

STATE OF ARIZONA

## Joint Legislative Budget Committee

STATE  
SENATE

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HOUSE OF  
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JOHN KAVANAGH  
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### JOINT LEGISLATIVE BUDGET COMMITTEE

Tuesday, March 26, 2013

8:00 A.M.

House Hearing Room 4

### MEETING NOTICE

- Call to Order
- [Approval of Minutes of December 18, 2012.](#)
- DIRECTOR'S REPORT (if necessary).
- EXECUTIVE SESSION - Arizona Department of Administration, Risk Management Services - Consideration of Proposed Settlements under Rule 14.
- 1. [ADOPTION OF COMMITTEE RULES AND REGULATIONS.](#)
- 2. [ARIZONA DEPARTMENT OF ADMINISTRATION - Review of Automation Projects Fund Expenditures.](#)
- 3. [ATTORNEY GENERAL](#)
  - A. [Review of Allocation of Settlement Monies - State v. GlaxoSmithKline, LLC.](#)
  - B. [Review of Allocation of Settlement Monies - State v. Pfizer, Inc.](#)

The Chairman reserves the right to set the order of the agenda.

3/19/13

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People with disabilities may request accommodations such as interpreters, alternative formats, or assistance with physical accessibility. Requests for accommodations must be made with 72 hours prior notice. If you require accommodations, please contact the JLBC Office at (602) 926-5491.



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### MINUTES OF THE MEETING

#### JOINT LEGISLATIVE BUDGET COMMITTEE

December 18, 2012

The Chairman called the meeting to order at 9:35 a.m., Tuesday, December 18, 2012, in Senate Appropriations Room 109. The following were present:

Members:	Senator Shooter, Chairman	Representative Kavanagh, Vice-Chairman
	Senator Biggs	Representative Alston
	Senator Cajero Bedford	Representative Court
	Senator Klein	Representative Fillmore
	Senator Murphy	Representative Harper
	Senator Yarbrough	Representative Jones
Absent:	Senator Crandall	Representative Heinz
	Senator Lopez	Representative Tovar

#### APPROVAL OF MINUTES

Hearing no objections from the members of the Committee to the minutes of October 4, 2012, Chairman Don Shooter stated that the minutes would stand approved.

#### JLBC STAFF – Consider Approval of Index for School Facilities Board Construction Costs.

Mr. Andrew Hartsig, JLBC Staff, stated that this item is to consider approval of adjustment to the cost-per-square-foot factors used in the School Facilities Board (SFB) building renewal and new school construction financing. The JLBC Staff presented options to the Committee.

Mr. Dean Gray, Executive Director, SFB, responded to member questions.

Senator Cajero Bedford moved that the Committee support option #2 to approve the SFB request for a 6.6% increase for K-8 grade levels and 7.26% for 9-12 grade levels in the cost-per-square-foot factors for SFB construction costs. The motion failed.

Representative Kavanagh moved a substitute motion that the Committee approve a 0% adjustment in the cost-per-square-foot factors for SFB construction costs. The substitute motion carried.

(Continued)

## ARIZONA DEPARTMENT OF ADMINISTRATION

### A. Review of the Arizona Public Safety Communication Advisory Commission.

Mr. Brett Searle, JLBC Staff, stated that this item is a review of the Arizona Public Safety Communication Advisory Commission's (PSCC) FY 2012 annual report and progress of the statewide interoperability design project. The JLBC Staff presented options to the Committee.

Mr. Aaron Sandeen, Deputy Director, ADOA, and Commissioner of PSCC, responded to member questions.

Mr. Justin Turner, Deputy Statewide Interoperability Coordinator, Public Safety Interoperable Communications (PSIC) Office, responded to member questions.

Ms. Lisa Meyerson, Statewide Interoperability Coordinator, PSIC, responded to member questions. In answer to a request, Ms Meyerson noted she would, after conferring with the Department of Homeland Security, provide the Committee with numbers regarding what portion of the Homeland Security grants for local governments goes to interoperability advancement.

*Representative Kavanagh moved that the Committee give a favorable review to PSCC's FY 2012 annual report and further that staff be directed to communicate to the Senate President and the Speaker of the House of Representatives that the appropriate Senate and House committees be tasked with examining the purpose and the scope of the Public Safety Communication Advisory Commission and whether it be eliminated, altered, or retained. The motion carried.*

### B. Review of Emergency Telecommunication Services Revolving Fund Expenditure Plan.

Mr. Brett Searle, JLBC Staff, stated that this item is a review of ADOA's Emergency Telecommunication Services Revolving Fund FY 2013 Expenditure Plan. The JLBC Staff presented options to the Committee.

Ms. Barbara Jaeger, State 9-1-1 Administrator, ADOA, responded to member questions.

*Representative Kavanagh moved that the Committee give a favorable review to ADOA's \$5.5 million wireless portion of the FY 2013 Emergency Telecommunication Services Revolving Fund Expenditure Plan. The motion carried.*

### ATTORNEY GENERAL - Review of Allocation of Settlement Monies.

Mr. Andrew Hartsig, JLBC Staff, stated that this item is a review of the Attorney General's (AG) expenditure plan for a total of \$2,000,000 from a consent judgment with Janssen Pharmaceuticals, Inc. The JLBC Staff recommended a favorable review of this item.

*Representative Kavanagh moved that the Committee give a favorable review of the AG's allocation plan from the \$2,000,000 consent judgment with Janssen Pharmaceuticals, Inc. The motion carried.*

### EXECUTIVE SESSION

*Senator Biggs moved that the Committee go into Executive Session. The motion carried.*

At 10:37 a.m. the Joint Legislative Budget Committee went into Executive Session.

(Continued)

Representative Kavanagh moved that the Committee reconvene into open session. The motion carried.

At 11:08 a.m. the Committee reconvened into open session.

**A. Arizona Department of Administration, Risk Management Services - Consideration of Proposed Settlements under Rule 14.**

Representative Kavanagh moved that the Committee approve the recommended settlement proposal by the Attorney General's Office in the case of McGill v. State, et al.

The motion carried.

**B. Arizona Department of Administration - Risk Management Annual Report.**

This item was for information only and no Committee action was required.

**C. JLBC Annual Performance Review per Rule 7.**

This item was for information only and no Committee action was required.

Without objection, the meeting adjourned at 11:10 a.m.

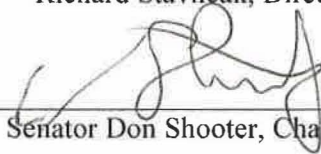
Respectfully submitted:



Alanna Carabott, Secretary



Richard Stavneak, Director



Senator Don Shooter, Chairman





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DATE: March 19, 2013

TO: Representative John Kavanagh, Chairman  
Members, Joint Legislative Budget Committee

FROM: Richard Stavneak, Director *RS*

SUBJECT: Adoption of Committee Rules and Regulations

The Committee will consider the attached rules and regulations for adoption at its March 26 meeting.

