

Attorney General's Office Anti-racketeering Revolving Fund

Review of Office's use of anti-racketeering monies in fiscal years 2021 and 2022 did not identify improper use, but Office made error when processing procurement documents for 1 transaction and did not receive appropriate documentation for portion of 1 reimbursement to law enforcement agency

Biennial Review

Fiscal years 2021 and 2022
Report 23-101

A Report to the Arizona Legislature

Lindsey A. Perry
Auditor General





The Arizona Auditor General's mission is to provide independent and impartial information and specific recommendations to improve the operations of State and local government entities. To this end, the Office provides financial audits and accounting services to the State and political subdivisions, investigates possible misuse of public monies, and conducts performance audits and special reviews of school districts, State agencies, and the programs they administer.

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ARIZONA
AUDITOR GENERAL

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January 31, 2023

The Honorable Warren Petersen, President of the Senate

The Honorable Ben Toma, Speaker of the House of Representatives

The Honorable Anthony Kern, Chairperson
Senate Judiciary Committee

The Honorable Quang H. Nguyen, Chairperson
House of Representatives Judiciary Committee

The Honorable Kevin Payne, Chairperson
House of Representatives Military Affairs and Public Safety Committee

The Honorable Kris Mayes, Attorney General
Office of the Attorney General

Transmitted herewith is a report of the Auditor General, *Attorney General's Office Anti-racketeering Revolving Fund*, for the 2-year period ended June 30, 2022. This review was conducted pursuant to Arizona Revised Statutes §13-2314.01(M).

As outlined in its response, the Attorney General's Office agrees with the findings and plans to implement the recommendations.

My staff and I will be pleased to discuss or clarify items in the report.

Sincerely,

Lindsey A. Perry

Lindsey A. Perry, CPA, CFE
Auditor General



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Attorney General's Office Anti-racketeering Revolving Fund

As required by law, we conducted a review of the Attorney General's Office (Office) use of anti-racketeering monies deposited in the Anti-racketeering Revolving Fund (Revolving Fund) in fiscal years 2021 through 2022. We did not identify any improper use; however, the Office made an error when processing procurement documents for 1 transaction we reviewed and did not receive appropriate documentation for a portion of 1 reimbursement to a law enforcement agency.¹

Office administers State anti-racketeering monies

Anti-racketeering monies are awarded through court order to law enforcement agencies that performed investigations of racketeering crimes or crimes committed for financial gain. Federal guidelines and State laws define permissible uses of anti-racketeering monies. State law also requires the Office to administer State anti-racketeering monies, and it administers them through its Revolving Fund. The Revolving Fund is composed of 3 component funds: (1) the operating fund holds monies awarded to the Office that may be used for its operating, case-related, and community-based program expenditures; (2) the pass-through fund holds monies that have been awarded to other law enforcement agencies responsible for the seizure until they are requested by those agencies; and (3) the cases fund holds all case-specific forfeited anti-racketeering monies pending distribution as directed by an order of forfeiture.

As part of its responsibilities for administering the Revolving Fund, the Office is responsible for ensuring that anti-racketeering monies are expended in accordance with federal guidelines and State laws. This includes monies held on behalf of other law enforcement agencies in the pass-through fund. To meet its responsibility, the Office has developed a policies and procedures manual that guides its staff on how to process and monitor Revolving Fund expenditures. These policies and procedures include requirements for distributing monies from the pass-through fund to applicable law enforcement agencies, such as requirements for approving expenditure reimbursement requests.² Specifically, the law enforcement agencies must submit supporting documentation demonstrating they meet the reimbursement requirements, such as providing copies of invoices showing how the monies were spent. The Office reviews these reimbursement requests and supporting documentation to ensure the expenditures complied with State laws and federal guidelines. In addition, the Office has developed procedures to ensure that quarterly Revolving Fund financial reports required by A.R.S. §13-2314.03(H) and (I) are filed with the Arizona Criminal Justice Commission, including compiling information from reports it collects from other law enforcement agencies who have monies in the pass-through fund.

