

**STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL
Report on Special Investigation
for the Period January 1991
through June 1995**



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March 6, 1996

Members of the Arizona State Legislature

The Honorable Grant Woods, Attorney General

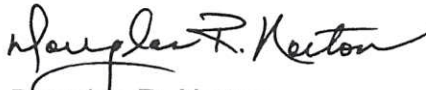
The Honorable Richard M. Romley, Maricopa County Attorney

At the request of and in conjunction with the Maricopa County Attorney, we have conducted a special investigation of the State of Arizona, Office of the Attorney General for the period January 1991 through June 1995. Our investigation was performed to determine if the Office of the Attorney General's internal control structure and its operation relevant to certain public monies was adequate to prevent the misuse of public monies; and if not, the extent to which these monies had been misused.

Our investigation consisted primarily of inquiries and the examination of selected financial records and other documentation. Therefore, our investigation was substantially less in scope than an audit conducted in accordance with generally accepted auditing standards. Accordingly, we do not express an opinion on the financial records or internal control structure of the Office of the Attorney General, nor do we ensure that all matters involving the internal control structure that might be material weaknesses under standards established by the American Institute of Certified Public Accountants or other conditions that require correction or improvement were disclosed.

The accompanying report describes our findings and recommendations as a result of this special investigation.

After this report is distributed to the members of the Arizona State Legislature, the Attorney General, and the Maricopa County Attorney, it becomes public record.


Douglas R. Norton
Auditor General

Attachment

SUMMARY

In June 1995, the Maricopa County Attorney requested that the Office of the Auditor General review certain allegations relating to potential misuse of public monies and property by employees of the Office of the Attorney General. As a result of that request, and based on our preliminary review findings, we conducted an investigation of those allegations and other issues in conjunction with the Maricopa County Attorney's Office.

Our investigation revealed that under the authority or direction of Robert Carey, First Assistant Attorney General, monetary and nonmonetary donations were misused during the period January 1992 through June 1995.

This report summarizes two findings that have been submitted to the Maricopa County Attorney's Office. The first finding details the misuse of public monies. The second finding details the misuse of nonmonetary donations and the numerous transactions we discovered that did not comply with Arizona statutory requirements.

We determined that these findings occurred primarily because of weak or circumvented internal control structure policies and procedures used in administering certain public monies and other donations received by the Attorney General's Office. The specific causes we noted and our recommendations concerning them are presented at the conclusion of this report.

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FINDING I

MISUSES OF PUBLIC MONIES

During the period January 1992 through June 1995, Robert Carey, First Assistant Attorney General, caused \$22,028 worth of public monies to be misused by directing or authorizing and allowing the use of donated monies for payment of improper expenditures, without the donors' knowledge or approval.¹ During our investigation we noted the following possible violations of Arizona Revised Statutes (A.R.S.) § 35-301.

Improper Expenditures

1. Beginning in January 1992, the Attorney General's Human Services Division sponsored an annual luncheon held in Tucson, Arizona, honoring Dr. Martin Luther King, Jr. The Chief Counsel of the Human Services Division stated that this luncheon was an official Office function by virtue of the Civil Rights entitling statutes, specifically, A.R.S. §41-1402.A.7. Private donations solicited and collected by Office of the Attorney General employees were intended to help support this luncheon and to fund minority scholarships.
 - a. A total of \$7,215 collected for the Dr. Martin Luther King, Jr. luncheon was diverted to pay for Attorney General events during 1992 through 1995, including annual holiday awards luncheons for Attorney General employees and breakfasts for law clerks and interns.
 - b. An additional \$4,802 collected for the Dr. Martin Luther King, Jr. luncheon was also diverted to pay for Attorney General attorney retreats held in Tucson, Arizona, from 1992 through 1994. Attorney retreat expenditures included hotel and meal accommodations, speaker fees, disc jockey fees, employee gifts, alcoholic beverages, bus transportation from hotels to Tucson taverns, and karaoke machine and sporting equipment rental.
2. The Attorney General's Office sponsored the Twelfth Annual Attorneys General Border Conference held September 9-11, 1992. Some of the private donations solicited and collected for that conference by Attorney General employees were expended for other purposes. Included in the \$10,011 of such expenditures was \$3,850 paid to First Assistant Carey for three reimbursement claims that lacked supporting documentation, \$1,333 paid for specially ordered football shirts given to Attorney General employees and others in December 1992, and \$1,100 paid for kachina dolls given to attorneys general at the winter 1992 National Association of Attorneys General meeting.