RS:lm  
Attachment

# JOINT LEGISLATIVE BUDGET COMMITTEE OF ARIZONA

## RULES AND REGULATIONS

### RULE 1

#### NAME OF COMMITTEE AND METHOD OF APPOINTMENT

The name of the Committee is the Joint Legislative Budget Committee, hereinafter referred to as the Committee, consisting of sixteen members designated or appointed as follows:

1. The majority leaders of the Senate and House of Representatives, the Chairmen of the Senate and House of Representatives Appropriations Committees, the Chairman of the Senate Finance Committee and the Chairman of the House of Representatives Ways and Means Committee.
2. Five members of the Senate and five members of the House of Representatives who are members of their Appropriations Committees shall be appointed to the Committee by the President of the Senate and the Speaker of the House of Representatives, respectively.

### RULE 2

#### STATUTORY POWERS AND DUTIES OF THE COMMITTEE

1. The Committee shall ascertain facts and make recommendations to the Legislature relating to the State budget, revenues and expenditures of the State, future fiscal needs, the organization and functions of State agencies or divisions thereof and such other matters incident to the above functions as may be provided for by rules and regulations of the Committee.
2. The Committee shall promulgate rules and regulations for the operation of the Committee.
3. The Committee shall have the powers conferred by law upon legislative committees.
4. The Committee shall make studies, conduct inquiries, investigations and hold hearings.
5. The Committee may meet and conduct its business any place within the State during the sessions of the Legislature or any recess thereof and in the period when the Legislature is not in session.
6. The Committee may establish subcommittees from the membership of the Legislature and assign to such subcommittees any study, inquiry, investigation or hearing, with the right to call witnesses, which the Committee has authority to undertake.

### RULE 3

#### CHAIRMAN OF THE COMMITTEE

The Chairman of the House of Representatives Appropriations Committee shall have a term as Chairman of the Committee from the first day of the First Regular Session to the first day of the Second Regular Session of each Legislature and the Chairman of the Senate Appropriations Committee shall have a term from the first day of the Second Regular Session to the first day of the next Legislature's First Regular Session.

### RULE 4

#### COMMITTEE PROCEEDINGS

The Committee proceedings shall be conducted in accordance with Mason's Manual of Legislative Procedure, except as otherwise provided by these rules.

# JOINT LEGISLATIVE BUDGET COMMITTEE OF ARIZONA

## RULES AND REGULATIONS

### RULE 5

#### SUBCOMMITTEES

The Committee may establish subcommittees from the membership of the Legislature and assign to such subcommittees any study, inquiry, investigation or hearing with the right to call witnesses which the Committee has authority to undertake. Each such subcommittee shall include in its membership an equal number of Senate and House of Representatives members.

### RULE 6

#### QUORUM

A majority of the members of the Committee shall constitute a quorum for the transaction of business.

### RULE 7

#### LEGISLATIVE BUDGET ANALYST

The Legislative Budget Analyst (hereinafter "Director") shall be the Staff Director and the Chief Executive Officer of the Committee. The Director shall be appointed by the Committee and shall serve on a full-time basis. The Committee shall annually review the Director's performance and the Committee or the Chairman and Vice Chairman shall determine the Director's salary within the limits prescribed by law. The Chairman of the Committee may appoint a subcommittee to make recommendations concerning these matters.

In addition to the responsibilities prescribed by A.R.S. § 41-1273, the duties of the Director shall include any duties which shall be assigned by the Committee, including the following:

1. Compilation of information for the Committee.
2. A continuous review of State expenditures, revenues and analysis of the budget to ascertain facts, compare costs, workload and other data and make recommendations concerning the State's budget and revenue of the departments, boards, commissions and agencies of the State.
3. Act as administrative head of the Committee Staff, with authority to hire and dismiss such personnel as may be necessary for the proper conduct of the office, and fix compensation of staff members within any limits set by the Committee.
4. Maintain the records and files of the Committee.
5. Shall make special reports for presentation to the Committee and to others as directed by the Committee.
6. Attend all meetings of the Committee and such other meetings and hearings as are necessary to facilitate the work of the Committee.
7. Examine as to correctness all vouchers for the expenditure of funds appropriated for the use of the Committee.

# JOINT LEGISLATIVE BUDGET COMMITTEE OF ARIZONA

## RULES AND REGULATIONS

### RULE 8

#### AGENDA FOR MEETINGS

An agenda for each Committee Meeting shall be prepared by the Director and, whenever possible, mailed or delivered to members of the Committee, not less than one week prior to the meeting. The Director must have at least three weeks prior notice for any state agency-requested items that appear on the agenda, unless the Chairman of the Committee approves of a later submission.

### RULE 9

#### ORDER OF BUSINESS

The Order of Business at a Committee meeting shall be determined by the Chairman of the Committee. It shall normally be as follows:

1. Call to order and roll call
2. Reading and approval of minutes
3. Director's Report [if any]
4. Executive Session (including Rule 14 items)
5. Items requiring Committee review and/or approval
6. Other Business - For Information Only
7. Adjournment

### RULE 10

#### DISBURSEMENTS

1. All expenditures of the Committee shall be by vouchers properly itemized and supported by receipts and shall be approved by the Director when authorized by the Chairman of the Committee.
2. All contracts and studies authorized by the Committee shall be approved by the Committee after examination.

### RULE 11

#### MEETINGS OF THE COMMITTEE

The Committee shall meet at such times and places as the Committee may determine. Additional special meetings may be called by the Chairman or by a majority of the members of the Committee.

### RULE 12

#### ADOPTION AND AMENDMENT OF THE RULES AND REGULATIONS

These rules and regulations shall be adopted and may be amended by a majority vote of the members of the Committee, provided that a quorum is present.

JOINT LEGISLATIVE BUDGET COMMITTEE OF ARIZONA

RULES AND REGULATIONS

RULE 13

FISCAL NOTES

1. The President of the Senate and the Speaker of the House of Representatives or their designees may each designate bills that shall have a fiscal note prepared regarding their impact.
2. The JLBC Staff shall prepare the fiscal notes utilizing an impact period that covers the full cost of the legislation. The fiscal notes shall indicate any local fiscal impact, where appropriate.
3. Fiscal notes shall not contain comments or opinions on the merits of the bill.
4. Exceptions to the procedure set forth in this rule shall be permitted with the approval of the Chairman and Vice Chairman of the Committee.
5. The Committee may amend or suspend this rule or any subsection hereof by a majority vote of those present and eligible to vote.
6. Procedures to implement this rule shall be prepared by the Director and approved by the Chairman and Vice Chairman of the Committee.