¹ We conducted procedures to review if the Attorney General's Office appropriately accounted for, used, and managed Revolving Fund monies from July 1, 2020 to June 30, 2022, including data analytics and a detailed examination of a judgmental expenditure sample. We reviewed Office policies and procedures, federal guidelines, and State laws, and interviewed Attorney General's Office staff; and verified that the Attorney General's Office had procedures to properly record and classify expenditures and that the expenditures complied with applicable statutes and federal guidelines. We also reviewed the Office's compliance with reporting requirements outlined in Arizona Revised Statutes (A.R.S.) §13-2314.03(H) and (I) by testing the completeness, accuracy, and timely filing of the fiscal years 2021 and 2022 fourth-quarter reports filed with the Arizona Criminal Justice Commission (ACJC).

² The Office's policy and procedure manual also includes requirements for processing advance requests from law enforcement agencies.

Fiscal years 2021 and 2022 Revolving Fund financial activity

As shown in Table 1, the Revolving Fund had approximately \$10.9 and \$9 million of receipts for fiscal years 2021 and 2022, respectively, primarily from court orders of forfeiture awards. In addition, the Revolving Fund was refunded approximately \$323,000 in fiscal year 2021 for unexpended monies from a fiscal year 2017 transfer to fund a Financial Crimes Task Force (see Table 1, footnote 1, for additional information).

As also shown in Table 1, the Revolving Fund had approximately \$2.2 million and \$2.5 million of administrative costs for fiscal years 2021 and 2022, respectively, primarily for payroll and related costs. These costs were paid from the Revolving Fund's operating fund. In addition, the Revolving Fund had distributions of approximately \$3.6 million and \$4 million in fiscal years 2021 and 2022, respectively, to other law enforcement agencies and victims from the Revolving Fund's pass-through and cases funds.

Table 1
Schedule of Revolving Fund financial activity
Fiscal years 2021 and 2022

	2021	2022
Receipts		
Court orders of forfeiture awards	\$10,505,256	\$8,865,803
Investment income	113,508	141,004
Transfer from the Attorney General's Trust Fund ¹	323,169	
Total receipts	10,941,933	9,006,807
Uses		
Administrative costs		
Payroll and related benefits	1,691,852	1,681,644
Professional and outside services	35,116	23,503
Travel	46,637	58,892
Other operating ²	87,830	119,792
Equipment and software ³	152,659	351,308
Transfers to the Office's Indirect Cost Fund ⁴	212,147	293,191
Total administrative costs	2,226,241	2,528,330
Distributions to:		
Law enforcement agencies	1,760,146	2,813,746
County anti-racketeering funds and federal agencies ⁵	231,418	638,283
Office's Federal Grant Fund ⁶	108,783	116,877
Victims ⁷	1,503,776	407,159
Total distributions	3,604,123	3,976,065
Total uses	5,830,364	6,504,395
Excess of receipts over uses	5,111,569	2,502,412
Fund balance, beginning of year	22,987,985	28,099,554
Fund balance, end of year		
Pass-through fund	20,006,084	22,258,367
Operating fund	7,005,681	8,187,492
Cases fund	1,087,789	156,107
Fund balance, end of year	\$28,099,554	\$30,601,966

¹ The transfer from the Attorney General's Trust Fund was monies returned to the Revolving Fund's operating fund from the Office's Trust Fund for unspent monies related to the Arizona Financial Crimes Task Force (Task Force). Specifically, in fiscal year 2017, the Office transferred approximately \$3.9 million from the Revolving Fund to the Office's Trust Fund to continue a program that was previously paid for with a grant that ended in fiscal year 2017; however,

Table 1 continued

as of July 2020, \$323,169 of these monies were unused resulting in their transfer back to the Revolving Fund. The Task Force was established to investigate and interdict the money-laundering activities of complex national and international organized crime and to mitigate the violence associated with the smuggling activities that fund these organizations.

