

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE INSPECTOR GENERAL**

**OFFICE OF THE ATTORNEY GENERAL
ANTIFRAUD FUND
FINANCIAL STATEMENT AUDIT
FOR THE FISCAL YEAR ENDED
SEPTEMBER 30, 2007**



**CHARLES J. WILLOUGHBY
INSPECTOR GENERAL**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



May 18, 2009

Peter J. Nickles
Attorney General
Office of the Attorney General
The John A. Wilson Building
1350 Pennsylvania Avenue, N.W., Room 409
Washington, D.C. 20004

Natwar M. Gandhi, PhD.
Chief Financial Officer
Office of the Chief Financial Officer
The John A. Wilson Building
1350 Pennsylvania Avenue, N.W., Room 209
Washington, D.C. 20004

Dear Mr. Nickles and Dr. Gandhi:

The Office of the Inspector General has completed an audit (OIG No. 8-1-22CB) of the Antifraud Fund, administered by the District of Columbia Office of the Attorney General (OAG), for the year ended September 30, 2007. The OAG was notified of the results of our audit on April 30, 2009.

Our audit included a review of existing internal controls for the purpose of expressing an opinion on financial accounting records and determining the extent of substantive testing required. The review was not intended to be an exhaustive study of the internal controls for making detailed recommendations, and would not have necessarily disclosed all weaknesses in the system. Additionally, we tested for compliance with the provisions of selected laws and regulations. However, the objective of our audit was not to provide an opinion on overall compliance with such provisions.

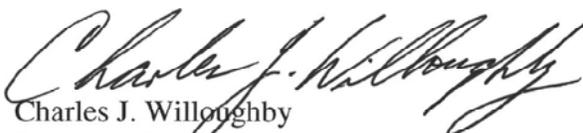
Qualified Opinion on Financial Statements

During the audit, we noted that OAG recorded some receipts that were, in turn, paid to a third party through the Antifraud Fund, as restitution revenue. Similarly, when the monies were paid to the third party, OAG recorded the disbursements as expenses to the Fund. These recordings caused both restitution revenue and expenses to be overstated. These recordings were not in compliance with the law. The net effect of the transactions was zero. Also, we noted a deficiency in control procedures that resulted in restitution payments not being recorded to the Fund as revenue nor established as an accounts receivable. As a result, revenues of the Fund were understated. Therefore, in our opinion, except for the improper recording of revenue and expenses, and exclusion of restitution due the Fund, the financial statements referred to above present fairly, in all material respects, the financial position of the Office of Attorney General – Antifraud Fund as of September 30, 2007, and the results of its operations for the year then ended, in conformity with generally accepted accounting principles.

Other than the improper recording of revenues and expenses, and the exclusion of revenue, we found no other issues of internal control deficiencies or noncompliance with regulations that we consider significant deficiencies or material weaknesses, during our fiscal year 2007 audit. (See the attached “Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*.”). Management responses (Exhibits 1 and 2) to a draft of this report adequately address reported deficiencies.

We appreciate the cooperation and courtesies extended to our staff during this audit. If you have questions, please call William J. DiVello, Assistant Inspector General for Audit, or me at (202) 727-2540.

Sincerely,


Charles J. Willoughby
Inspector General

CJW/js

Enclosure

cc: See Distribution List

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**OFFICE OF THE ATTORNEY GENERAL
ANTIFRAUD FUND FINANCIAL STATEMENT AUDIT
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2007**

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



Independent Auditor's Report

To the Attorney General, Office of the Attorney General, Government of the District of Columbia; and Chief Financial Officer, Office of the Chief Financial Officer, Government of the District of Columbia:

We have audited the accompanying statement of net assets of the Antifraud Fund of the Government of the District of Columbia's Office of the Attorney General as of September 30, 2007, and the related statements of revenues, expenses, changes in net assets, and cash flows for the year ended. These financial statements are the responsibility of the District of Columbia Office of the Attorney General (OAG) and the Office of the Chief Financial Officer (OCFO). Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

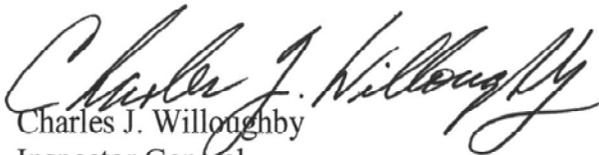
During the fiscal year under audit, approximately \$26,000 of the monies that were received and were, in turn, to be paid back to third parties, were recorded both as revenue when received and as expenses when disbursed. As a result, revenue and expenses were overstated by about 24 percent and 19 percent respectively, for the period under audit.

