing basis of acts or practices that violate Chapter 1345 of the Revised Code, which would include educating consumers regarding financial literacy and residential mortgages, the language in Ohio Revised Code Section 1345.51 restricts the use of monies in the consumer protection enforcement fund to the "sole purpose of paying expenses incurred by the consumer protection section of the office of the attorney general." Since the money used for financial literacy grants would not be an expense incurred by the consumer protection section, but rather an expense incurred by the recipient non-profit agencies, these grant awards would not be a permissible use of monies from this fund.

Therefore, a finding for adjustment is hereby issued against the General Revenue Fund, or another appropriate funding source, for \$150,000 in favor of the Consumer Protection Enforcement Fund (Fund 6310).

MANAGEMENT COMMENT

Grant Solicitation, Evaluation and Award Process

While awarding six grants totaling \$150,000 to non-profit organizations the Office did not establish or adhere to a formal process or criteria to solicit interested parties or evaluate the merits of each organization's grant proposal. According to Office personnel, Attorney General Dann wanted to grant money to East Side Organizing Project in Cleveland, Ohio, and Family Services Agency in Youngstown, Ohio, to improve consumer financial literacy. The Office then identified four other non-profit organizations from different regions of the state as potential grant recipients. Via telephone the Office requested each organization submit a grant proposal outlining their intended use of the funds. Office personnel indicated the proposals received were reviewed; however, formal documentation of this review was not maintained. Office personnel also stated that the Office does not currently monitor the grant recipients' performance with grant requirements or their use of grant funds for their intended purpose. Grantees were permitted 12 months to expend the grant funds and then report to the Office how the grant funds were used.

As reported in the Finding for Adjustment above, due to statutory restrictions, Fund 6310 – Consumer Protection Enforcement Fund was not an appropriate fund from which to award these grants.

Should the Office wish to award such grants, we recommend the Office first consider whether such expenditures are legally permissible from the intended funding sources. Additionally, to add transparency to the selection and award process, we recommend Office management consider establishing the following:

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- Formal policies and procedures describing the methodology and process for identifying potential grantees and soliciting proposals.
- Formal, documented and predetermined criteria for evaluating grant proposals and selecting grant recipients.
- On-going monitoring procedures to periodically evaluate grantees' use of funds throughout the life of the award; and to ensure grant objectives are achieved.
- Formal policies requiring the retention of solicitation, evaluation and monitoring documentation, as the Office deems appropriate, in accordance with the Office's records retention policies.

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Issue No. 1 – Part 4: Cell Phone and BlackBerry Payments

PROCEDURES

From the Office's General Services Section, we obtained a list of employees who were assigned cell phones or BlackBerrys during our audit period and identified individuals related to our investigation and other employees within the General Services Section. We inquired of the Office's Telecommunications Director and the Acting Director of General Services to obtain an understanding of the cell phone and BlackBerry billing process. We examined the service invoices associated with each of the identified individuals. We also performed an analysis of the Office's expenditures to AT & T, Nextel and Sprint for state fiscal years 2006, 2007 and 2008, through May 31, 2008.

RESULTS

From the listings, we identified 18 individuals for examination, all of which were assigned a BlackBerry during the audit period. We identified the device assigned to each individual during the audit period and examined the service invoices associated with the devices. However, the scope of our examination did not include phone toll analysis for cell phones or examination of BlackBerry email content for indications of personal use or abuse. The 18 individuals selected for examination were as follows:

Name	Title	Assigned Section
David D. Armbrust	Facilities Manager	General Services
Nadine Ballard ^	Section Chief	Consumer Protection
Jennifer Brindisi	Press Secretary	Administration
Marc Dann	Attorney General	Administration
Madeline Gordon	Director of Library Services	General Services
Erika Haske	Fixed Asset Manager	General Services
John Hathaway	Acting Director	General Services
Jeanne Johns	Chief Deputy Attorney General	Public Protection
Pete Mash *	Acting Assistant Deputy Director	General Services
Erin Rosen	Assistant Attorney General	Special Prosecutions
Charlie Rosol *	Deputy Director	General Services
Edgar Simpson	Chief of Policy & Administration	Administration
Mary Beth Snyder	Regional Public Affairs Director	Youngstown Office
Jennifer Urban #	Assistant Attorney General	Charitable Law
Jessica Utovich	Director of Travel Services	Administration
Kathleen Walley	Administrative Assistant	Youngstown Office
Leo Jennings	Director of Communications	Administration
Anthony Gutierrez@	Director	General Services

* These employees were assigned a cell phone with the same number prior to receiving a BlackBerry.