RULE 14

STATE LIABILITY CLAIMS - PROCEDURE FOR SETTLEMENT WHEN COVERED BY RISK MANAGEMENT SELF-INSURANCE FUND

1. General provisions for presentation of settlement to the Committee:
  - A. Settlements of \$250,000 or less do not require approval of the Committee pursuant to A.R.S. § 41-621(N). All proposed liability settlements must be presented to the Committee in accordance with these provisions and accompanied by a report containing the information specified in Paragraph 3.
  - B. The report shall be filed with the Chairman of the Committee seven days before the meeting scheduled to consider the settlement proposal.
  - C. A limited number of items may be excluded from the written report and presented orally at the Committee meeting, if the Attorney General and Risk Management Division find the exclusion to be absolutely necessary for the protection of the State's case.
  - D. All Committee settlement proceedings and material prepared for such proceedings shall be required to be kept confidential.
  - E. Any plaintiff's inquiries regarding Committee meeting dates, times and agendas should be directed to the Attorney General's Insurance Defense Section which shall consult with the JLBC Staff Director.
2. At a Committee meeting at which a settlement proposal is considered:
  - A. Material shall be presented by the Attorney General or retained defense counsel who had primary responsibility over negotiation of the settlement and/or handling of the case, together with the Manager of the Risk Management Division of the Department of Administration.

JOINT LEGISLATIVE BUDGET COMMITTEE OF ARIZONA

RULES AND REGULATIONS

RULE 14 CONTINUED

STATE LIABILITY CLAIMS (CONT'D)

- B. The Committee Chairman or a majority of the Committee, may request other witnesses to attend and testify at any settlement proposal meeting. When requested by a Committee member, the director of an agency named in a lawsuit for which a settlement is proposed shall be requested to appear at the meeting at which the settlement is proposed.
  - C. The presentation of the settlement proposal at the Committee meeting shall contain, at a minimum, the information required to be submitted pursuant to Paragraph 3.
  - D. In addition to the report, additional drafts, charts, pictures, documents or other items may be presented to the Committee by the Attorney General or Risk Management Division, if helpful in reviewing the merits of the settlement. Additional items shall be presented when requested by the Committee Chairman, or a majority of the Committee at a prior meeting, or a JLBC subcommittee to which the matter has been referred.
  - E. Upon a conclusion of the presentation, the Committee may accept the settlement as proposed, reject the settlement as proposed, recommend an alternative settlement with the advice of the Attorney General and Risk Management Division, request additional information, evaluations or appearances of witnesses, or the matter may be referred to a JLBC subcommittee for further study.
3. The written settlement proposal report submitted to the Committee for each settlement offer shall contain the following information:
- A. A one to two page executive summary of pertinent information related to the case that, at a minimum, summarizes information contained in items B, D, G, H, I, K, L, N and P below.
  - B. The names of the plaintiffs or claimants.
  - C. Whether a lawsuit has been filed, the date on which it was filed and the current status of the lawsuit. If a lawsuit has not been filed, the last date upon which a lawsuit could be filed.
  - D. The basic facts of the case including, first, the undisputed facts and secondly, those facts in dispute.
  - E. A summary of the basis or bases of liability claimed by plaintiff or claimant and the State's defenses to such liability, including the key evidence relied upon by each party.
  - F. The amount originally claimed by the plaintiff or claimant.
  - G. The identifiable damages and/or costs incurred by plaintiff or claimant to date.
  - H. Costs incurred by the State in defending the claim or suit to date.
  - I. Estimated costs to the State of defending the claim or suit through trial.
  - J. Attorney for plaintiff, Attorney General assigned to the case, retained defense counsel, if any.
  - K. Estimate of plaintiff or claimant's chances of prevailing in suit against the State.
  - L. Range of recovery likely at trial for plaintiff's claims.
  - M. Complete terms of settlement including:
    - 1. To whom payment is to be made;

JOINT LEGISLATIVE BUDGET COMMITTEE OF ARIZONA

RULES AND REGULATIONS

RULE 14 CONTINUED

STATE LIABILITY CLAIMS (CONT'D)

2. The amount of payment;
  3. The conditions, if any, attached to the payment; and
  4. Deadline for settlement, if any.
- N. Settlement recommendations of Attorney General and Risk Management and recommended response to settlement offer.
- O. Whether the State has any claim or right of recovery against other parties, e.g., subrogation or indemnification.
- P. An agency and an Arizona Department of Administration response that shall contain the following information:
1. Actions taken to eliminate or limit the future risk of liability to the state.
  2. Statement as to any disciplinary action(s) taken against any employee(s) that were negligent in carrying out their duties.
  3. An agency loss prevention plan approved by the Arizona Department of Administration (ADOA). If an approved plan is not available, ADOA will provide an explanation of why it is not approved at that time, and a timetable for submitting an approved plan.
4. In conjunction with the settlement procedures prescribed pursuant to this rule, the Risk Management Division shall:
- A. Annually report to the Committee on 1) the operations of the Division, 2) the status of pending claims and lawsuits, 3) information on actual judgements and settlements, 4) status of claims and lawsuits reported on the prior year annual report, 5) number of claims and lawsuits filed since the last report, 6) number of liability cases taken to trial with information on the verdicts and judgment amounts, and 7) projected fund balances.
  - B. With the assistance of the Attorney General, propose to the Committee any changes in State insurance coverage, State statutes, State liability principles or claims procedures which may help to limit future State liability.
  - C. Provide the Committee with an agency loss prevention plan that results from a judgment against the state in an amount equal to or greater than that which requires JLBC settlement authority. Within sixty days after payment of the judgment, ADOA will either indicate approval of the plan, provide an explanation of why it is not approved, or provide an explanation as to why a plan is no longer applicable.

RULE 15

CONFIDENTIAL NATURE OF SERVICES

The Director, members of the JLBC Staff, and those charged with the duty of processing in any manner proposed budget estimates, recommendations or research, shall not, without consent of the recipient legislator(s), disclose to any other person whomsoever, the contents of any letter, memorandum, report, or other written communicate.



JOINT LEGISLATIVE BUDGET COMMITTEE OF ARIZONA

RULES AND REGULATIONS

RULE 15 (CONTINUED)

This provision does not apply to regular JLBC Staff reports nor information which the Staff prepares and disseminates under the general authority of the Director that was not specifically requested by a legislator(s).

The violation of any provision of this rule by the Director, a member of his staff, or any person charged in any manner with the duty of processing proposed analysis or research may be deemed sufficient cause for dismissal by the Director and in the case of the Director, by the Committee.



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DATE: March 20, 2013

TO: Representative John Kavanagh, Chairman  
Members, Joint Legislative Budget Committee

THRU: Richard Stavneak, Director *RS*

FROM: Ben Henderson, Fiscal Analyst *BH*

SUBJECT: Arizona Department of Administration - Review of Automation Projects Fund Expenditures

### Request

Pursuant to Laws 2012, Chapter 298, Section 1, the Arizona Department of Administration (ADOA) has requested that the Committee review \$70 million in proposed FY 2013 - FY 2016 expenditures from the Automation Projects Fund for the replacement of the Arizona Financial Information System (AFIS). The proposal is part of a 4-year \$91.1 million automation proposal approved by the Legislature in Laws 2012, Chapter 294.

