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# Conclusion

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## Bifurcated Funding and Responsibilities Pose Accountability Challenges to the Attorney General

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The loosely related topics reviewed in this report (centralization of the Attorney General's Office, how the Office provides legal representation to licensing boards, and its methods of contracting for private counsel in workers' compensation and tort cases) are operational matters that, in most cases, are receiving active management attention from the Office. The few problems we identified do not necessarily share the same causation, nor lend themselves to the same solutions.

***Multiple sources of funding and scattered offices do not support overall office centralization.***

By allowing agencies to fund their legal representation, the Attorney General and the Legislature together have created a funding arrangement that meets immediate needs. However, multiple sources of funding and scattered officing arrangements do not work to support overall office centralization, a principle that has to do with ensuring a unified and consistent legal position for the state. To address these matters, the Attorney General needs to take steps to ensure that supervision is in place, and that attorneys are not isolated from their supervisors and peers.

***Board representation funding mechanism is tenuous.***

As to board representation, the Attorney General should document use patterns by board, and present the Legislature with options for meeting expanding demands for legal services. Further, the existing funding system has benefits, but it is a tenuous system for the long term. The Legislature may wish to re-vamp it, based on research and recommendations from the Attorney General's Office.

Because of its authority to contract privately for tort and worker's compensation representation, the Office has a special obligation to monitor contractor performance and account for expenditures. It is clear that the Attorney General must use professional judgment in making decisions, and some legal matters involve confidentiality. Nevertheless, the Office needs to look for more opportunities to inject accountability and

***We suggest more analysis of information to guide management decisions and provide accountability.***

monitoring in the contracting it does. The Attorney General has stated an intention to develop more policy in managing outside counsel, and we urge him to include equitable compensation for routine contracts when making these adjustments.

In several areas, we suggest better record-keeping systems and more data analysis, to inform management decisions and provide the basis for accountability. In addition, because the volume and complexity of future tort and workers' compensation cases are unknown, we believe it is important for the Office to retain some flexibility to contract for services. This discretion should be exercised under circumstances dictated by the Attorney General's professional judgment.

***Dividing responsibility between the Office and agencies weakens overall accountability.***

The Attorney General has responsibility for millions more dollars of the state's legal work than is represented in the Office's budget. This includes, as discussed in this report, the assistant attorneys general and contract counsel paid by other agencies. To this point, the Attorney General has focused on managing the legal aspects of this work, and has left the financial accounting to the agencies that pay for it. While this approach accomplishes the central Attorney General responsibility of maintaining consistency in the state's legal position, it does not allow Office managers and state policy makers to monitor costs along with results.

To address this situation, the Attorney General might first investigate whether or not it is feasible to transfer funds into the Office budget so he can have more complete control and oversight over the Office's work. If the complexities of state government budgeting will not allow this, it is essential that the Office and its associated agencies develop systems together, or that one or the other step forward, to provide comprehensive program oversight. Continuing this bifurcated system poses risks to overall accountability.