

**ARKANSAS LEGISLATIVE AUDIT
REPORT ON:
ADMINISTRATIVE OFFICE OF THE COURTS
FOR THE YEAR ENDED JUNE 30, 2022**

Finding:

Ark. Const. art. 5, § 29, states, "Except as provided in Arkansas Constitution, Article 19, § 31, no money shall be drawn from the treasury except in pursuance of specific appropriation made by law, the purpose of which shall be distinctly stated in the bill, and the maximum amount which may be drawn shall be specified in dollars and cents; and no appropriations made by the General Assembly after December 31, 2008, shall be for a longer period than one (1) fiscal year."

In addition, Ark. Const. art. 16, § 12, states, "Except as provided in Arkansas Constitution, Article 19, § 31, no money shall be paid out of the treasury until the same shall have been appropriated by law; and then only in accordance with said appropriation."

Also, Act 1008 of the 2021 Regular Session (Act 1008) appropriated funds to reimburse county jurors, to be payable from the County Juror Reimbursement fund, in section 21, and appropriated funds for professional fees of the Division of Dependency-Neglect Representation to be transferred from the State Administration of Justice Fund and payable from the State Central Services Fund, in section 10.

Although section 21 of Act 1008 originally allowed for \$850,000 in juror reimbursements, inadequate transfers from the Administration of Justice Fund resulted in only \$273,034, or 32%, of that amount being funded in state fiscal year 2022. Once that amount was materially expended, the Agency utilized the appropriation and funding afforded to the Division of Dependency-Neglect Representation for professional fees under section 10 of Act 1008 to make additional jury reimbursement payments. Fifty payments totaling \$231,025 were coded as professional fees for the Division of Dependency-Neglect Representation but were actually jury reimbursements. Had the payments been appropriately coded as jury reimbursements, the final funded appropriation for jury reimbursements in the amount of \$273,034 would have been exceeded by \$230,751.

The Agency should not have used funds appropriated in Section 10 of Act 1008 for the Division of Dependency-Neglect Representation professional fees on reimbursing counties for juror costs under Section 21 of Act 1008. The funds were appropriated for one purpose but were used for another purpose, in violation of Ark. Const. art 16, § 12.

Finally, Ark. Code Ann. § 16-10-310(d)(1) provides the Agency with a solution if funds appropriated for county juror reimbursements runs out: "If required to help meet the commitments of the State Administration of Justice Fund and if funds are determined to be available, the Chief Fiscal Officer of the State may transfer a sum not to exceed four million dollars (\$4,000,000) during any fiscal year from the Budget Stabilization Trust Fund to the State Administration of Justice Fund."

Recommendation:

We recommend the Agency review and strengthen policies and procedures to ensure that expenditures are appropriately coded and are in accordance with Agency appropriations and the Arkansas Constitution.

Agency Response:

The AOC was appropriated \$850,000 to reimburse counties for juror expenses. Due to a dramatic decrease in Administration of Justice Fund revenue, the AOC received only \$273,034 in funding. However, total requests for reimbursement amounted to \$503,785. To process the full amount requested from the counties of Arkansas, a larger appropriation of \$230,751 from AOJ Funds would be necessary. Because of the limited amount of money in the AOJ fund, that would hurt all the other entities (such as State Police Retirement, the State Crime Lab, and the Office of the Prosecutor Coordinator) that receive AOJ funding.

In an attempt to find a creative solution that would not create a negative impact on other entities, the agency determined that the difference could be paid using AOC Division of Dependency Neglect professional fees and services funds. Sound financial practices had resulted in significant savings without compromising Dependency Neglect responsibilities. Using these funds to process remaining county juror reimbursements ensured that justice would continue to be administered as jurors performed their professional service.

In its finding, Legislative Audit reports that it believes Dependency Neglect funds could not be used in this manner. Legislative Audit advised that in the event county juror reimbursement funds run out, the agency could follow the instructions set by A.C.A. § 16-10-310(d)(l):

"If required to help meet the commitments of the State Administration of Justice Fund and if funds are determined to be available, the Chief Fiscal Officer of the State may transfer a sum not to exceed four million dollars (\$4,000,000) during any fiscal year from the Budget Stabilization Trust Fund to the State Administration of Justice Fund."