^ This employee was also assigned a loaner BlackBerry from 10/24/07 to 11/5/07.

This employee was also assigned a loaner BlackBerry from 8/26/07 to 12/12/07.

@ This employee also had possession of a BlackBerry identified as a "returned/cold unit".

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According to Office personnel, each cell phone and BlackBerry is in a shared pool of approximately 60,000 minutes per month and all BlackBerrys have unlimited data plans. Office policy requires that at the end of each month, employees review their bill and identify any personal calls received or made. Office policy also requires that any personal calls identified be reimbursed by the employee at a rate of \$0.07 per minute. We examined documentation to determine whether the stated procedures were actually in place and noted these policies and procedures were not consistently followed.

Our examination of the service invoices noted seven months of activity were missing for Attorney General Dann's device. According to the Telecommunications Director, between February 8, 2007, and September 30, 2007, Attorney General Dann's number was "ported" out of the Office's Sprint account to an AT&T/Bell South account during which time the Office did not pay for services. The Telecommunications Director could not determine who requested or authorized the "port". Sprint also did not possess documentation indicating who requested or authorized the "port".

MANAGEMENT COMMENTS

Cell Phone and BlackBerry Access and Tracking

Upon initial request, the Office was not able to readily provide a list of all employees assigned a cell phone or BlackBerry. A significant amount of time and effort was required by Office staff to compile the listings requested for examination. From the list, which excluded undercover agents, we noted the Office maintained 241 BlackBerrys and 56 cell phones during the audit period.

Our analysis of the payments indicated the Office paid a total of \$231,563 in fiscal year 2006 (under the prior administration), \$618,584 in fiscal year 2007, and \$779,889 in fiscal year 2008, through May 31, 2008, to AT&T, Sprint, and Nextel. This represented an increase of 167% from fiscal year 2006 to 2007 and 26% from fiscal year 2007 to 2008.

The individual cost of cell phones and BlackBerry telecommunication devices was generally below required asset reporting thresholds. However, due to the portability of the devices, we recommend the Office develop reliable procedures for tracking telecommunication devices that enable the Office to readily identify the assignment of a device at any given time. Assignment of devices should be periodically monitored and updated as operational needs dictate. Based on the Office's listings and our analysis, there are a considerable number of telecommunication devices in service by the Office. We recommend the Office evaluate the current level of cell phones and BlackBerrys assigned to Office staff in relation to their positions and job duties. While recognizing the benefits of technology, such devices are susceptible to abuse. We recommend assignment of such devices based on careful deliberation of the Office's operational needs and whether such devices assist the Office in achieving its objectives.

Consistent Application of Policies

We noted that policies requiring employees to review invoices, on a monthly basis, and identify personal use of cell phones and BlackBerry devices were not consistently followed. We noted that some employees did not return invoices and others returned invoices sporadically. Additionally, we noted no attempts by the General Services Section to follow-up or obtain the invoices from the employees that did not submit them. Without adherence to established policies and monitoring of compliance with those policies, management increases the risk that telecommunication devices, like cell phones and BlackBerrys, will be used for purposes other than official business without its knowledge causing the state to incur unnecessary costs.

We recommend the Office reiterate the necessity to comply with established policies and control procedures to those involved in reviewing and approving cell phone and BlackBerry usage invoices. We recommend the Office also implement procedures to hold employees accountable for not complying with its policies and control procedures up to and including loss of privileges to use such devices.

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Issue No. 1 – Part 5: Voyager Fleet Card Activity

PROCEDURES

Voyager fleet cards are administered through the Ohio Department of Administrative Services (DAS) and are to be used to purchase fuel, car washes, and routine maintenance for state vehicles. Each vehicle in the Office's fleet was assigned a unique Voyager fleet card. From the Office, we obtained a list of all employees assigned a state vehicle during the audit period. Based on information obtained during our examination, we selected the fleet card activity of the following six employees for further examination.