### Recommendation

The Committee has at least the following 2 options:

1. A favorable review.
2. An unfavorable review.

Under either option, the JLBC Staff recommends that:

- 1) ADOA expand their quarterly report on expenditures from the Automation Projects Fund to specifically address the current status of the Arizona Financial Information System (AFIS) replacement project. The report is to include expenditures to date, timeline for completion, and current status.
- 2) By October 1, 2013, ADOA report on all agencies, excluding the Universities, that are not participating in the new AFIS system. This report should provide justifications from each agency as to why they are not participating in the new AFIS system.
- 3) By April 1, 2014, ADOA report on the estimated ongoing maintenance costs of the new AFIS system, including costs of routine scheduled upgrades to the system and estimates for ongoing staffing requirements beyond FY 2016.
- 4) ADOA return to the Committee for further review of any expenditures from the \$4.1 million contingency allocation.

(Continued)

## Analysis

AFIS was built in 1992 and is increasingly problematic for a variety of reasons. Given its age, AFIS is incompatible with newer systems and is at significant risk of failure. On multiple occasions, the needed capacity has exceeded the limits of the system, requiring internal staff to create makeshift solutions to avoid system failure. Several agencies, including the Department of Economic Security (DES), the Arizona Health Care Cost Containment System (AHCCCS), and the Arizona Department of Transportation (ADOT), run their own financial management systems, which leads to duplicate data-entry and other inefficiencies.

### Available Funding

Laws 2012, Chapter 298, Section 1 created the Automation Projects Fund. The General Appropriation Act (Laws 2012, Chapter 294, Section 124) appropriated a total of \$91.1 million over 4 years for deposit into the Automation Projects Fund. Monies in the fund are to be used to implement, upgrade or maintain automation and information technology projects for any state agency; however, the primary purpose is the replacement of AFIS.

<b>Table 1</b>					
<b>Automation Projects Available Funding</b>					
(\$ in millions)					
<b>Fund Source</b>	<b>FY 13</b>	<b>FY 14</b>	<b>FY 15</b>	<b>FY 16</b>	<b>Total</b>
General Fund	16.8	20.0	20.0	23.0	79.8
Information Technology Fund	1.5	-	-	-	1.5
State Web Portal Fund	5.6	-	-	-	5.6
Automation Operations Fund	4.2	-	-	-	4.2
<b>Total</b>	<b>28.1</b>	<b>20.0</b>	<b>20.0</b>	<b>23.0</b>	<b>91.1</b>

To date, the Committee has given a favorable review to expenditures totaling \$17.2 million from the Automation Projects Fund. Of this \$17.2 million, \$14.2 million was designated for non-AFIS projects, and \$3 million was designated for AFIS replacement project oversight. The majority of this \$3 million was spent to contract with a third party vendor, STA, which is now a part of Information Services Group (ISG), to provide estimates for remaining expenditures, guidance on the scope of the new system, and general oversight through the process. Following the \$17.2 million in reviewed expenditures, \$73.9 million remains for the replacement of AFIS.

### Current Proposal

ADOA now estimates that the AFIS replacement project will cost \$73.0 million in total, including the \$3.0 million set aside in the initial Committee review. There are 4 main components of the project, as delineated in *Table 2*.

<b>Table 2</b>	
<b>Total Projected Expenditures</b>	
<b>AFIS Replacement Project</b>	
(\$ in millions)	
Vendor, Hardware & Software Costs	47.7
State Staffing Costs	16.0
Consultant Project Oversight	5.2
Contingency Costs	4.1
<b>Total</b>	<b>73.0</b>

#### *Vendor, Hardware & Software Costs*

ADOA has awarded a \$47.7 million contract to Consulting for Government and Industry (CGI) to construct the new AFIS system over 4 years. This amount includes \$32.7 million for the vendor (including CGI employees), \$12.6 million for software licensing and maintenance, \$1.3 million for hardware, and \$1.1 million for other costs, including disaster recovery hosting. The vendor will devote as many as 81 Full Time Equivalent (FTEs) Positions to this project, with some located on-site.

The new AFIS system will be an off-the-shelf system configured specifically for Arizona. The vendor has built similar financial management systems for other states, including Utah and West Virginia. In addition, the vendor currently operates the financial systems for DES and ADOT, as well as hosting services for the ProcureAZ website.

(Continued)

#### *State Staffing Costs*

Project costs for the state are estimated to total \$16.0 million through FY 2016. The staffing costs will vary by year, with a maximum cost of \$5.0 million in FY 2015.

The most significant portion of state staffing costs will be \$11.7 million allocated to hiring 40-43 FTE Positions during the design, build, and test phases of the project. Included in this total will be FTE Positions devoted to developing financial reports for the various AFIS functions and business modules, in addition to technical developers and analysts who will focus on programming and data security.

An additional 5-6 FTE Position may be contracted on a temporary basis for a total cost of \$2.7 million. These FTE Positions would focus on enterprise readiness, and would have the responsibility of assisting state agencies with implementing necessary changes to current business processes in preparation of the new system. The exact number of FTE Positions will continue to be clarified during the Business Process Reengineering (BPR) phase of the project. *Please see the Project Timeline and Ongoing Cost sections below for more details.*

The remaining \$1.6 million of state costs will fund the operational expenses of the AFIS replacement project office, including rent, laptops, and other infrastructure equipment.

#### *Consultant Project Oversight*

Given the complexity of information technology (IT) projects, review of these initiatives is difficult without the relevant expertise. As a result, ADOA has contracted with a third-party consultant to assist in the oversight of the replacement of AFIS.

On June 26, 2012, the Committee reviewed \$3 million for AFIS replacement project oversight. This \$3 million was used to contract with a third party vendor, STA, to provide estimates for remaining expenditures, guidance on the scope of the new system, and general oversight for the entire AFIS replacement process. An additional \$2.2 million will be allocated to fund STA through FY 2016, for a total cost of \$5.2 million for project oversight.

In addition to oversight provided by STA, all IT projects over \$25,000 are reviewed by the Arizona Strategic Enterprise Technology (ASET) office, an IT oversight division within ADOA. If an IT project exceeds \$1.0 million, statute requires approval by the Information Technology Authorization Committee (ITAC). ITAC consists of members from both the public and private sectors and is staffed by ADOA. This project received ITAC approval on November 28, 2012, but must return to provide an informational update on the award granted to CGI.

#### *Contingency Costs*

For projects of this magnitude, there may be occasional unforeseen costs that arise during the building and implementation phases of the project. ADOA has requested a total of \$4.1 million to cover any of these unforeseen costs, known as contingency costs. The JLBC Staff has recommended that ADOA return to the Committee for further review of any expenditures from the \$4.1 million contingency allocation.