When facing this issue, the agency attempted to use all the resources it had been given. Applying the remaining funds in professional fees and services to cover juror professional fees and services appeared on its face to be an appropriate use and certainly one that is critical for the administration of justice. However, the agency acknowledges its mistake and will not repeat this error in the future. The AOC contacted the Office of Budget to determine if an error correction was possible. However, that office advised that this was no longer an option because the mistake occurred in the previous fiscal year.

In the current fiscal year (2023), the AOC is presented with a similar situation where requests for county juror reimbursements exceed funding but not appropriation. Following the recommendation by Legislative Audit, the AOC contacted the Chief Fiscal Officer of the State inquiring about a transfer of funds per A.C.A. § 16-10-310(d)(l). The Department of Finance and Administration advised that providing funding from the Budget Stabilization Trust Fund would require a proportional increase to all 21 entities receiving AOJ funding, thereby far exceeding the \$4 million limitation. Thus, the prescribed solution appears unable to solve the problem.

The AOC anticipates that this problem will be a reoccurring one. Therefore, the agency proposes another possible remedy that could help avoid such a situation in future fiscal years: adding special language to the AOC appropriation act that grants the agency flexibility to transfer leftover funds across its 38 fund centers. This minor change could result in significant savings and a more efficient use of funds appropriated to the AOC. The AOC seeks to work with the General Assembly, Legislative Audit, and the Bureau of Legislative Research to craft such a solution in the next session.

**ARKANSAS LEGISLATIVE AUDIT
REPORT ON:
OFFICE OF ATTORNEY GENERAL
FOR THE YEAR ENDED JUNE 30, 2022**

Finding 1:

Twenty-six employees were paid in excess of the line-item salary appropriation, per Act 45 of 2021, by a total of \$69,055, in conflict with Ark. Const. art. 16, § 4, which states, "Except as provided in Arkansas Constitution, Article 19, § 31, the General Assembly shall fix the salaries and fees of all officers in the State; and no greater salary or fee than that fixed by law shall be paid to any officer, employee, or other person, or at any rate other than par value; and the number and salaries of the clerks and employees of the different departments of the State shall be fixed by law."

Recommendation:

We recommend the AG's Office ensure employees are not paid above appropriated line-item maximum salary amounts.

Agency Response:

I agree that these payments to employees in excess of their line-item salary appropriations – which were made during the tenure of the previous Attorney General – violated not only Article 16, Section 4, of the Arkansas Constitution, but also the Regular Salary Procedures and Restrictions Act, codified at A.C.A. § 21-5-101. In fact, my predecessor opined in Attorney General Opinion No. 2017-080 that payments in excess of line-item salary appropriations were unlawful. I explained my views on this question in Attorney General Opinion No. 2023-004, which was written in response to an opinion request by Senator Jimmy Hickey, Jr. I have not authorized and will not authorize payments to employees in excess of their line-item salary appropriations.

Finding 2:

Settlement funds are monies primarily received by the Consumer Protection Division for various claims and lawsuits. Act 54 of 2022, Section 13, established a spending limit of \$25 million in settlement funds. On January 5 and 6, 2023, three checks totaling \$27.5 million were disbursed from the settlement fund and transferred to the State, causing the Office to exceed the appropriation spending limit, in noncompliance with Act 54 of 2022.

An internal investigation conducted by the current Attorney General resulted in a request to return a portion of the dispersed funds, as well as a one-time appropriation request of \$17.5 million, which increased the total appropriation for fiscal year 2023 to \$42.5 million. The Department of Finance and Administration returned \$17.5 million to the Attorney General's settlement fund. For the year ended June 30, 2023, the Attorney General's expenditures of settlement funds were less than the \$42.5 million adjusted appropriation.

Recommendation:

We recommend the Agency continually monitor expenditures to ensure compliance with appropriation limits.

