

SUMMARY

The Office of the Auditor General conducted a special review of the Fixed Cost Litigation Account pursuant to the authority vested in the Office of the Auditor General by the Navajo Nation Code (12 N.N.C. Chapter 1 Section 1-10). The special review was to determine whether the Attorney General utilized the Fixed Cost Litigation Account (FCLA) for its intended purpose. The Navajo Nation Council established the FCLA to fund the Navajo Nation's litigation costs. Compilation of the Financial Management Information System financial data shows the expenditures recorded in the FCLA were in accordance with the purpose of the account, such as external counsel litigation costs which include fees, travel, and miscellaneous expenses. However, we noted deficiencies in the management of the FCLA as follows:

FINDING I: Lack of Rules and Regulations in the Procurement of External Legal Counsel

The Navajo Nation Attorney General uses non-competitive contract awards in procuring the services of external legal counsel to handle any particular matter deemed appropriate by the Attorney General and retain such counsel to provide specialized legal expertise not available within the Office of the Attorney General and Department of Justice. Title 2 N.N.C. Section 1964 requires the Attorney General to adopt reasonable rules and regulations to allow for the hiring of independent and additional external counsel as needed. The Attorney General did not establish rules and regulations in the procurement of external counsel. The lack of rules and regulations contributed to the following deficiencies in the management of FCLA:

1. Inadequate planning over the procurement of external legal counsel.
2. Lack of monitoring over external legal service contracts.
 - a. Lack of contract tracking system.
 - b. Budget modifications led to significant increases of external attorney legal costs.
 - c. Payment to a law firm for legal services outside the scope of contract work plan.

FINDING II: Lack of Reporting of FCLA Activities to Oversight Committee

Reporting to an independent body such as the Attorney General's oversight committee is one of the strongest controls that the Attorney General can implement to ensure the legal affairs of the Navajo Nation are monitored and the legal process is performed efficiently and effectively. Our review shows the Attorney General is not providing FCLA activity reports to its oversight committee. The Law and Order Committee has yet to receive a detailed report on the FCLA activity.