Name	Title	Assigned Vehicle(s)
Charlie Rosol	Deputy Director of General Services	2004 Ford F150 Truck
Jeanne Johns	Chief Deputy Attorney General for Public Protection	2005 Chevrolet Impala
Marc Dann	Attorney General	Two 2007 Chevrolet Suburbans
Nadine Ballard	Section Chief for Consumer Protection	2003 Chevrolet Impala
Mary Beth Snyder	Regional Public Affairs Director	2008 Chevrolet Impala
Anthony Gutierrez	Director of General Services	2004 Chevrolet Suburban 2008 Dodge Durango 2007 Chevrolet Tahoe

We examined the Voyager fleet card activity and available documentation supporting the charges incurred using the Voyager cards. We also compared the Voyager card activity to the travel expense reimbursements for the selected employees to ensure the selected employees did not seek and receive personal reimbursement for costs incurred using the Voyager card.

RESULTS

Our examination noted the Office appears to be using the appropriate funding sources for the expenditures associated with the Voyager fleet cards. We did not identify any unusual transactions charged to the Voyager fleet cards for the selected employees, nor did we identify any charges to the Voyager fleet cards for which the selected employees also received personal reimbursement.

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MANAGEMENT COMMENT

Reconciliation of Vehicle Logs to Fleet Card Charges

Office policies require drivers of fleet vehicles to obtain receipts to support charges made using Voyager fleet cards. Policies also request the receipts be submitted to the General Services Section each month, along with a vehicle log used to summarize fleet card charges. It is our understanding that General Services Section personnel reconciled the receipts to the fleet card charges summarized on the vehicle log and then signed and dated the vehicle log acknowledging the reconciliation and approving the payment. However, our examination noted that 35 of the 69 (51%) vehicle logs examined were not signed and dated by the reconciler.

Without evidence such as signatures or initials and dates, management cannot be assured that established internal control procedures are in place and operating as desired to meet its control objectives.

We recommend management implement monitoring procedures to ensure that internal control procedures such as reconciling fleet card receipts to vehicle logs are performed and that documentation of the application of internal control procedures is maintained.

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Issue No. 1 – Part 6: ODOT Airplane and Other Aircraft Expenditures

PROCEDURES

We identified and selected for examination all Office expenditures made to the Ohio Department of Transportation (ODOT) and external vendors associated with aircraft usage. We examined the vouchers and available supporting documentation for each of the selected transactions. We examined Attorney General Dann's schedule for the dates of any noted flights to determine their purpose. We examined documentation from ODOT to identify individuals on any flights noted.

RESULTS

We identified 12 payments to ODOT totaling \$155,222. The 12 payments related to 19 flights which took place between July 31, 2007, and May 2, 2008. Three flights related to Bureau of Criminal Identification and Investigation (BCII) missions, and 16 flights related to Attorney General Dann's travel. We noted the following in our evaluation of these 16 flights:

- Individuals not employed by the Office or another relevant entity accompanied Attorney General Dann on three flights. On two flights a family member accompanied Attorney General Dann and on one flight Attorney General Dann's personal attorney accompanied him. The public purpose served by having these individuals accompany the Attorney General was not apparent.
- Attorney General Dann's schedule did not indicate official state business or other activities that supported a business or public purpose for using the airplane for two flights.
- Attorney General Dann's schedule indicated that he worked in Columbus, Ohio, the day prior to two flights; however, had returned to Youngstown, Ohio, on those days to attend a girls' basketball game on one occasion and an unspecified event on the other occasion. As a result, for each of the flights, the airplane departed from Columbus, Ohio, and traveled to Youngstown, Ohio, to pick up Attorney General Dann. On the second occasion, Attorney General Dann traveled to Columbus, Ohio, via automobile the day following the flight. Use of the airplane in this manner suggests that it was for Attorney General Dann's personal convenience.

We also identified four payments related to other aircraft usage; two to Eagle Helicopters Inc. totaling \$49,600, and two to Venture Helicopters Inc. totaling \$49,600. We noted that, while these appeared to be two separate companies, the warrants for all four payments were sent to the same address. Further inquiry noted that both companies were owned by the same individual with flights departing from the same airport. The invoices submitted by Eagle Helicopters related to 124 flight hours during July and August 2007. The invoices submitted by Venture Helicopters related to 124 flight hours during August and September 2007. Since the invoices did not contain any more detailed information regarding the flights, we could not determine if duplicate billings occurred for the overlapping month. Inquiry to BCII confirmed receipt of the services and determined that the helicopter use was for BCII missions related to drug eradication.

