



A REPORT  
TO THE  
ARIZONA LEGISLATURE

Financial Audit Division

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Procedural Review

# Court of Appeals— Division One

As of February 28, 2006

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**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 C. Gemmill,  
Chief Judge of the Court of Appeals—Division One

We have performed a procedural review of the Court of Appeals—Division One'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 certain deficiencies 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 recommendations concerning them are described in the accompanying summary.

This letter is intended solely for the information and use of the Arizona Supreme Court and the Court of Appeals—Division One 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

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# The Court of Appeals must follow competitive purchasing requirements

The Arizona Supreme Court's Administrative Office of the Courts established procurement policies and procedures that the Court of Appeals is required to follow. These policies and procedures help promote open and fair competition among vendors and help ensure that the courts receive the best value for the public monies they spend. However, the Court of Appeals did not always follow these policies and procedures by not obtaining required price quotations or splitting purchases to circumvent the procurement process. Specifically, the Court of Appeals made several purchases for printer toner cartridges from a single vendor at prices paid in excess of the Arizona Department of Administration's Enterprise Procurement Services Division's price quotes. As a result, the Court of Appeals paid \$15,268 more for printer toner cartridges than the State's contract price quotes for purchases of the same items.

In addition to not obtaining price quotations or splitting purchases of printer toner cartridges totaling \$28,782, auditors noted that purchase orders were not prepared or approved before these items were purchased. Auditors also noted that the Court used the same vendor to purchase printer toner cartridges for the last 3 years, with annual purchases ranging from \$12,984 to \$20,242.

To strengthen controls over competitive purchasing and to comply with the Arizona Supreme Court's Administrative Office of the Courts' procurement policies and procedures, the Court of Appeals should follow the procedures below:

- Use competitive or reasonable pricing for purchases that individually or in the aggregate are estimated to cost less than \$5,000.
- Obtain and document oral price quotations from at least three vendors for purchases that individually or in the aggregate are estimated to cost between \$5,000 and \$10,000, and written quotations from at least three vendors for purchases that individually or in the aggregate are estimated to cost between \$10,000 and \$35,000. For purchases greater than \$35,000, invitations for bids or request for proposals should be issued as necessary.
- Order goods and services only after purchase orders are approved by an authorized employee ensuring competitive purchasing requirements were followed.

## 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.

JOHN C. GEMMILL  
CHIEF JUDGE

ANN A. SCOTT TIMMER  
VICE CHIEF JUDGE

SUSAN A. EHRLICH  
SHELDON H. WEISBERG  
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# Court of Appeals

STATE OF ARIZONA

DIVISION ONE

STATE COURTS BUILDING

1501 WEST WASHINGTON STREET

PHOENIX, ARIZONA 85007

September 22, 2006

Ms. Debbie Davenport, Auditor General  
Office of the Auditor General  
2910 N 44<sup>th</sup> 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 your office's findings in Recommendations 1 and 2 of the above-referenced document. The comment on Recommendation 1 is that of Division One alone, and the comment on Recommendation 2 is that of both Divisions One and Two.

Recommendation 1:

The Court of Appeals Must Follow Competitive Purchasing Requirements

The Court of Appeals, Division One, entirely agrees.

The court is very grateful to the Office of the Auditor General for its assistance in discovering and correcting a breakdown in the court's compliance with competitive purchasing requirements. During the period in question the court's procurement activities were primarily the responsibility of a long-time, trusted employee of the court who was beset by increasingly difficult long-distance family health concerns, and who was forced by these external circumstances to retire early. She left the court on August 31, 2006.

Unfortunately, this employee's focus on the job was sufficiently affected by these family problems, together with an increasing workload, that in several instances certain tasks that were formerly performed in a consistently correct way were no longer accomplished as intended, such as the periodic purchasing of laser toner cartridges without shopping for the best prices and obtaining oral or written quotes when required. Court management is disappointed in having failed to catch these purchases, and apologizes for the uneconomic acquisition of toner cartridges made on its watch.

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Improved procedures are now in practice, and further problems of this sort should be eliminated. The court is strongly committed to preventing any similar problems in the future.

*Recommendation 2 (Divisions One and Two, Arizona Court of Appeals):  
The Court of Appeals' Controls Over Travel Reimbursements 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.**

(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.



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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,

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

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