Additionally, an oversight of control procedures resulted in two cases, totaling \$5,500 in court awarded penalties, not being credited to the Fund. Due to this oversight, \$4,365 of the \$5,500 in restitution, erroneously paid by the defendant to the DC Superior Court, was not recorded as Fund revenue. We informed the OAG/OCFO of the error. No adjustments were made to correct the error as of the date of this report.

**OFFICE OF THE ATTORNEY GENERAL
ANTIFRAUD FUND FINANCIAL STATEMENT AUDIT
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2007**

In our opinion, except for the improper recording of revenues and expenses that were not applicable to the Fund, and the exclusion of restitution revenue discussed in the paragraph above, the financial statements present fairly, in all material respects, the financial position of the Antifraud Fund as of September 30, 2007, the results of its operations, changes in net assets, and cash flows for the year ended September 30, 2007, in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated May 18, 2009, on our consideration of the Antifraud Fund's internal controls over financial reporting and our tests of its compliance with certain provisions of laws, regulations, and contracts. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.


Charles J. Willoughby
Inspector General

May 18, 2009

**OFFICE OF THE ATTORNEY GENERAL
ANTIFRAUD FUND FINANCIAL STATEMENT AUDIT
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2007**

STATEMENTS OF NET ASSETS

ASSETS	<u>FY 2007</u>	<u>FY 2006</u>
Current Assets:		
Cash	\$ 1,273,019	\$ 1,290,405
Total Assets	<u>1,273,019</u>	<u>1,290,405</u>
Liabilities		
Accrued Payroll	8,278	-
Vouchers Payable	1,431	-
Total Liabilities	<u>9,709</u>	<u>-</u>
Net Assets	<u>1,263,310</u>	<u>1,290,405</u>
Total Liabilities & Net Assets, September 30:	<u>\$ 1,273,019</u>	<u>\$ 1,290,405</u>

The accompanying notes are an integral part of these financial statements.

**OFFICE OF THE ATTORNEY GENERAL
ANTIFRAUD FUND FINANCIAL STATEMENT AUDIT
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2007**

**STATEMENTS OF REVENUES, EXPENSES, AND
CHANGES IN NET ASSETS**

Revenues:	<u>FY 2007</u>	<u>FY 2006</u>
Restitution	<u>\$ 110,382</u>	<u>\$ 15,035</u>
Total Revenue	<u>110,382</u>	<u>15,035</u>
Expenses:		
Payroll Reallocation	109,660	
Miscellaneous	<u>27,817</u>	<u>-</u>
Total Expenses	<u>137,477</u>	<u>-</u>
Excess of Revenues Over Expenses:	(27,095)	15,035
Net Assets at October 1	<u>1,290,405</u>	<u>1,275,370</u>
Net Assets At September 30:	<u><u>\$ 1,263,310</u></u>	<u><u>\$ 1,290,405</u></u>

The accompanying notes are an integral part of these financial statements.

**OFFICE OF THE ATTORNEY GENERAL
ANTIFRAUD FUND FINANCIAL STATEMENT AUDIT
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2007**

STATEMENTS OF CASH FLOWS

Cash Flows from Operating Activities	<u>FY 2007</u>	<u>FY 2006</u>
Net Operating Income	\$ (27,095)	\$ 15,035
Adjustments to Reconcile Net Income to Net Cash Provided by Operating Activities:	9,709	
Decrease (Increase)	<u>-</u>	<u>-</u>
Net Cash Provided by Operating Activities	(17,386)	15,035
Cash at October 1	<u>1,290,405</u>	<u>1,275,370</u>
Cash at September 30	<u><u>\$ 1,273,019</u></u>	<u><u>\$ 1,290,405</u></u>

The accompanying notes are an integral part of these financial statements.