The amounts paid to both companies were just under the \$50,000 limit requiring competitive bidding or a state controlling board waiver. Structuring contracts and agreements for services and transactions in such a manner suggests the Office may have used two separate vendors to avoid the scrutiny and transparency afforded by competitively bidding the services or seeking state controlling board approval. However, we did not identify any intent to circumvent such statutory requirements.

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MANAGEMENT COMMENTS

Documenting State Airplane Use

Documentation maintained by the Office to support payments to ODOT for flights on the state airplane did not contain information such as the purpose of the flight, the parties on board, or explanation of the decision to use air travel on the state airplane versus other less costly modes of transportation. As a result, we were not able to determine if one flight paid from Fund 4180 – Charitable Law was an allowable use of these restricted monies. On at least two occasions, a member of Attorney General Dann's family accompanied him on a flight. On at least one other occasion, Attorney General Dann's personal attorney accompanied him on a flight. Without clear documented justification for the public purpose served by these individuals accompanying the Attorney General, the Office cannot convincingly demonstrate prudent use of state resources. In addition, Ohio Administrative Code 126-1-02 (B)(1), states, in part, that "State agents who are traveling or who are on paid travel status must, at all times, use prudent judgment in the use of state resources, incurring only those expenses necessary to carry out the official business of the state."

We recommend the Office evaluate its current policies, procedures, and practices regarding the use of the state airplane. Policies and procedures should be implemented to reasonably ensure state resources such as the state airplane are used prudently to conduct business of the state and only by those individuals necessary to conduct such business. We recommend the Office attach supporting documentation to its payments to ODOT for use of the state airplane that clearly demonstrates the public purpose served by the flight, all parties traveling on the flight and their purpose for attendance, and justification for not using a less costly mode of transportation.

External Aircraft Service Providers

Documentation maintained by the Office to support payments to an external helicopter flight service provider for BCII missions did not include detailed information such as the dates, times, or locations of the flights. Invoices stated only the month of services and the number of flight hours.

We recommend the Office require all vendors to submit detailed invoices regarding services performed. If such information is not provided, Office personnel reviewing and approving the payments for such services should either seek such information from the vendor or supplement the invoice with the detail necessary to demonstrate the payments are appropriate, in accordance with contracts or agreements, and have not previously been paid.

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Issue No. 1 – Part 7: Payment Card Activity

PROCEDURES

From the Office's Payment Card Administrator, we obtained a listing of employees assigned a payment card during our audit period. To ensure completeness of the list of assigned cardholders, we compared information on payment card applications obtained from the Ohio Office of Budget and Management which administers the payment card program to the information from the Office's Payment Card Administrator. From the list, we selected certain Office employees for examination of their payment card activity. We examined vouchers and available documentation supporting the charges incurred on the selected payment cards.

RESULTS

The payment card activity of the following 11 employees was selected for examination:

Cardholder	Assigned Area	Title
David D. Armbrust	General Services	Facilities Manager
Deb Ball	BCII	Administrative Secretary
Jennifer Brindisi	Administration	Press Secretary
Madeline Gordon	General Services	Director of Library Services
Erika Haske	General Services	Fixed Asset Manager
John Hathaway	General Services	Acting Director
Pete Mash	General Services	Acting Assistant Deputy Director
Chris Simonson	General Services - London	Supervisor
Mary Beth Snyder	Youngstown Office	Regional Public Affairs Director
Sarah Twyford	BCII	Equipment Coordinator
Kathleen Walley	General Services - Youngstown	Office Assistant

We examined 544 transactions totaling \$118,407 related to the payment card activity of the 11 employees identified.

NONCOMPLIANCE

Assigned Payment Card Users

Section 4 of The Ohio Payment Card Manual, published by the Office of Budget and Management (OBM) states, in part:

Use of the payment card is limited to the state employee whose name appears on the face of the card. The payment card shall not be loaned to another person in the agency under any circumstances. If a cardholder is absent for a period of time, the agency should seek to obtain another card for a different designated employee, either temporarily or permanently. The only person entitled to use the Payment Card is the person whose name appears on the face of the card.

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We noted two transactions made by someone other than the cardholder, as indicated by the authorizing signature on the receipt. While acknowledging that our examination noted only two instances of noncompliance, we feel the accessibility of payment cards and their vulnerability to abuse warrant this citation in the report.

Timely Payment – Payment Cards

Section 6 of The Ohio Payment Card Manual, published by the Office of Budget and Management (OBM) states, in part:

Payment must be processed within five business days of the date the transaction was entered into OAKS. The OAKS time/date stamp will identify the start of the five business days.