- ² Other operating costs consisted of various costs such as telecommunication, vehicle repair and maintenance, security supplies, conference registration and attendance fees, and software support and maintenance.
- ³ Equipment and software costs included purchases of communication and computer equipment, and weapons.
- ⁴ Transfers to the Office's Indirect Cost Fund were monies transferred for the Revolving Fund's share of Office administrative personnel and overhead costs. The Office used its federally approved indirect cost rate to calculate the Fund's share.
- ⁵ These amounts are the monies that law enforcement agencies elected to have deposited into a county-controlled anti-racketeering revolving fund established by A.R.S. §13-2314.03(A) instead of the Office's Revolving Fund. This also includes monies distributed to federal agencies, such as the U.S. Drug Enforcement Administration.
- ⁶ Distributions to the Office's Federal Grant Fund were monies deposited into the Office's Federal Grant Fund as a requirement for receiving federal grant monies from the ACJC. Specifically, the Office received a federal grant for fiscal years 2021 and 2022 that required depositing the monies into the Office's Federal Grant Fund when grant monies were used to generate the receipts.
- ⁷ Distributions to victims were court-ordered compensation.

Source: Auditor General staff analysis of the Arizona Financial Information System *Accounting Event Transaction File* and the State of Arizona *Annual Financial Report* for fiscal years 2021 and 2022, and Office-provided information.

Further, Table 1, page 2, presents the breakdown of the component fund ending balances and the total Revolving Fund ending balances. As of June 30, 2022, the Revolving Fund had an approximately \$30.6 million fund balance, primarily composed of monies held in the pass-through fund. The operating fund's ending fund balance was approximately \$8.2 million for fiscal year 2022, an increase of approximately \$1.2 million from fiscal year 2021. The increase was primarily due to the operating fund receiving more court orders of forfeiture awards than were needed to pay administrative costs in fiscal year 2022.

Office made an error when processing a procurement for 1 transaction we reviewed and did not receive appropriate documentation for a portion of 1 reimbursement to a law enforcement agency

Our review of 36 of 694 nonpayroll Revolving Fund transactions from July 1, 2020 to June 30, 2022, did not identify an improper use of Revolving Fund monies. However, we identified 2 issues with the transactions we reviewed. Specifically, the Office:

- **Issued a purchase order for an \$18,500 equipment purchase using the wrong State-wide contract**—For 1 transaction, the Office purchased computer equipment for \$18,500, which is an allowable use of Revolving Fund monies, and obtained a quote for the equipment from a vendor listed as an authorized subcontractor on a State-wide contract for computer equipment. However, when Office staff processed the purchase order for the equipment in the State Procurement Office's procurement portal, they issued the purchase order using the wrong contract, which was a State-wide contract with the same vendor that was for software and related support services. According to the Office, the staff member who entered the purchase order information into the procurement portal made a clerical error that was not detected during the Office's purchase approval process. The Office reported that it plans to provide training to its staff on properly processing and reviewing procurements using subcontractors to help ensure this type of error does not occur in the future.
- **Reimbursed a law enforcement agency for approximately \$6,500 in expenses without receiving appropriate documentation**—For 1 transaction involving a reimbursement paid to a law enforcement agency, the Office reimbursed the law enforcement agency approximately \$6,500 for use taxes without receiving documentation that the agency had paid the taxes.³ Specifically, the documentation the agency submitted for these taxes

³ State statute requires the payment of use taxes when out-of-State sellers sell goods to Arizona customers without charging a sales tax and requires self-reporting and payment to the Arizona Department of Revenue for the use taxes owed.