**OFFICE OF THE ATTORNEY GENERAL
ANTIFRAUD FUND FINANCIAL STATEMENT AUDIT
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2007**

NOTES TO THE FINANCIAL STATEMENTS

Summary of Significant Accounting Policies

Introduction and Background

The Antifraud Fund (Fund) was established by statutory provisions in the Procurement Reform Amendment Act of 1998, as codified at D.C. Code § 2-308.20 (2001). The statute states that the Fund is to be operated as a proprietary fund with assets not to exceed \$2 million at any time, *Id.* § 2-308.20(a). Additionally, the statute requires the OIG to audit the Fund annually. *Id.* § 2-308.20(c).

Deposits into the Fund are comprised of criminal fines, civil penalties, and damages collected from false claims recoveries. Additionally, the Fund may be used by the District of Columbia Office of the Attorney General (OAG) to carry out enforcement of the False Claims Act, including costs reasonably related to prosecuting cases and conducting investigations.

There were two civil *qui tam* cases settled through court order, which resulted in restitution of about \$74,375 to the Fund. An additional \$4,620 in restitution was received from installment payments from previously settled cases. As of September 30, 2007, the OAG had 72 *qui tam* cases under investigation. Fifty-three of these cases were Medicaid fraud related and no monetary recovery related to these cases will go to the Antifraud Fund.

During fiscal year 2007, the OAG successfully prosecuted/settled three criminal fraud cases which resulted in restitution of \$10,500 awarded to the Fund. However, OAG financial personnel only recorded \$5,000 in settled criminal cases for FY 2007. OAG attorneys did not provide finance personnel with documentation for two of the three settled cases for recording and collection of the amounts owed. As a result, an additional \$4,365 in collections paid erroneously by the defendant to the District of Columbia Superior Court was not credited to the Fund nor a receivable established for the money collected.

Basis of Presentation

The Fund is established as a governmental fund in the District of Columbia government's accounting information system – System of Accounting and Reporting (SOAR). Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain District functions or activities.

**OFFICE OF THE ATTORNEY GENERAL
ANTIFRAUD FUND FINANCIAL STATEMENT AUDIT
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2007**

The Fund applies all Governmental Accounting Standards Board (GASB) pronouncements as well as the Financial Accounting Standards Board pronouncements issued on or before November 30, 1989, unless those pronouncements conflict with or contradict GASB pronouncements.

Basis of Accounting

The modified accrual basis of accounting is used for the Fund. Under the modified accrual basis of accounting, revenues are recognized when they become both measurable and available. “Measurable” means the amount of the transaction can be determined and “available” means collectible within the current period or soon thereafter to be used to pay liabilities of the current period.

Cash and Investments

Cash from the Fund is deposited in the District’s pooled cash account. Currently, there are no investments made by the Antifraud Fund.

Restricted Assets and Liabilities

Net assets represent the amount of equity the Fund has accumulated since inception of the Fund. The Fund has an asset cap restriction of \$2 million. The net assets as of September 30, 2007, totaled \$1,263,310. The liability section consists of two items – Accrued Payroll of \$8,278 and Vouchers Payable of \$1,431 – a total of \$9,709.

Revenue and Expense Recognition

Fund revenues are comprised of criminal fines, civil penalties, and damages collected from false claims recoveries. Revenues for FY 2007 were significantly higher than FY 2006 revenues due to the settlements of several civil and criminal fraud cases. In FY 2007, the OAG started charging the time of two attorneys and an administrative person to the Fund, which accounts for the increase in expenses. The agency has not allocated overhead costs against the Fund.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



**Report on Internal Control Over Financial Reporting and on
Compliance and Other Matters Based on an Audit of Financial Statements
Performed in Accordance With *Government Auditing Standards***

To the Attorney General, Office of the Attorney General, Government of the District of Columbia; and Chief Financial Officer, Government of the District of Columbia:

We have audited the financial statements of the Antifraud Fund of the Government of the District of Columbia as of and for the year ended September 30, 2007, and have issued our report thereon dated May 18, 2009. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

The management of the Antifraud Fund is responsible for establishing and maintaining effective internal controls. In planning and performing our audit, we considered the Antifraud Fund's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements, and not to provide an opinion on the internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Antifraud Fund's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. However, as described below, we identified certain deficiencies in internal controls that we considered to be significant.