#### Cost Estimate

Based on a review by STA of other states' automation projects, STA believes that Arizona's awarded contract amount and other estimates are reasonable in comparison. Because states' systems differ regarding scope, and timeline for implementation, a direct cost comparison between projects is difficult to make. For example, certain states include non-accounting functions within their systems, such as procurement and human resource management. Arizona has opted not to include these functions in the scope of the project, and the new AFIS system will not include any changes to the Human Resource Information System (HRIS) or the state procurement system.

Arizona's vendor, hardware and software costs are estimated to be \$47.7 million. Central automation projects in other states ranged between \$34.3 million in Kansas and \$162.6 million in Pennsylvania, however, these projects varied greatly in terms of scope and functionality. The states that implemented accounting-only systems most similar to Arizona's new AFIS system are Kansas, at a cost of \$34.3 million, and Louisiana at a cost of \$53.7 million.

### Project Timetable

CGI is expected to begin work on the project on April 1, 2013. After the initial design and scope phase, ADOA will proceed with the Business Process Reengineering (BPR) phase. This involves evaluating the compatibility of all current business practices with the new system, and will occur over the first 5 months of the project. The BPR phase is intended to further clarify the scope of the new AFIS system, including nonparticipating agencies, and the total required FTE Positions for the implementation and post-implementation phases. Because of this, the JLBC Staff has recommended that ADOA provide the Committee with a report summarizing the completion of the BPR phase.

Following the BPR phase, the project will move into the design, build, test and implementation phases, with a planned completion date of July 1, 2015. As the state begins to use the new system, CGI will be responsible for providing 15 months of post-implementation support, through the first fiscal year and fiscal year-end process. It is likely that both AFIS systems will operate concurrently throughout FY 2016.

### Ongoing Costs

Upon the project's completion, ADOA estimates that the new AFIS system will have ongoing costs of approximately \$7 million each year, depending on certain factors. These costs include software maintenance and licensing, state staff and benefits, as well as hosting, support facilities and equipment. A comparison to the ongoing costs of the current system is difficult due to the current system reaching the end of its useful life, as well as the significant differences in scope between the old and new systems.

Numerous factors may affect the ultimate level of these ongoing costs. One such factor is where the new AFIS system will be hosted. CGI will host the AFIS system through December of 2014, when ADOA will have the option of transferring the AFIS system to the State Data Center. If the state were to have the AFIS system hosted by CGI, ongoing annual hosting costs are estimated to be \$1.1 million per year. It is currently unknown how much it would cost annually to host the new AFIS system in the State Data Center.

In addition to the \$7 million of ongoing annual costs, ADOA will face expenses related to scheduled upgrades in future years. ADOA estimates the upgrades will occur approximately every 5 years, with the first potentially occurring in FY 2019. This upgrade is estimated to cost \$5.3 million, which includes 13 FTE Positions for consulting purposes in that year. Estimates of ongoing costs will be further refined as ADOA moves through the BPR phase of the project.

### Appropriation Realignment

The awarded vendor contract will require realigning the allocation of the 4-year General Fund appropriation as delineated in *Table 3*. While the total project cost will remain within budget, a portion of the FY 2016 appropriation would be shifted into FY 2014 and FY 2015.

<b>Table 3</b>			
<b>Appropriation Realignment</b>			
(\$ in millions)			
	<u><b>Available Funding</b></u>	<u><b>Requested Funding</b></u>	<u><b>Difference</b></u>
FY 2013	10.0	10.0	0.0
FY 2014	20.0	27.3	7.3
FY 2015	20.0	26.5	6.5
FY 2016	23.0	9.2	(13.8)
<b>Totals</b>	<b>73.0</b>	<b>73.0</b>	<b>0.0</b>

RS:BHe/ts

Janice K. Brewer  
Governor



Brian C. McNeil  
Director

**ARIZONA DEPARTMENT OF ADMINISTRATION**

**OFFICE OF THE DIRECTOR**

100 NORTH FIFTEENTH AVENUE • SUITE 401  
PHOENIX, ARIZONA 85007  
(602) 542-1500



March 14, 2013

The Honorable John Kavanagh  
Chairman  
Joint Legislative Budget Committee  
Arizona House of Representatives  
1700 West Washington Street  
Phoenix, Arizona 85007

The Honorable Don Shooter  
Vice-Chairman  
Joint Legislative Budget Committee  
Arizona State Senate  
1700 West Washington Street  
Phoenix, Arizona 85007

Dear Representative Kavanagh and Senator Shooter:

In accordance with Arizona Revised Statutes §41-714, the Arizona Department of Administration (ADOA) is submitting this request for review of an expenditure plan for the Arizona Financial Information System (AFIS) Replacement project, also known as the Enterprise Resource Planning (ERP) project. Monies to support the expenditure plan have already been appropriated to the Automation Projects Fund.

In the June 26, 2012 Joint Legislative Budget Committee meeting, the Committee gave a favorable review of the ADOA request for \$16.4 million in proposed expenditures from the Automation Projects Fund, of which \$3 million was designated for AFIS replacement. Beyond that initial review, ADOA understood that additional JLBC reviews would be needed after the procurement of project related services and software was complete. We have completed that procurement process and have notified the firm, CGI, that it has been selected for award. Therefore, this request is for a review of the expenditure plan for the AFIS replacement project, which will span fiscal years 2013 through 2016. ADOA projects expenditures of \$73 million, including the \$3 million previously reviewed, over the life of the project. This figure is consistent with previous estimates and is within the total amount appropriated for the project.

The attached document provides a breakdown of the expenditure categories of the project, by fiscal year. We will be happy to meet with your staff to provide further explanation as appropriate.

Sincerely,

  
Brian C. McNeil  
Director

Attachment

cc: Richard Stavneak      John Arnold  
Ben Henderson      Ken Matthews  
Clark Partridge      Aaron Sandeen  
Mike Smarik      Paul Shannon



# AFIS REPLACEMENT (ERP) PROJECT COSTS vs FUNDING

Category	FY 13	FY 14	FY 15	FY 16	Total
Integrator & Software Costs	\$ 6,488,000	\$ 17,912,000	\$ 18,157,000	\$ 5,178,000	\$ 47,735,000
State Costs	1,049,000	4,960,000	6,742,000	3,207,000	15,958,000
Project Oversight	1,090,000	1,634,000	1,634,000	817,000	5,175,000
Sub-Total	8,627,000	24,506,000	26,533,000	9,202,000	68,868,000
Contingency	-	4,132,000	-	-	4,132,000
Total Fiscal Year Costs	8,627,000	28,638,000	26,533,000	9,202,000	73,000,000
Total Fiscal Year Funding	10,000,000	20,000,000	20,000,000	23,000,000	73,000,000
Annual Excess (Deficit)	1,373,000	(8,638,000)	(6,533,000)	13,798,000	
Carry Forward Excess Funding		1,373,000			
Funding Available (Needed)	1,373,000	(7,265,000)	(6,533,000)	13,798,000	
FY Costs	8,627,000	28,638,000	26,533,000	9,202,000	73,000,000
Cumulative Costs Total	8,627,000	37,265,000	63,798,000	73,000,000	
FY Funding	10,000,000	20,000,000	20,000,000	23,000,000	73,000,000
Cumulative Funding Total	10,000,000	30,000,000	50,000,000	73,000,000	
Cumulative Difference (Cost vs. Funding)	\$ 1,373,000	\$ (7,265,000)	\$ (13,798,000)	\$ -	\$ -