consisted of handwritten notes on the documents that were submitted for the other expenses incurred.⁴ Office policy requires law enforcement agencies to submit copies of invoices documenting incurred expenses when requesting reimbursement for allowable Revolving Fund expenditures but does not require proof that the agency paid the expenditures. Although the invoices submitted by the law enforcement agency indicated that the sellers did not collect sales taxes at the time of the law enforcement agency's purchase, and thus demonstrated that the agency should have paid use taxes to the State, the Office lacked assurance that the law enforcement agency had actually incurred the expense of use taxes without additional documentation demonstrating it had paid the taxes to the State. Further, although the Office's policy does not require law enforcement agencies to submit evidence of payment, only copies of invoices, for 5 of 7 reimbursement transactions we reviewed, the law enforcement agency submitted evidence of payment for all expenditures, and 2 of 7 law enforcement agencies submitted evidence of payment for some of their expenditures; therefore, the Office generally obtained evidence of payment from law enforcement agencies for the transactions we reviewed. The Office reported that it was considering modifying its policies to require evidence of payment for all law enforcement agency reimbursements.

Recommendations

The Office should:

1. Provide training to its staff on properly processing and reviewing procurements using subcontractors.
2. Revise its policies to require law enforcement agencies to also submit evidence of payment, in addition to the copies of invoices required by its existing policies, for expenditures for which it is seeking reimbursement from the Revolving Fund.
3. Ensure its staff responsible for reviewing and approving reimbursement requests follow Office policy by developing and implementing guidance and/or providing training related to receiving appropriate documentation for expenditures before approving reimbursement.

Office response: As outlined in its [response](#), the Office agrees with the findings and will implement the recommendations.

⁴ The Office also reimbursed the law enforcement agency approximately \$6 for transaction fees without receiving documentation other than handwritten notes.

OFFICE RESPONSE



KRIS MAYES
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

BUDGET AND FINANCE
SECTION

January 26, 2023

Lindsey Perry, Auditor General
Arizona Office of the Auditor General
2910 N. 44th Street Suite 410
Phoenix, AZ 85018

RE: Attorney General's Office Anti-Racketeering Revolving Fund Biennial Review July 1, 2020 through June 30, 2022.

Dear Ms. Perry:

The Arizona Attorney General's Office appreciates the opportunity to respond to the report of the Auditor General. Additionally, we would like to thank your staff for the review conducted of the Anti-Racketeering Revolving Fund. Below please find our agency's response to your noted findings in the report.

Finding 1: Office issued a purchase order for an \$18,500 equipment purchase using the wrong Statewide contract.

Recommendation 1: The Office should provide training to its staff on properly processing and reviewing procurements using subcontractors.

Department Response: The Auditor General's finding is agreed to, and the audit recommendation will be implemented.

The Attorney General's Office will develop training for those employees entering and reviewing purchase requisitions into the Arizona Procurement Portal (APP) as it relates to subcontractors.

Finding 2: Office reimbursed a law enforcement agency for approximately \$6,500 in expenses without receiving appropriate documentation.

Recommendation 2: The Office should revise its policies to require law enforcement agencies to also submit evidence of payment, in addition to the copies of invoices required by its existing policies, for expenditures for which it is seeking reimbursement from the Revolving Fund.

Department Response: The Auditor General's finding is agreed to, and the audit recommendation will be implemented.

The Attorney General's Office will modify its existing policy to require Law Enforcement agencies to submit proof of payment to vendors in addition to copies of vendor invoices.



KRIS MAYES
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

BUDGET AND FINANCE
SECTION

Recommendation 3: The Office should ensure its staff responsible for reviewing and approving reimbursement requests follow Office policies by developing and implementing guidance and/or providing training related to receiving appropriate documentation for expenditures before approving reimbursement.

Department Response: The Auditor General's finding is agreed to, and the audit recommendation will be implemented.

The Attorney General's Office will ensure that employees processing, reviewing and approving reimbursement request from Law Enforcement agencies are aware of and follow the updated policy when processing or approving reimbursement request. Staff has been adequately trained but inadvertently did not collect documentation to support use tax payments to the Arizona Department of Revenue. Staff will be instructed to follow the revised policy.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Lizette Morgan", written in a cursive style.

Lizette Morgan
Chief Financial Officer
Office of the Arizona Attorney General