We noted 509 of the 544 (94%) of the payment card transactions examined were not paid within five business days of the transaction date, as prescribed by OBM policy. These payments ranged from one to 211 calendar days late.

MANAGEMENT COMMENT

Payment Card Management and Oversight

From the payment card transactions selected for examination, we noted the following:

- Thirty-nine purchases of assets with a high risk of misappropriation due to their portability and marketability. These included GPS devices, cameras, TVs, DVD players, and other electronic equipment. Seven of these items were over the fixed asset threshold of \$500; however, the invoices and other available supporting documentation did not contain serial numbers, asset tag numbers, or other identifiers which could be used to trace the item to the Office's fixed asset listing. While the remaining 32 purchases were below the \$500 threshold and, therefore, were not required to be recorded on the fixed asset listing, the Office did not track these high risk assets.
- Sixteen payments were for monthly recurring subscription fees to Direct TV.
- Twenty payments were not supported by payment logs and other support documentation to determine if the proper fund and account were used and if the expenditure related to the operations of the Office.
- Three purchases were made at Wal-Mart although the Office's policy specifically prohibited payment card purchases at Wal-Mart.
- Six payments related to vehicle maintenance and oil changes for various state vehicles assigned to BCII agents or other Office employees. Voyager fleet cards assigned along with state vehicles are available for such expenses.

To enhance the Office's management and oversight of payment card activity, and reasonably ensure compliance with rules and policies governing the use of payment cards, we recommend:

- The Office inform and provide training to each card holder regarding the current payment card policies, procedures, and regulations and ensure they are aware of and understand the requirements.
- The Office specifically designate in its policies those individuals required to review and approve payment card activity and ensure sufficient documentation is provided to support the nature and business purpose of payment card charges prior to paying bills.
- The Office not use payment cards for recurring payments. Recurring payments should follow the same vouchering process as the other invoices for services obtained by the Office.

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- The Office not use payment cards for regular maintenance of state vehicles. Voyager fleet cards should be used so maintenance expenditures for these vehicles can be properly tracked.
- The Office implement procedures to reasonably ensure any assets purchased with the payment cards which are above \$500 are appropriately identified and information included with the payment support to identify the asset on the official fixed asset listing. We also recommend the Office implement policies and procedures which require any high risk and/or highly marketable assets which are below \$500 be appropriately identified and tracked on the fixed asset listing or through another process to help ensure they are protected against loss, theft, and/or misuse.

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Issue No. 1 – Part 8: Crime Victims Funds (3830, 4020) Expenditures

PROCEDURES

We scanned the nature of transactions processed by the Office in Fund 3830 – Crime Victims Assistance and Fund 4020 – Victims of Crime and identified transactions for further examination. We examined vouchers and available supporting documentation for each of the selected transactions.

RESULTS

All expenditures from Fund 3830 – Crime Victims Assistance were coded as subsidy assistance payments. We selected 40 subsidy payments processed during the audit period and determined all 40 payments appeared to be paid to qualified local offices and organizations that operate crime victims' assistance programs, and thus appeared to be for a proper public purpose and from an allowable funding source.

From Fund 4020 – Victims of Crime we identified 68 expenditures for hotels and other miscellaneous expenditures, which appeared unusual for this fund. However, based on review of available documentation, other than one untimely payment, we noted no exceptions regarding the 68 payments examined. We included the untimely payment in a noncompliance citation included on page 7 of this report.

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Issue No. 1 – Part 9: Charitable Foundations Fund (4180) Expenditures

PROCEDURES

We scanned the nature of transactions processed by the Office in Fund 4180 – Charitable Foundations and identified transactions for further examination. We examined vouchers and available supporting documentation for each of the selected transactions.

RESULTS

We identified 225 payments coded as refunds within the state's accounting system, of which we selected 92 for further examination. Based on available documentation and discussions with Office management, all of these payments constituted refunds to entities as a result of bingo application overpayments or application withdrawals. To ensure the Office's procedures to evaluate the propriety of these types of payments were in place, we examined original applications and all supporting documentation maintained by the Office evidencing the reason for the refund for 15 of the 92 payments. We noted no exceptions with the 15 payments examined.