## STATE COST RECAP

Category	FY 13	FY 14	FY 15	FY 16	Total
State Staff & Benefits	\$ 324,000	\$ 3,874,000	\$ 4,934,000	\$ 2,491,000	\$11,623,000
Staff Aug - Ent Readiness	-	792,000	1,440,000	504,000	2,736,000
Lease	25,000	294,000	368,000	212,000	899,000
Laptops	100,000	-	-	-	100,000
Furniture	500,000	-	-	-	500,000
Phones & Infrastructure	100,000	-	-	-	100,000
<b>Total State Costs</b>	<b>\$ 1,049,000</b>	<b>\$ 4,960,000</b>	<b>\$ 6,742,000</b>	<b>\$ 3,207,000</b>	<b>\$ 15,958,000</b>

**AFIS Replacement Project**  
 Estimate of On-going ERP Support Costs  
 March 15, 2013

**On-going State Support Organization - 6 Mo FY '16 + Full FY Costs '17 to '20**

(rounded to the nearest \$000)

On-going Support Cost Categories	Assumptions	FY '16 Year 3	FY '17 Year 4	FY '18 Year 5	FY '19 Year 6	FY '20 Year 7
Consultant Support for Upgrade	Assumes 13 consulting FTEs for one year	\$ -	\$ -	\$ -	\$ 5,275,000	\$ -
State Staff and Benefits	See 'Consolidated Resources' tab	\$ 2,093,000	\$ 4,147,000	\$ 3,995,000	\$ 4,075,000	\$ 4,042,000
Software Maintenance	x% of software cost + inflation beginning Yr 6	\$ 625,000	\$ 1,287,000	\$ 1,325,000	\$ 1,365,000	\$ 1,406,000
Production & DR Environments	Based on optional HW and DR hosting rates	\$ 544,000	\$ 1,110,000	\$ 1,112,000	\$ 1,124,000	\$ 1,126,000
ERP Support Facilities & Equipment	\$250k base cost + inflation	\$ 125,000	\$ 250,000	\$ 255,000	\$ 260,000	\$ 265,000
<b>Total Projected Support Cost</b>		<b>\$ 3,387,000</b>	<b>\$ 6,794,000</b>	<b>\$ 6,687,000</b>	<b>\$ 12,099,000</b>	<b>\$ 6,839,000</b>

**On-going Support Metrics**

Annual Escalation Factors:

State Staff and Benefits	1.020
Software Maintenance	1.030
Prod & Dev Environments	1.050
General Inflation	1.020
Benefits Overhead Factor	1.400

Statewide ERP Software Cost Comparison  
October 9, 2008

State	Scope (A)	No. of FTEs (B)	State Expenditures (in \$000's) (C)	Software Costs	Implementation Vendor Costs	Hardware Costs	Total Costs	Implement. Complete	Total Duration in Months
Arkansas (1)	Full ERP	34,501	\$ 20,333	\$ 4,385,000	\$ 25,925,000	\$ 6,200,000	\$ 36,510,000	July 2001	16
Connecticut	Full ERP	46,352	\$ 20,545	\$ 11,000,000	\$ 88,000,000	\$ 7,000,000	\$ 106,000,000	Sept. 2004	66
Georgia (2)	Full ERP	54,748	\$ 39,166	\$ 6,487,000	\$ 24,102,000	\$ 8,326,000	\$ 38,915,000	Oct. 1999	18
Mississippi	Full ERP	36,714	\$ 19,777	\$ 5,167,000	\$ 46,553,000	\$ 4,500,000	\$ 56,220,000	In Progress	30
Missouri	Full ERP	56,508	\$ 24,728	\$ 2,500,000	\$ 33,100,000	Unknown	\$ 35,600,000	June 2001	42
Ohio	Full ERP	55,650	\$ 60,314	\$ 5,000,000	\$ 84,000,000	\$ 14,000,000	\$ 103,000,000	June 2007	42
Pennsylvania (3)	Full ERP	80,423	\$ 70,089	\$ 29,000,000	\$ 126,100,000	\$ 7,500,000	\$ 162,600,000	Feb. 2004	42
Tennessee (4)	Full ERP	42,500	\$ 30,904	\$ 7,009,000	\$ 59,798,000	\$ 8,000,000	\$ 74,807,000	Oct. 2009	30
West Virginia (5)	Full ERP	37,421	\$ 21,492	\$ 13,298,000	\$ 45,937,000	\$ 2,923,000	\$ 62,158,000	In Progress	48
Arizona	FI/PU	38,159	\$ 29,264	\$ 12,991,000	\$ 32,709,000	\$ 2,035,000	\$ 47,735,000		30
Kansas	FI/PU	40,721	\$ 14,778	\$ 2,800,000	\$ 29,000,000	\$ 2,500,000	\$ 34,300,000	July 2010	22
Louisiana (6)	FI/PU	45,726	\$ 30,174	\$ 5,600,000	\$ 41,600,000	\$ 6,500,000	\$ 53,700,000	Oct. 2010	24
Minnesota (7)	FI/PU	35,516	\$ 32,082	\$ 4,100,000	\$ 30,662,000	\$ 4,000,000	\$ 38,762,000	July 2011	21

(A) "Full ERP" refers to the implementation of typical modules required to address Financial Management, Procurement, Human Resources, Payroll, and other administrative business functions. "FI/PU" refers to the implementation of Financial Management, and Procurement and Logistics functions only.

(B) Per NASBO 2011 Fiscal Survey of States

(C) Per NASBO 2010 State Expenditure Report

- (1) Implemented limited financial management and HR/payroll functionality due to lack of software maturity and need to address Y2K problem through condensed implementation period.
- (2) Implemented limited financial management and HR/payroll functionality due to lack of software maturity and need to address Y2K problem.
- (3) The Commonwealth of Pennsylvania's hardware cost is based on data center charges of \$2,500,000 per year.
- (4) The State of Tennessee's hardware cost is based on data center charges of \$4,000,000 per year.
- (5) Low implementation costs primarily due to extremely low average hourly billing rate of \$112.
- (6) Implementation scope was modified to include only Louisiana Department of Transportation and Development as a pilot. System will be deployed statewide at a later date.
- (7) Implementation cost is relatively low due to deferral of some procurement functionality and inclusion of only 3 months of post-implementation support.

