

H. CARL McCALL  
STATE COMPTROLLER



110 STATE STREET  
ALBANY, NEW YORK 12236

STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

May 24, 2002

The Honorable Elliot Spitzer  
Attorney General  
NYS Department of Law  
Agency Building 4  
Empire State Plaza  
Albany, NY 12224-0341

Re: Report 2001-F-49

Dear Mr. Spitzer:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law we have reviewed the actions taken by officials of the Attorney General's Office as of April 11, 2002, to implement the recommendations contained in our audit report, *Department of Law's Confidential Fund* (Report 99-S-54). Our report, which was issued on April 6, 2000, reviewed the effectiveness and efficiency of internal controls for administering and utilizing the confidential fund accounts.

**Background**

As of November 30, 2001, the Attorney General's Office maintained a Confidential Fund with a total balance of \$125,000. The Attorney General's Office is authorized to use the fund to pay for various expenses incurred in conducting undercover investigations. The Office of the State Comptroller authorizes the accounts, and the Attorney General's Office maintains its fund balance in several checking accounts from which account managers make disbursements to investigators. Reimbursement for the confidential expenditures is subsequently obtained by submitting a special voucher to the State Comptroller.

Confidential Fund expenditures do not undergo the same pre-audit process required for other State expenditures. The special vouchers that the Attorney General's Office submits to the State Comptroller's Office show only the amount to be reimbursed, so as not to compromise the confidential nature of the expenditures. Responsibility for proper use and documentation of Confidential Fund expenditures rests primarily with management of the Attorney General's Office.

Confidential Fund reimbursements to the Attorney General's Office totaled \$293,082 for the eight-month period, April 1, 2001 through November 30, 2001. The funds were distributed among four separate accounts as follows: \$56,743 in the main account, \$15,319 in the "M" account,

\$217,779 in the “C” account, and \$3,241 in the “B” account. More specific account descriptions are not being used in an effort to preserve the confidentiality of the accounts.

### **Summary Conclusion**

Our prior audit found that the Attorney General’s Office had a strong system of internal controls over Confidential Fund accounts that ensured monies were used in an appropriate manner. However, we found that at the Organized Crime Task Force Headquarters in White Plains, the bank reconciliation statements were prepared by the same person responsible for recording the receipts and disbursements. In addition, the bank reconciliations for two accounts were not accurately prepared. We also found that the Attorney General’s Office did not assign staff to review the bank reconciliation statements to ensure that they are prepared timely and accurately, and to aggregate and compare individual accounts to the total fund balance. As a result, the Attorney General’s Office was unable to accurately account for its total fund balance, and may have owed the State’s General Fund a nominal amount of interest.

In our follow-up review, we found that an Attorney General’s Office staff member, that is independent of the cashiering and bookkeeping functions for the Confidential Fund, now prepares the monthly bank reconciliation statements and aggregates and reconciles individual accounts to the total fund balance.

### **Summary Status of Prior Audit Recommendations**

Attorney General Office officials have implemented the two prior audit recommendations.

### **Follow-up Observations**

#### **Recommendation 1**

*Assign appropriate staff, who are independent of the cashiering and bookkeeping functions for the Confidential Fund, to prepare monthly bank reconciliations. Also, individual fund accounts should be aggregated and reconciled to the total authorized fund balance.*

Status – Implemented

Agency Action – The Attorney General’s Office has assigned a staff member, independent of the cashiering and bookkeeping functions for the Confidential Fund, to prepare the monthly bank reconciliation statements and to aggregate and compare individual accounts to the total fund balance. We reviewed examples of reconciliations performed by this individual and found them to be in good order.

**Recommendation 2**

*Remit checking account interest to the State Comptroller's Office for deposit into the State's General Fund in accordance with the State Finance Law.*

Status – Implemented

Agency Action – Upon reconciling the individual accounts to the total fund balance, Attorney General Office officials determined that a relatively small amount of interest was earned. We believe no further action is required. Currently, all Confidential Fund checking accounts are non-interest bearing.

Major contributors to this report were Brian Lotz and Legendre Ambrose.

We thank the management and staff of the Attorney General's Office for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

William P. Challice  
Audit Director

cc: Deirdre A. Taylor, DOB