A significant deficiency is a deficiency in internal control, or combination of deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected.

As stated in the Auditor's Report, OAG attorneys did not follow established control procedures that require they provide all court judgments/plea agreements to OAG finance officials to ensure that awarded judgments were settled or that court orders finding the defendant in violation of the judgment were issued. We also found that OAG finance personnel did not follow procedures by requesting OAG attorneys to provide information on settled cases in order to ensure cases were being forwarded for processing. As a result, \$4,365 of the \$5,500 awarded to the Fund was erroneously paid by the defendant to the District of Columbia Superior Court and not recorded as revenue to the Fund, not established as a receivable, nor was there follow-up on the balance of amounts owed.

In our opinion, except for the above significant deficiencies, we believe that the internal controls are effective in all material respects.

Compliance

As part of obtaining reasonable assurance that the Antifraud Fund's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, the noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion.

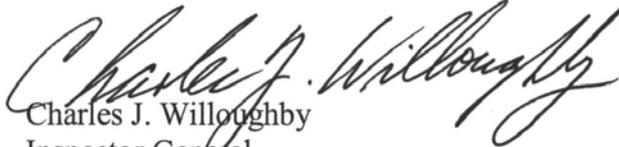
As stated in the Auditor's Report, OCFO/OAG, which actually administers the Antifraud Fund, recorded approximately \$26,000 in both revenue and expenses that should have been recorded as a liability. D.C. Code § 2-308.20 states:

(a) There is hereby established an Antifraud Fund ("Fund") to be operated as a proprietary fund with assets not to exceed \$2,000,000 at any time. The Fund shall consist of criminal fines, civil penalties, and damages collected in cases brought pursuant to this chapter, other than funds awarded to a cooperator or for restitution to a particular agency in the amount of the actual loss to that agency. Such funds (with the exception of amounts for an award to a cooperator or restitution to a program) shall be deposited in the Fund upon receipt. Monies in the Fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year, but shall remain available for the purposes set forth in this section, subject to authorization and appropriation by Congress. Any balance in excess of that allowed the Fund by this section shall be deposited in the General Fund of the District of Columbia.

(b) Amounts in the Fund shall be available for use by the Corporation Counsel to carry out the enforcement of this chapter, including all costs reasonably related to prosecuting cases and conducting investigations pursuant to this chapter. (Emphasis added.)

Report on Internal Control and Compliance
Antifraud Fund

The amount of \$26,000 recorded in both revenue and expenses to the Fund did not meet the above criteria. We informed the OAG/OCFO of the error. No adjustments were made to correct the error in the following fiscal year. The results of our tests disclosed no other instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.


Charles J. Willoughby
Inspector General

May 18, 2009

EXHIBIT 1: MANAGEMENT'S RESPONSE TO DRAFT REPORT

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



May 8, 2009

Mr. Charles J. Willoughby
Inspector General
Office of the Inspector General
717 14th Street, N.W.
Washington, D.C. 20005

Natwar M. Gandhi, PhD.
Chief Financial Officer
Officer of the Chief Financial Office
The John A. Wilson Building
1350 Pennsylvania Avenue, N.W., Room 209
Washington, D.C. 20004

Dear Mr. Willoughby and Dr. Gandhi:

I am in receipt of the Draft Report of the Inspector General's Office audit of the Anti-Fraud Fund for the fiscal year ended September 30, 2007.

The report noted a "deficiency in control procedures that resulted in restitution payments not being recorded to the fund as revenue nor established as an accounts receivable." Specifically, in two cases, a total of \$5,500.00 in court awarded penalties was not credited to the fund. As a result, \$4,365.00 of the \$5,500.00 was erroneously paid to the D.C. Superior Court.¹ When OAG became aware of this error, during the course of this audit, we immediately contacted the Superior Court and informed them of the error and have been assured the funds will be credited appropriately.