¹A.R.S. §35-302 defines public monies to include money received or held by state officers in their official capacity.

Exhibit 1

**Monetary Donations Misused
January 1992 through June 1995**

Use of Diverted Monies	Martin Luther King, Jr. Luncheon Donations Misused	Twelfth Annual Attorneys General Border Conference Donations Misused	Total
Office Events	\$7,215	\$6,161	\$13,376
Attorney Retreats	4,802		4,802
Robert Carey		3,850	3,850
Total	\$12,017	\$10,011	\$22,028

Source: Records of the Department of Administration, Office of the Attorney General, First Interstate Bank, and Arizona Bank and investigation reports.

FINDING II

MISUSES OF NONMONETARY DONATIONS AND FINDINGS OF NONCOMPLIANCE

During the period January 1992 through June 1995, employees of the Attorney General's Office misused nonmonetary donations to the Office and carried out numerous transactions involving certain public monies that did not comply with Arizona statutory requirements.

Our findings concerning these transactions are grouped into four categories of noncompliance: transactions that do not comply with the Arizona Constitution and A.R.S. §38-445, Arizona Procurement Rules and Regulations, the *Arizona Accounting Manual*, and other Arizona Revised Statutes.

Violations of Arizona Constitutional and Legislative Restrictions on Transportation of Public Officials

In September 1992, the Office of the Attorney General was granted a \$5,000 donation of commercial air travel by America West Airlines (AWA) to support continuing education, seminars, and events associated with the North American Free Trade Act (NAFTA). While state employees traveling for these purposes is not prohibited, the Arizona State Constitution, Article 4, Part 2, §23 and A.R.S. §38-445 prohibit any person holding public office in this State to accept or use a pass or to purchase transportation other than transportation that may be purchased under the same terms available to the general public. During our investigation we noted the following violations of Article 4, Part 2, §23 of the Arizona State Constitution and A.R.S. §38-445.

1. In March 1993, after attending a National Association of Attorneys General meeting in Washington D.C., Attorney General Woods flew to Chicago for a basketball game. \$505 of the AWA donation was used to pay for Mr. Woods' flight from Chicago to Phoenix.
2. In March 1994, Attorney General Woods flew to Washington D.C. and returned to Phoenix after a National Association of Attorneys General meeting, using \$430 of the AWA donation, including charges for first class upgrades.

During our investigation we also noted the following misuses of the AWA donation by First Assistant Carey and Attorney General Woods' wife, Marlene Galan Woods, that were not in accordance with the donor's intent.

1. In December 1993, First Assistant Carey and a friend flew to Chicago and back for personal reasons, using \$711 of the AWA donation.

2. In March 1994, First Assistant Carey used \$184 of the AWA donation to upgrade airline tickets to first class when attending a National Association of Attorneys General meeting in Washington D.C.
3. In June 1994, First Assistant Carey and a friend flew to Seattle and returned, also shipping a bicycle, utilizing \$512 and \$45, respectively, of the AWA donation for personal reasons.
4. In January 1994, Marlene Galan Woods flew round-trip to New York, using \$381 of the AWA donation for personal reasons.

Exhibit 2

Nonmonetary Donations Misused March 1993 through June 1994

Source of Donation	Attorney General Woods	First Assistant Carey	Marlene Galan Woods	Total
America West Airlines	\$935	\$1,452	\$381	\$2,768

Source: Records of the Office of the Attorney General and America West Airlines, and investigation reports.

