

MEMORANDUM

DATE: Monday, July 16, 2018

TO: Bob Ferguson, Washington State Attorney General

FROM: Mark Melroy, Chief Financial Officer, Attorney General's Office

SUBJECT: **State Grant to Washington Coalition of Crime Victim Advocates (WCCVA)**

A. Executive Summary

The Attorney General's Office (AGO) has been administering a state grant to the Washington State Crime Victims Coalition since July of 2013. A recent in-depth review of the grant activities and associated documentation has revealed the WCCVA to be significantly out of compliance with its contractual agreement with the Attorney General's Office. Further, this recent analysis has revealed significant mismanagement of public funds. *Per RCW 43.09.185, I recommend this matter be immediately reported to the State Auditor.*

B. Background

There are currently several state grants to Non-Governmental Organizations (NGOs) charged with helping, representing, or protecting the interests of crime victims in Washington State. Many of these grants are administered by the Washington State Department of Commerce, who help ensure the NGOs meet all applicable laws, policies and procedures related to the State funding awards. In their 2013-2015 biennial budget law the legislature shifted \$706K (\$353K per fiscal year) of funding supporting one particular NGO – the Washington State Crime Victims Coalition – from the Department of Commerce to the Office of the Attorney General. This appropriation has continued in every budget bill since the 2013-2015 biennial budget. The AGO has been expected to administer this particular state grant and ensure that funds were being properly managed in accordance with all applicable laws, policies and procedures.

In July of 2013, roles and responsibilities for this work were identified within the AGO, with some oversight and communication functions managed by personnel in the administrative division and financial transactions being handled by personnel in the Financial Services Division (FIS). The AGO would charge an overhead rate to the state grant based on actual expenses incurred for performing the work. The overhead rate was kept intentionally low to cover only essential work in order to allow as much funding as possible to support service delivery to Washington State Crime Victims.

Per the AGO's contractual agreements with WCCVA, state grant funds were paid to the WCCVA based on invoices received for services either provided by WCCVA or by third party vendors (per agreements and following state law, WCCVA was expected to perform or contract for services and then submit documentation for incurring the actual expense following delivery of said services - based on that documentation, the AGO would reimburse WCCVA for the incurred expenses). Throughout the life of the grant, the AGO reviewed all invoice materials from WCCVA prior to providing reimbursement to

WCCVA. Based on the desire to not overburden the grant resources with other administrative costs, the AGO did not provide more active oversight of WCCVA's overall performance.

Early in 2018, I was made aware of some concerns about WCCVA's management of state funds and their compliance with their contractual agreements with the AGO. At that point, I tasked our Accounting, Budgeting and Contracting groups within FIS with reviewing and analyzing all aspects of the grant and WCCVA's performance. The team quickly identified several very concerning issues including lack of required audits, unfiled taxes, lapsed Limited Liability Corporation (LLC) Status with the Secretary of State, etc (full account of issues identified so far is included as **Attachment A** of this memorandum). Following these preliminary findings, I directed the FIS team to continue their analysis and I began preparations to contact the WCCVA Board.

My multiple requests for WCCVA board contact information were denied by the WCCVA Executive Director (see **Attachment B** for email and transcribed voicemail responses from WCCVA Executive Director). Using publicly available information, I reached out to several WCCVA board members by telephone to inform them that we were preparing correspondence that would outline some of our concerns and describe some near-term actions we would expect in order to bring the grant back into compliance with applicable laws and contractual agreements. That correspondence was issued on April 6th, 2018 and can be found in **Attachment C** of this memo.

Approximately one month after demanding a requisite and long overdue audit (again, see **Attachment C**), it was revealed that a substantial amount of payments that were processed by the AGO based on invoices delivered by WCCVA, were inappropriate –***throughout 2015 & 2016, state grant payments were made to the WCCVA from the AGO based on documented invoices from third party vendors for services that were either later cancelled or never provided –until the audit work began early this year, WCCVA had not returned money to reimburse the state grant for services that were not rendered.*** The first example of this type of action was revealed on March 30, 2018 and related to **\$50,136 for National Association of Victim Assistance (NOVA)**. WCCVA representatives seemed to understand that this was inappropriate and worked with FIS staff to have the \$50K amount transferred from WCCVA account balances back to the state grant balance. Thankfully, that amount was still available in WCCVA account balances. As noted above, FIS staff assumed that WCCVA was following proper laws/procedures/contractual agreements that compensation for services would not be provided until after delivery/completion of said services and that invoices for services, per standard practice, represented a bill for services rendered. Based on this identified misappropriation of State funds, I communicated with the WCCVA board that while our analysis continued, and until the requisite audit was completed, I could not allow any further disbursement of state grant funds for purposes of reimbursing expenses related to compensating

“existing WCCVA staff members that may have failed to keep WCCVA in compliance with any policy, contractual or legal requirement...until Peterson is able to issue a final and comprehensive audit report and we are able to ensure that WCCVA is properly following all legal, policy and contractual obligations related to the grant”
(see correspondence dated 4/25/18, **Attachment D**).

Unfortunately, the audit for the 2015-2016 time period, which was received by our office on June 25, 2018 (***Attachment E***), would uncover an additional \$119,810 of service invoices (beyond the \$50,136 described above) that were inappropriately submitted to the AGO for reimbursement.

Although the financial issues described above are very concerning, they represent only one aspect of WCCVA's non-compliance with the grant conditions (again, refer to ***Attachment A*** for a more complete list of areas of concern).

ANALYSIS FINDINGS AND RECOMMENDATIONS

Following receipt of the audit, our continued analysis explored several problems with a particular focus on answering two questions:

- Have any, and all, misappropriated funds been accounted for and recovered?
- Do any of these issues constitute or involve fraud?

To answer the first question it was necessary to determine a balance of all outstanding expenses/obligations/encumbrances versus grant monies already paid to WCCVA. The most recent reimbursement request from the WCCVA for \$132K covers expenses from the time period of August of 2017 to February of 2018. From that amount we must first back out the amount owed back to the grant (for approximately \$115K of services inappropriately invoiced to and paid by the AGO). This leaves a small amount (approximately \$17K) to be paid to WCCVA. As we have conducted our analysis, the AGO has been facilitating direct payments from the grant for some third party expenses (e.g. rent for the facility, independent audits). While it remains difficult to arrive at a specific balance, at this time it appears that WCCVA likely does not owe money back to the grant related to expenditures. A final determination of the total misappropriated funds would be made during the review by the State Auditor's Office, if that is the chosen path.

To the second point, it is clear that these state funds have not been properly administered. We had not been assuming, however, that fraud had occurred. Based on the recent audit findings, the faulty invoices, and lack of proactive return of public funds (that were not used for reported purposes), I believe it is appropriate, per **RCW43.09.185**, to contact the State Auditor to review this situation and to make that determination.

Throughout this process, but especially as the situation came into better focus, I implored the WCCVA Board to better understand and appreciate the severity and implications of the issues that we had identified - I remain concerned about that appreciation and understanding and believe it to be related to a lack of experience in dealing with public funds and adhering to associated requirements. AGO staff have faced considerable challenges in trying to help WCCVA achieve compliance with state grant requirements - I do not recommend that the AGO continue its role as grant administrator for funding directed to the WCCVA.