Our scan of transactions identified three additional expenditures for examination. One was to reimburse petty cash, one appeared to be a payment to correct an inappropriate deposit into the fund, and one was a payment for contracted services. Regarding the payment for contracted services, supporting documentation indicated that the Office did not follow proper contracting procedures in obtaining the services.

NONCOMPLIANCE

Proper Contracting Procedures

Ohio Rev. Code 127.16 states, in part:

- (A) Upon the request of either a state agency or the director of budget and management and after the controlling board determines that an emergency or a sufficient economic reason exists, the controlling board may approve the making of a purchase without competitive selection as provided in division (B) of this section.
- (B) Except as otherwise provided in this section, no state agency, using money that has been appropriated to it directly, shall:
 - (1) Make any purchase from a particular supplier, that would amount to fifty thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for purchases made by the agency and the amount of all outstanding encumbrances for purchases made by the agency from the supplier, unless the purchase is made by competitive selection or with the approval of the controlling board;
 - (2) Lease real estate from a particular supplier, if the lease would amount to seventy-five thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for real estate leases made by the agency and the amount of all outstanding encumbrances for real estate leases made by the agency from the supplier, unless the lease is made by competitive selection or with the approval of the controlling board.
- (C) Any person who authorizes a purchase in violation of division (B) of this section shall be liable to the state for any state funds spent on the purchase, and the attorney general shall collect the amount from the person.

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Additionally, Office policies require an approved purchase order be obtained from the Finance Section prior the purchase of goods or services.

The Office incurred \$312,000 for consulting services provided between November 2007, and February 2008. However, the contract stated it was effective January 29, 2008, the date the contract was signed by Attorney General Dann; Controlling Board approval occurred on April 7, 2008; and a purchase order was approved April 29, 2008.

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Issue No. 1 – Part 10: General Reimbursement Fund (1060) Expenditures
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PROCEDURES

We scanned the nature of transactions processed by the Office in Fund 1060 – General Reimbursements and identified transactions for further examination. We examined vouchers and available supporting documentation for each of the selected transactions.

RESULTS

We identified 69 transactions for further examination and noted five payments did not have a purchase order. We previously reported a management comment regarding the Office's overall use of purchase orders on page 7 of this report.

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Issue No. 1 – Part 11: General Holding Account (R004) Expenditures

PROCEDURES

We scanned the nature of transactions processed by the Office in Fund R004 – General Holding Account and identified transactions for further examination. We examined vouchers and available supporting documentation for each of the selected transactions.

RESULTS

We identified 70 expenditures totaling \$202,866 for further examination. The Office coded all 70 of the transactions as either “Distribution – Other” or “Refunds of Income Other Than Tax”. Based on examination of available documentation and discussion with Office management, the 70 expenditures consisted of 49 discretionary grants totaling \$146,775 to various non-profit organizations ranging from \$500 to \$7,500; 16 cash awards of \$1,500 each to recipients of Distinguished Law Enforcement Awards as determined by the Office; and 5 miscellaneous expenditures totaling \$32,091. According to Office management, these payments were made from court ordered settlements that were not restricted by the court order. However, Office management was not able to provide documentation to support its assertion. These payments were not allowable uses of the monies in Fund R004 based on statutory language restricting the activity in the fund.

We also identified statutory language which indicates the monies from court ordered settlements received by the Office for eventual distribution in accordance court orders are to be accounted for in a fund separate from the state treasury which is contrary to current practice. Currently, such settlements are accounted for in Fund R004 – General Holding Account.

FINDINGS FOR ADJUSTMENT

Disallowed Discretionary Grants and Cash Awards

Section 227.10 of Am. Sub. H.B. 119 of the 127th G.A. states, in part:

GENERAL HOLDING ACCOUNT

The foregoing appropriation item 055-631, General Holding Account, shall be used to distribute moneys under the terms of relevant court orders received from settlements in a variety of cases involving the Office of the Attorney General.

In addition, settlement agreements entered into the by the Attorney General’s Office include a reference to Ohio Rev. Code 109.111, which states:

There is hereby created the attorney general court order fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. The fund shall consist of all money collected or received as a result of an order of any court to be received or secured by, or delivered to, the attorney general for transfer, distribution, disbursement, or allocation pursuant to court order. All money in the fund, including investment earnings thereon, shall be used solely to make payment as directed pursuant to court order.