Noncompliance with Arizona Procurement Rules and Regulations

The Attorney General's Office did not comply with requirements of the Arizona Administrative Code "Procurement Rules and Regulations" (Procurement Code) for certain expenditures related to the December 1991 Attorney General Open House and the September 1992 Twelfth Annual Attorneys General Border Conference. During the time period these expenditures were made, the Procurement Code, Section R2-7-336, required that at least three vendors be solicited to submit oral quotations for purchases estimated to cost between \$1,000 and \$2,500, and at least three vendors be solicited to submit written quotations for purchases estimated to cost between \$2,500 and \$10,000. A contract may be awarded without competition if the director of the Department of Administration determines in writing that there is only one source for the required material or service. During our investigation we noted the following instances in which quotations were not solicited. Also, there was no documentation supporting sole source procurement for these expenditures.

1. On January 29, 1992, the Attorney General's Office used monies donated for the Martin Luther King, Jr. luncheon to pay \$2,781 for the rental of lighting equipment, linens, and silver catering equipment that was used for the Office of the Attorney General Open House in December 1991 (a social event for employees and guests). The Attorney General's Office did not provide documentation to support compliance with the Procurement Code for this transaction.
2. The Office of the Attorney General used monies donated for the Twelfth Annual Attorneys General Border Conference to pay two claims for reimbursement, totaling \$3,800, filed by Robert Carey on August 6 and 11, 1992, for expenditures reportedly associated with the Attorney General Open House in December 1991. Mr. Carey's reimbursement claims did not include adequate supporting documentation as required by the Procurement Code for these transactions.
3. On September 4 and 15, 1992, the Attorney General's Office used appropriated monies to pay a total of \$10,000 to three vendors for translation services related to the Twelfth Annual Attorneys General Border Conference. The Attorney General's Office did not provide adequate supporting documentation as required by the Procurement Code for these transactions.

Noncompliance with the *Arizona Accounting Manual*

The Attorney General's Office did not comply with requirements of the *Arizona Accounting Manual*, Section II, for certain expenditures related to employee reimbursements and the Twelfth Annual Attorneys General Border Conference. During our investigation we noted the following instances in which documentation supporting expenditures was either absent or inadequate.

1. In June 1992, three employees and a public official submitted travel claims without hotel receipts to the Attorney General Financial Services Department for an attorney retreat held in Tucson during October 1991. The documentation submitted identified lodging costs that did not agree to the hotel invoice. The *Arizona Accounting Manual*, Section II, requires documentation that shows the amount the employee actually paid for lodging when the original or a copy of the original hotel receipt is not available. However, such documentation (e.g., canceled check or corporate card receipt) was not submitted. Nevertheless, appropriated monies totaling \$621 were expended for these inadequately supported travel claims.
2. As described in item 2 above, First Assistant Carey submitted two claims, totaling \$3,800, for reimbursement of expenditures reportedly associated with the Office of the Attorney General Open House in December 1991. No receipts or other supporting documentation were submitted to the Attorney General Financial Services Department. Consequently, employees of that Department indicated on the Purchase/Supply Requisition forms that no receipts were attached; however, they were directed to pay the claims despite the lack of supporting documentation.

3. In October 1992, First Assistant Carey submitted a claim for reimbursement of \$50 reportedly for attendance at an Attorney General employee's retirement dinner. No receipt or other supporting documentation was submitted to the Attorney General Financial Services Department. Consequently, employees of that department indicated on the Purchase/Supply Requisition form that no receipt was attached; however, they were directed to pay the claim despite the lack of supporting documentation.
4. As described in item 3 on the previous page, the Attorney General's Office paid \$10,000 of appropriated monies to three vendors for translation services for the Twelfth Annual Attorneys General Border Conference. In one instance, the terms of the agreement did not agree with the invoice or the amount paid to the vendor. In the other two instances, no contracts/agreements were provided to the Attorney General Financial Services Department to substantiate the claims. Consequently, employees of that department indicated on the Purchase/Supply Requisition forms that no contract or agreement was attached; however, they were directed to pay the claims despite the lack of supporting documentation.