Agency Response:

I agree that my predecessor exceeded the settlement fund spending limit. Upon taking office, I ordered that an internal audit be conducted. This audit found that the previous Attorney General exceeded the appropriated limit of \$25,000,000 in settlement fund spending contained in Section 13 of Act 54 of 2022. The excess was due to large disbursements of settlement funds authorized by the previous Attorney General, especially a total of \$27,500,000 transferred out of the Office on January 6, 2023 – four days before my swearing in. I self-reported the overage in separate letters to the Joint Budget Committee and the Legislative Joint Auditing Committee dated March 14, 2023. To bring the Office back into compliance with the law, I sought and obtained the return of certain settlement funds and an increased appropriation. I will not only comply with the appropriation for settlement fund spending going forward, but I also request and received a \$10,000,000 reduction of that appropriation in Act 495 of 2023.

**ARKANSAS LEGISLATIVE AUDIT
REPORT ON:
AUDITOR OF STATE
FOR THE YEAR ENDED JUNE 30, 2022**

Finding 1:

The Auditor of State's Office incurred \$14,208 in Internal Revenue Service (IRS) penalties. Initially, the Office incurred \$57,635 in penalties during fiscal year 2022 due to errors in dating the federal withholding forms submitted to the IRS for February 28, April 15, April 30, and August 31 of 2021. The first IRS notice of penalty was received by the Agency on December 3, 2021. The penalties were disputed, and \$43,427 of the penalties paid were resolved and refunded, leaving a total of \$14,208 paid for one incident.

Recommendation:

We recommend the Agency strengthen policies and procedures to make certain that federal withholding forms submitted to the IRS are accurate to ensure the efficient use of state funds.

Agency Response:

The Auditor of State's Office (AOS) does not utilize AASIS for payroll and instead uses a separate payroll system. AOS tax payments are due to the IRS within one business day of each pay date. AOS remits IRS Form 941 quarterly to the IRS to substantiate those tax payments.

The non-AASIS payroll system generates IRS Form 941, which populates the pay date based on the date AOS updates and finalizes the payroll. The system populated date is at least two business days before the actual pay date due to required processing time in AASIS. The previous Accounting Manager failed to review and properly update the system-generated Form 941 before submitting to the IRS. This failure created an appearance of late payments, although no late payments was made to the IRS.

The office recognized and corrected this issue by strengthening the procedures related to the quarterly completion of the IRS Form 941. The Payroll Accountant prepares Form 941 by reviewing the payroll calendar and IRS payments made for each pay date during the quarter. The Accounting Manager reviews the completed Form 941 and supporting documentation to ensure Form 941 reflects accurate pay dates prior to submitting to the IRS.

Additionally, the office has requested to move payroll to AASIS to eliminate the inherent risks associated with the non-AASIS payroll system.

Finding 2:

R1-19-4-2004 of the Department of Finance and Administration (DFA) Office of Accounting Financial Management Guide states that "the bonded disbursing officer for each state agency, board, commission, or institution is responsible for...reporting any losses of state funds to the Chief Fiscal Officer of the State and to Arkansas Legislative Audit. Losses include...the apparent theft or misappropriation of state funds or property theft." The Auditor of State notified us of the following theft of state property:

On September 28, 2022, the Agency was notified of fraudulent unclaimed property claims made in Pennsylvania that could involve an Arkansas claimant. Upon notification, the Agency located a claim for \$1,311, made by this claimant on July 9, 2020, and added the claim to the fraud mitigation tables within the Unclaimed Property Management System. Pennsylvania officials plan to refer this case to the U.S. Attorney's Office and include the Arkansas claim. As of report date, the Agency had received no further communication regarding this matter.

Recommendation:

We recommend the Agency continue to monitor controls related to the safeguarding of assets to prevent future occurrences of theft.

Agency Response:

In fiscal year 2020, when the fraudulent claim was paid, the Unclaimed Property (UCP) Division paid more than 20,000 claims resulting in over \$18 million returned to rightful owners. Unfortunately, due to the nature and volume of unclaimed property claims, the office cannot prevent all complex fraud schemes.

The office has implemented all available fraud features in the unclaimed property management system, KAPS. The UCP Division monitors notifications and fraud alerts from other states and industry leaders. UCP staff record data related to potential fraud in the KAPS system for monitoring. This data feeds into Kelmar's Fraud Index (KFI) feature in KAPS and alerts UCP Claim Agents to potential fraud. UCP will continue to utilize preventative and detective controls to mitigate fraud risks in unclaimed property.