ISG Clients	
Non-ISG Clients	

CONFIDENTIAL



STATE OF ARIZONA

## Joint Legislative Budget Committee

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STEFANIE MACH  
JUSTIN OLSON  
MICHELLE UGENTI

DATE: March 19, 2013

TO: Representative John Kavanagh, Chairman  
Members, Joint Legislative Budget Committee

THRU: Richard Stavneak, Director *RS*

FROM: Andrew Hartsig, Fiscal Analyst *AH*

SUBJECT: Attorney General - Review of Allocation of Settlement Monies - State v.  
GlaxoSmithKline, LLC

### Request

The General Appropriation Act (Laws 2012, Chapter 294) contains a footnote that requires Joint Legislative Budget Committee (JLBC) review of the expenditure plan for settlement monies over \$100,000 received by the Office of the Attorney General (AG), or any other person on behalf of the State of Arizona, prior to expenditure of the monies. Settlements that are deposited in the General Fund pursuant to statute do not require JLBC review.

This request is for review of a \$3.0 million allocation from a consent judgment with GlaxoSmithKline, LLC (Glaxo), \$650,000 of which will be deposited into the AG's Consumer Fraud Revolving Fund and \$2.4 million of which will be used to fund childhood obesity research.

### Recommendation

The Committee has at least the following options:

1. A favorable review of the \$3.0 million allocation plan.
2. An unfavorable review of the allocation plan.

In addition, the JLBC Staff recommends that the AG return to the Committee for further review once it develops a specific plan for a childhood obesity program.

### Analysis

In November 2012, the AG and 36 other states entered into a consent judgment with Glaxo as a result of a consumer fraud investigation. The investigation alleged that Glaxo misrepresented and understated side effects and advertised unsupported benefits of Avandia, a diabetes drug.

(Continued)

The settlement requires Glaxo to pay \$3.0 million to the AG. Of that amount, \$650,000 will be deposited into the Consumer Fraud Revolving Fund for attorney fees, investigation costs, and to support consumer fraud investigations, consumer education, enforcement of the Consumer Fraud Act and AG operating expenses. The amount deposited into the Consumer Fraud Revolving Fund represents the AG's estimate of attorney fees and investigative costs that have and will be incurred in connection with the case. The Consumer Fraud Revolving Fund is appropriated and the AG's ability to expend up to the fund's appropriation level of \$3.5 million depends on the amount of settlement revenues into the fund.

The remaining \$2.4 million will fund research programs that address childhood obesity. The split of the settlement between the Consumer Fraud Revolving Fund and childhood obesity research was negotiated between Glaxo and the AG. The AG chose to fund childhood obesity research to receive the funds to attempt to benefit the Arizona residents negatively impacted by Glaxo's conduct. The AG has not yet issued Requests for Proposals or taken other steps to issue the funds and the \$2.4 million is currently held in trust. Other states in the settlement have chosen to fund a variety of different types of programs, including non-obesity related programs, with their restitution money.

The settlement also requires Glaxo to avoid misleading claims about its diabetes medicines and to post summaries of its sponsored studies and clinical trials.

In June 2011, the AG entered into another consent judgment with Glaxo as a result of their consumer fraud investigation of Glaxo's subsidiary, SB Pharmco. The investigation determined that SB Pharmco, which has since ceased to exist as a corporation, had substandard drug manufacturing practices. The settlement required Glaxo to pay \$1,363,900 to the AG's Consumer Fraud Revolving Fund.

RS/AH:ac



TOM HORNE  
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL  
PUBLIC ADVOCACY DIVISION  
CONSUMER PROTECTION & ADVOCACY SECTION

DENA R. BENJAMIN  
SECTION CHIEF COUNSEL  
DIRECT PHONE No. (602) 542-7717  
DENA.BENJAMIN@AZAG.GOV

January 2, 2013

The Honorable Steve Pierce  
President of the Senate  
1700 West Washington Street  
Phoenix, AZ 85007

The Honorable Andy Tobin  
Speaker of the House  
1700 West Washington Street  
Phoenix, AZ 85007

The Honorable Don Shooter  
Chairman, Joint Legislative Budget Committee  
1700 West Washington Street  
Phoenix, AZ 85007



Re: *State of Arizona v. GlaxoSmithKline, LLC – Pima County, C20127101*

Gentlemen:

The State of Arizona recently settled a case against GlaxoSmithKline, LLC ("Glaxo"), resolving allegations that the company deceptively marketed its diabetes medication Avandia®, by, among other things, promoting Avandia to physicians and other health care providers with false and misleading representations about Avandia's safety profile.

The settlement, in the form of a Consent Judgment, was joined by 36 other Attorneys General and the District of Columbia. The State's Complaint, filed concurrently with the Consent Judgment, alleged that Glaxo engaged in deceptive practices in connection with its marketing and promotion of Avandia, an approved drug for the treatment of diabetes.

The Complaint alleges that Glaxo:

1. Misrepresented and understated Avandia's cardiovascular risks. The complaint alleges that GSK represented that Avandia had cardiovascular benefits when in fact Avandia did not provide cardiovascular benefits. In fact, Avandia may well have increased cardiovascular risks in patients according to the lawsuit.
2. Misrepresented that Avandia had a positive cholesterol profile although Glaxo did not have any competent and reliable scientific evidence to support its cholesterol claim.



The Consent Judgment prohibits Glaxo from illegally promoting its diabetes medicine and requires the company to significantly change its business practices. Under the Consent Judgment:

- o Glaxo shall not make, or cause to be made, any written or oral claim that is false, misleading, or deceptive about any Glaxo Diabetes Product;
- o Glaxo shall not represent that any Glaxo Diabetes Product has any sponsorship, approval, characteristics, ingredients, uses, benefits, quantities, or qualities that it does not have;
- o Glaxo shall only Promote Glaxo Diabetes Products for uses permitted under the FDA-approved labeling or the Federal Drug and Cosmetics Act;
- o Defendant shall not represent in a promotional context that an investigational new Glaxo Diabetes Product is safe or effective for the purposes for which it is under investigation or otherwise promote the drug; and
- o Defendant shall report research in an accurate, objective and balanced manner as required by applicable law.

The Judgment also contains, among other terms, the following:

- o GSK must post summaries of all GSK-sponsored observational studies or meta-analyses that GSK conducts that are designed to inform the medical community and the public that the diabetes drugs are effective, safe, and/or appropriate for use in diabetic patients; and
- o GSK must post accurate summaries of GSK-sponsored clinical trials of any diabetes products within 8 months of the primary completion date.

As a result of this consumer protection enforcement action, Glaxo agreed to pay a total of \$90 million to the settling states to resolve the multistate investigation and avoid litigation. Arizona's share is \$3,043,663.56. Under the court-approved Consent Judgment, \$650,000 is to be deposited into the Consumer Fraud Revolving Fund for investigative costs, expenses and attorney's fees. The remaining funds are restitutionary in nature, to be used to develop and support programs that specifically address childhood obesity which can lead, later in life, to Type II Diabetes.