**Noncompliance with
Arizona Revised Statutes
§§35-142 and 35-149**

A.R.S. §35-149 provides that every department receiving private monies or other contributions for its support or for the purpose of defraying expenses or work done under its direction shall deposit those monies with the State Treasurer, along with a certification as to the source and purpose of the money. The Treasurer is required to keep an accounting of the contributions separate and distinct from other funds, according to A.R.S. §§ 35-142 and 35-149. Attorney General employees solicited and collected monies from private individuals and businesses for the express stated purpose of supporting Attorney General-sponsored Martin Luther King, Jr. luncheons and to provide scholarships for minority students. In addition, monies were also solicited to fund the expenses of the Twelfth Annual Attorney General Border Conference. The Attorney General's Office deposited \$92,174 of these public monies in private bank accounts that were not approved by the State Treasurer or the Department of Administration.

CAUSES AND RECOMMENDATIONS

The Office of the Attorney General's (Office) lack of adequate internal control structure policies and procedures used in administering monetary and nonmonetary donations and certain other public monies, combined with their circumvention, created an environment in which those donations and public monies were not only misused but also were not expended in compliance with Arizona statutory requirements.

Monetary and Nonmonetary Donations

As evidenced by the following specific conditions noted during our investigation, the Attorney General's Office did not adequately safeguard certain donations and other public monies from misuse.

1. Monetary and nonmonetary donations were expended for purposes other than those intended by the donors.
2. One individual was responsible for depositing monies, signing checks, and reconciling the bank statement. In addition, several checks were signed by an unauthorized signer and approval of expenditures was not consistently documented.
3. Monies donated for separate and distinct purposes were commingled.
4. Donated monies were not always deposited in an account held at the Office of the State Treasurer.
5. Private bank accounts were established without the approval of the State Treasurer and the Department of Administration.
6. A public officer was allowed to travel using a common carrier (America West Airlines) on terms that were not available to the general public.

Recommendations

1. The Attorney General's Office should strengthen its internal control structure policies and procedures used in administering monetary and nonmonetary donations and certain other public monies to ensure that such monies and donations are properly accounted for and expended only for purposes authorized by the donor, in accordance with A.R.S. §§35-142 and 35-149 and the *Arizona Accounting Manual*, Section II. In addition, the Office should assure that the means public officers use for travel do not violate A.R.S. §38-445.

2. Duties involving the handling of cash receipts and disbursements and recordkeeping functions should be properly segregated. Only authorized employees should sign checks. An employee who is independent of the cash receipts and disbursements functions should perform a monthly reconciliation. The employee authorized to approve disbursements should not have access to cash receipts or accounting records. In addition, deposits should be prepared by an employee who is independent of the cash receipts and disbursements functions and does not perform reconciliations.
3. Monetary and nonmonetary donations for distinct and separate purposes should not be commingled.
4. Donated monies should be deposited in State Treasurer accounts, separate and distinct from other monies.
5. Private bank accounts should be established only with the approval of the State Treasurer and the Department of Administration.
6. Procedures for authorizing expenditures should be clearly and consistently documented, and only authorized expenditures should be allowed.

Procurement

During our investigation we noted several instances of noncompliance with Procurement Rules and Regulations, as described in Finding II.

1. Neither oral nor written bids were solicited from vendors for purchases estimated to cost between \$1,000 and \$10,000.
2. Documentation supporting sole source procurement was not retained.

Recommendation

The Office should take greater care to ensure compliance with Procurement Rules and Regulations.

Disbursements

The Office's level of compliance with the *Arizona Accounting Manual*, Section II, was not adequate to properly safeguard certain public monies from misuse and misappropriation.

1. Disbursements were not consistently supported with adequate documentation.
2. Discrepancies between vendor invoice amounts and payments to the vendor were not always documented, investigated, and resolved.
3. Discrepancies between vendor invoice terms and the terms of the agreement for services were not always documented, investigated, and resolved.

Recommendations

1. The Office should take greater care to ensure disbursements are properly supported with adequate documentation.
2. Invoices should be verified to contracts/agreements and mathematical accuracy checks should be performed. Any discrepancies noted should be documented, investigated, and resolved.
3. To properly safeguard certain public monies from misuse and misappropriation, the Office should fully comply with the *Arizona Accounting Manual*.