We identified 70 payments totaling \$202,866 made from this fund for discretionary grants, cash awards to law enforcement recipients, and other miscellaneous expenditures as determined by the Office. These 70 payments were not allowable uses of this fund's proceeds based on the limitations set forth in the house bill and this Ohio Revised Code section. Although the Attorney General’s Office indicated this account has historically been for a broader purpose than defined in the above requirements, they did not provide, nor was the auditor able to locate, any authoritative documentation to support this position.

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Therefore, a finding for adjustment is hereby issued against the General Revenue Fund, or another appropriate funding source, for \$202,866 in favor of the General Holding Account (Fund R004).

MANAGEMENT COMMENTS

Accounting for Court Ordered Settlements

The language in Ohio Revised Code Section 109.111 requires the court order fund activity to be in an account “not part of the state treasury”. Historically, the activities for funds with this language have been accounted for in a custodial account; however, no custodial account has been established.

Based on discussions with Office management, the Office made discretionary grants from court-ordered settlements received which were not explicitly directed by court order. The distribution of these funds was determined by the Discretionary Grant Settlement Committee, a seven-member group which included Marc Dann and various program, fiscal, and administrative personnel. However, no documentation was maintained to identify the criteria used or support decisions made by the committee. The Acting Chief Fiscal Officer indicated in a letter to the auditors that they found all “court ordered settlements with specific terms of distribution have been accounted for...”. However, he was not able to readily provide any documentation to support this. Therefore, we cannot be sure these settlements were all paid, or if any of the money in the fund should be restricted for future settlement payments. In addition to the court settlements, the Office also used this fund to deposit collections from “Jeans Day” and other monies not related to court settlements. However, we could not determine the amount of the fund’s total receipts and available cash balance that included these unrelated sources. The Office also could not readily determine this from their records.

We recommend the Office evaluate the purpose of Fund R004 and implement policies and procedures which limit the receipts and disbursements of this fund to the specified purpose. We also recommend the Office confer with the Treasurer of State to determine if the activity related to court ordered settlements should be maintained in an account held outside the state treasury, as stated in Ohio Revised Code Section 109.111. If it is determined that a custodial account should be used to account for this activity, we recommend the Office work with the Treasurer of State to establish such an account. If a custodial account is not established, we recommend the Office establish a separate fund or consider another existing permissible fund, to account for the activity currently included in Fund R004 which is unrelated to court-ordered settlements.

In addition, we recommend the Office develop a system to identify all court-ordered settlements received, any restrictions placed on the use of the funds, and their ultimate distribution. Court ordered settlements from which the proceeds can be spent at the discretion of the Office should be separately identified and clear documentation maintained regarding the use of those funds.

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Issue No. 1 – Part 12: Miscellaneous Funds Expenditures

PROCEDURES

We scanned the nature of transactions processed by the Office in all their remaining accounting funds and identified transactions for further examination. We examined vouchers and available supporting documentation for each of the selected transactions.

RESULTS

We identified 175 expenditures totaling \$3,661,874 for further examination. In addition to the management comment below, we noted instances of noncompliance with prompt payment requirements and exceptions regarding the Office's use of purchase orders which are included in the comments reported on pages 7 and 8.

MANAGEMENT COMMENT

Documenting Expense Allocations

We noted the Office purchased a security system for the BCII/Youngstown Office on July 31, 2007. The Office purchased the security system from the same company, SOS Security System, who installed a security system at Attorney General Dann's home. In the support documentation for this payment was a cost allocation of the expense for the system to Fund GRF – General Revenue Fund, Fund 4190 – Claims Section, and Fund 1950 – Workers Compensation Section. However, the Office actually paid for the security system from Fund J087 - Law Enforcement Improvement Fund. The available documentation did not indicate the reason for the change in expense allocation.

As noted in other sections of this report, the Office made expenditures from funds for goods and services other than for the purpose for which funds were established and contrary to statutory requirements. We recommend the Office maintain documentation supporting changes in expense allocations to reduce the risk that expenses are charged to incorrect or inappropriate funds.



Mary Taylor, CPA
Auditor of State

OFFICE OF THE OHIO ATTORNEY GENERAL

FRANKLIN COUNTY

CLERK'S CERTIFICATION

This is a true and correct copy of the report which is required to be filed in the Office of the Auditor of State pursuant to Section 117.26, Revised Code, and which is filed in Columbus, Ohio.

Susan Babbitt

CLERK OF THE BUREAU

**CERTIFIED
DECEMBER 22, 2008**