In 2007 the Public Advocacy Section was split from the Public Safety Division and is currently under the Civil Litigation Division. The Public Advocacy Section was responsible for monitoring the payments to the Anti-Fraud fund as most of the funds were awarded through cases under the supervision of the Public Advocacy Section. The Criminal section, which remains under the Public Safety Division, had very few cases where Anti-Fraud Funds were

¹ This payment was made to the Superior Court and accepted by the Superior Court despite the clear wording of the judgment that instructed the defendant to make the payment to the fund and the Treasurer of the District of Columbia.

EXHIBIT 1: MANAGEMENT'S RESPONSE TO DRAFT REPORT

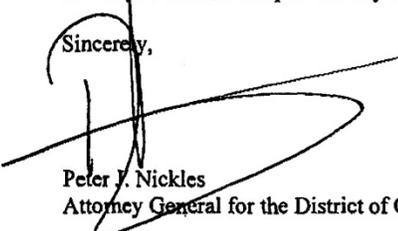
Mr. Charles J. Willoughby
Natwar M. Gandhi, PhD.
May 8, 2009
Page 2

awarded.² Traditionally, the Criminal Section relied on the Public Advocacy Section to monitor any cases where the Anti-Fraud funds were awarded. Unfortunately, with the re-assignment of the Public Advocacy Section and changes in leadership, the Criminal Section cases were not monitored as closely as they should have been.

Going forward the Criminal Section has adopted the control measures utilized by the Public Advocacy Section which include reviewing the cases where the Anti-Fraud funds have been awarded every 6-8 weeks and providing Mohammed Idris of OAG's Fiscal Office with the court's orders.

Thank you and if I can provide any further information please do not hesitate to call.

Sincerely,



Peter J. Nickles
Attorney General for the District of Columbia

² There are currently no criminal cases for FY 2008 and 2009 where anti-fraud funds have been awarded.

EXHIBIT 2: MANAGEMENT'S SUPPLEMENTAL RESPONSE TO DRAFT REPORT

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



ATTORNEY GENERAL

May 15, 2009

Charles J. Willoughby
Inspector General
Office of the Inspector General
717 14th Street, N.W.
Washington, D.C. 20005

Natwar M. Gandhi, PhD.
Chief Financial Officer
Officer of the Chief Financial Office
The John A. Wilson Building
1350 Pennsylvania Avenue, N.W., Room 209
Washington, D.C. 20004

Dear Mr. Willoughby and Dr. Gandhi:

This letter is an addition to the response which was delivered to your office on May 8, regarding the Office of the Inspector General's Draft Report on the Audit of the Anti-Fraud Fund (Draft Report) for the fiscal year ending on September 30, 2007 (copy attached for your convenience).

The report noted that the OAG/OCFO recorded \$26,000 as both revenue and expense. The Draft Report cited to the enabling statute and highlighted the following language "[s]uch funds (with the exception of amounts to an award for a cooperator or restitution to a program) shall be deposited into the Fund upon receipt." OAG/OCFO must account for all funds deposited into the Anti-Fraud Fund. Where the payee has issued a consolidated payment which includes funds payable to OAG as well as a cooperator or restitution to a program, OAG/OCFO requires some mechanism to account for the funds deposited as well as the funds paid out in accordance with the court order. Other than the procedure OAG utilized, OAG/OCFO is not aware of any existing process that will allow it to segregate funds in a consolidated payment but is working with the Office of Financial and Operations Systems to address the issue and to prevent recurrence. OAG would also welcome any suggestion that the Office of the Inspector General has to remedy its concern.

OAG has updated its policies and procedures to include a monthly electronic notice from OAG's Finance Section to the Chief of the Criminal Section for any judgments or court orders affecting the Anti-Fraud Fund. Finally, there will be mandatory meetings each

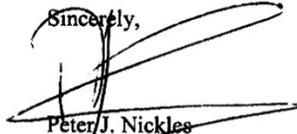
**EXHIBIT 2: MANAGEMENT'S SUPPLEMENTAL
RESPONSE TO DRAFT REPORT**

OAG Supplemental Response to Draft Report
May 15, 2009
Page 2 of 2

month between attorneys and the financial manager to review any cases affecting the
Anti-Fraud Fund.

Thank you and if I can provide any further information please do not hesitate to call.

Sincerely,



Peter J. Nickles
Attorney General for the District of Columbia

Attachment