Our notification of this settlement is made without prejudice to our Office's long-standing position that it is not under any legal obligation to provide notices of settlements to the Joint Legislative Budget Committee. We are providing this notification to you as a courtesy so that you will be aware of this important settlement.

If you have any questions, please feel free to contact me at (602) 542-7717 or by e-mail at [dena.benjamin@azag.gov](mailto:dena.benjamin@azag.gov).

Sincerely,



Dena R. Benjamin  
Section Chief Counsel  
Consumer Protection and Advocacy Section



cc: The Honorable John Kavanaugh  
The Honorable Chad Campbell  
The Honorable David Schapira  
Mr. Richard S. Stavneak  
Mr. Andrew Hartsig (Consent Judgment enclosed)  
Mr. Joe Sciarotta  
Mr. Art Harding  
Ms. Vicki Salazar

#2946925



STATE OF ARIZONA

## Joint Legislative Budget Committee

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HOUSE OF  
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STEFANIE MACH  
JUSTIN OLSON  
MICHELLE UGENTI

DATE: March 19, 2013

TO: Representative John Kavanagh, Chairman  
Members, Joint Legislative Budget Committee

THRU: Richard Stavneak, Director *RS*

FROM: Andrew Hartsig, Fiscal Analyst *AH*

SUBJECT: Attorney General - Review of Allocation of Settlement Monies – State v. Pfizer, Inc.

### Request

The General Appropriation Act (Laws 2012, Chapter 294) contains a footnote that requires Joint Legislative Budget Committee (JLBC) review of the expenditure plan for settlement monies over \$100,000 received by the Office of the Attorney General (AG), or any other person on behalf of the State of Arizona, prior to expenditure of the monies. Settlements that are deposited in the General Fund pursuant to statute do not require JLBC review.

This request is for review of the expenditure plan for a \$1.7 million consent judgment with Pfizer, Inc. (Pfizer).

### Recommendation

The JLBC Staff recommends that the Committee give a favorable review of the allocation plans from the \$1.7 million consent judgment with Pfizer. The allocation plan is consistent with A.R.S. § 44-1531.01, which relates to the distribution of monies recovered as a result of enforcing consumer protection or consumer fraud statutes.

### Analysis

In January 2013, the AG and 32 other states entered into a consent judgment with Pfizer as a result of their investigation which alleged that Pfizer made misleading and unsubstantiated claims in marketing and promoting Zyvok, an antibacterial agent. In addition, Pfizer is alleged to have misrepresented the benefits of Lyrica, a neuropathy treatment drug.

(Continued)

The settlement requires Pfizer to pay \$1.7 million to the AG, which will be deposited into the Consumer Fraud Revolving Fund for attorney fees, investigation costs, and to support consumer fraud investigations, consumer education, and enforcement of the Consumer Fraud Act and AG operating expenses. The Consumer Fraud Revolving Fund is appropriated, and the AG's ability to expend up to the fund's appropriation level of \$3.5 million depends on the amount of settlement revenues into the fund.

The settlement also requires Pfizer to avoid misleading claims about its products and to promptly notify its sales force of any warning letters received from the Food and Drug Administration (FDA).

RS/AH:ac



TOM HORNE  
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL  
PUBLIC ADVOCACY DIVISION  
CONSUMER PROTECTION & ADVOCACY SECTION

DENA R. BENJAMIN  
SECTION CHIEF COUNSEL  
DIRECT PHONE NO. (602) 542-7717  
DENA.BENJAMIN@AZAG.GOV

February 28, 2013

The Honorable Andy Biggs  
President of the Senate  
1700 West Washington Street  
Phoenix, AZ 85007

The Honorable Andy Tobin  
Speaker of the House  
1700 West Washington Street  
Phoenix, AZ 85007

The Honorable Don Shooter  
Chairman, Joint Legislative Budget Committee  
1700 West Washington Street  
Phoenix, AZ 85007



Re: *State of Arizona v. Pfizer, Inc., Maricopa County Superior Court, CV2012-018276*

Gentlemen:

The State of Arizona recently entered into a settlement with Pfizer, Inc., resolving allegations that the pharmaceutical company unlawfully promoted its drugs, Zyvox® and Lyrica®.

The settlement, in the form of a Consent Judgment, was joined by 32 other Attorneys General. The State's Complaint, filed concurrently with the judgment, alleged that Pfizer Inc engaged in deceptive acts and practices in its promotion of Zyvox® by making misleading and unsubstantiated superiority claims that broadened the indications for Zyvox®, an antibacterial agent approved to treat certain types of infections, including among other approved indications, nosocomial pneumonia caused by methicillin-resistant *Staphylococcus aureus* ("MRSA") and complicated skin and skin structure infections due to MRSA. The Complaint also alleged that Pfizer, Inc engaged in deceptive acts and practices in promoting Lyrica® for off-label uses. Lyrica® was approved by the FDA for the treatment of neuropathy. Contrary to the approved intended uses, Pfizer allegedly marketed the drug for the treatment of pain, including migraines, thereby misrepresenting Lyrica's benefits.

As part of the Consent Judgment, Pfizer, Inc. agreed to reform how it markets and promotes Zyvox® and Lyrica®. Under the Consent Judgment, Pfizer, Inc. shall not:

- Make any false, misleading, or deceptive claims when comparing the efficacy or safety of Zyvox® to vancomycin;
- Promote any Pfizer product for off-label uses;
- Fail to design financial incentives that ensure that its marketing personnel are not motivated to engage in the improper marketing of Zyvox® or Lyrica®; or
- Fail to notify its sales force promptly of any warning letter received from the FDA that affects sales representatives in the promotion of Pfizer products.

The Consent Judgment further requires Pfizer to pay a total of \$42.9 million to the settling states. Arizona's share is \$1,691,331, which is to be deposited into the Consumer Fraud Revolving Fund in accordance with A.R.S. §44-1531.01. This settlement does not constitute an admission of liability.

Our notification of this settlement is made without prejudice to our Office's long-standing position that it is not under any legal obligation to provide notices of settlements to the Joint Legislative Budget Committee. We are providing this notification to you as a courtesy so that you will be aware of this important settlement.

If you have any questions, please feel free to contact me at (602) 542-7717 or by e-mail at [dena.benjamin@azag.gov](mailto:dena.benjamin@azag.gov).

Sincerely,



Dena R. Benjamin  
Section Chief Counsel  
Consumer Protection and Advocacy Section

cc: The Honorable John Kavanagh  
The Honorable Chad Campbell  
The Honorable Leah Landrum Taylor  
Mr. Richard S. Stavneak  
Mr. Andrew Hartsig (Consent Judgment enclosed)  
Mr. Joe Sciarotta  
Mr. Art Harding  
Ms. Vicki Salazar

#399689