



A REPORT
TO THE
ARIZONA LEGISLATURE

Financial Audit Division

Procedural Review

Court of Appeals— Division II

As of February 28, 2006



Debra K. Davenport
Auditor General

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**STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL**

DEBRA K. DAVENPORT, CPA
AUDITOR GENERAL

WILLIAM THOMSON
DEPUTY AUDITOR GENERAL

October 10, 2006

The Honorable Ruth V. McGregor,
Chief Justice of the Arizona Supreme Court

The Honorable John Pelander,
Chief Judge of the Court of Appeals, Division Two

We have performed a procedural review of the Court of Appeals—Division Two's (Court of Appeals) internal controls in effect as of February 28, 2006. Our review consisted primarily of inquiries, observations, and selected tests of internal control policies and procedures, accounting records, and related documents. The review was more limited than would be necessary to give an opinion on internal controls. Accordingly, we do not express an opinion on internal controls or ensure that all deficiencies in internal controls are disclosed.

Specifically, we reviewed cash receipts, cash disbursements, transfers, journal entries, payroll, purchasing, and equipment.

As a result of our review, we noted a deficiency in internal controls that the Court of Appeals' management should correct to ensure that it fulfills its responsibility to establish and maintain adequate internal controls. Our recommendation concerning it is described below:

The Court of Appeals' controls over travel reimbursements should be improved

The Court of Appeals is responsible for complying with policies and procedures established by the Arizona Supreme Court through its Administrative Orders. The Arizona Supreme Court issued Administrative Order 94-18 to establish travel reimbursement policies for judicial officers, deputies, and employees of the Court of Appeals. However, auditors noted that the Court of Appeals established additional travel reimbursement policies that were not reflected in the Administrative Orders. Specifically, the Court of Appeals expanded on the policies outlined in Administrative Order 94-18 and established specific rates that judges could be reimbursed when they stayed in their secondary homes while on travel status. It is unclear if the Court of Appeals had the authority to expand upon these policies since the Arizona Supreme Court had already established travel reimbursement policies through Administrative Order 94-18.

The Court of Appeals expanded on the travel policies because Administrative Order 94-18 did not consistently address travel reimbursements for judges and did not establish specific reimbursement rates. For example, in one section, the Administrative Order stated that “lodging expenses at a noncommercial establishment are not reimbursable,” but another section indicated that judges covered under Arizona Revised Statutes (A.R.S.) §12-120.10 are exempt from lodging expenses at noncommercial establishments, stating that “No reimbursement for lodging or other expenses shall be allowed on the premises of a residence, except for [traveling] judges covered by A.R.S. §12-120.10.” Auditors noted that the Court of Appeals’ expanded travel policies and procedures were more conservative than the Arizona Supreme Court’s policies as the Court of Appeals’ limited the allowable reimbursement amount to lodging and mileage between their primary and secondary residences for traveling judges.

To help ensure that travel reimbursements to judges are in accordance with the Arizona Supreme Court’s Administrative Orders and applicable statutes, the Court of Appeals should review its internal policies and procedures for travel and ensure that those policies are consistent with the Arizona Supreme Court’s Administrative Orders. The Court of Appeals may request an amendment to the Administrative Orders through available processes to further clarify travel policies.

This letter is intended solely for the information and use of the Arizona Supreme Court and the Court of Appeals—Division Two and is not intended to be and should not be used by anyone other than these specified parties. However, this letter is a matter of public record, and its distribution is not limited.

Should you have any questions concerning our procedural review, please let us know.

Sincerely,

Debbie Davenport
Auditor General

September 22, 2006

Ms. Debbie Davenport, Auditor General
Office of the Auditor General
2910 N 44th Street, Suite 410
Phoenix, AZ 85018

Re: Arizona Court of Appeals – Procedural Review as of February 28, 2006

Dear Ms. Davenport:

Thank you for the opportunity to comment on the finding and recommendation in the above referenced document. The following comment is that of both Divisions One and Two.

The Court of Appeals' Controls Over Travel Reimbursement Should be Improved

Both Divisions of the Arizona Court of Appeals thank the Office of the Auditor General for its thorough procedural review and gracious assistance to court personnel during the audit period.

The Court of Appeals interprets Arizona Supreme Court Administrative Order No. 94-18, adopting the State of Arizona Judicial Branch Travel and Reimbursement Policies and Procedures as section 11.01 of the AOC Policies and Procedures Manual, as clearly intended to authorize reimbursement of lodging and other travel expenses incurred by a “traveling judge” of the Court of Appeals while he/she is traveling and lodging away from his/her “place of residence” outside Maricopa or Pima County, which A.R.S. § 12-120.10 defines as each such judge’s “designated post of duty.” Further, though § 11.01 (G)(2)(b) (concerning receipts for lodging expenses) announces a general rule that “Lodging expenses at a non-commercial establishment are not reimbursable,” § 11.01 (D)(9) clearly and more specifically provides:

“Residence” is a person’s actual dwelling place, without regard to any other legal or mailing address.

a. A person who must reside away from that person’s primary residence (due to official travel away from that person’s designated post of duty) may continue to claim a residence as an actual dwelling place if that residence is either inhabited by that person’s dependents; or is held vacant at that person’s tangible expense.

b. No reimbursement for lodging or other expenses shall be allowed on the premises of a residence, **except for judges covered by A.R.S. § 12-120.10.**

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(Emphasis added.) These provisions together make clear that a “traveling judge” of the Court of Appeals who travels from his/her designated post of duty (primary place of residence, outside Maricopa/Pima County) in order to work and attend court sessions on the court’s business premises is entitled to lodging reimbursement for such travel at any owned or rented secondary residence, regardless of whether that residence is considered commercial or non-commercial.

The Court of Appeals nevertheless agrees that the existing provisions of the State of Arizona Judicial Branch Travel and Reimbursement Policies and Procedures on this issue should be redrafted so that their meaning and intent is clear without any need for interpretation. The Court of Appeals will advise and fully cooperate with the Arizona Supreme Court in the process of amending or re-stating these provisions.

Finally, the Court of Appeals acknowledges the Office’s expressed concern that the court’s internal travel policies and procedures be consistent with the State of Arizona Judicial Branch Travel and Reimbursement Policies and Procedures with respect to the determination of lodging reimbursement rates for traveling judges. Accordingly, the Court of Appeals recommends that section 11.01(G)(1)(a) of the Travel and Reimbursement Policies and Procedures be amended to add the following provision: “For judges covered by A.R.S. § 12-120.10, maximum lodging rates shall be computed as the weighted average of the then-current locally applicable separate seasonal lodging reimbursement rates promulgated by the Arizona Department of Administration spanning a full calendar year.”

Thank you.

Cordially yours,

Jeffrey P. Handler, Clerk
Division Two, Arizona Court of Appeals

Philip G. Urry, Clerk
Division One, Arizona Court of Appeals