

# ARKANSAS STATE CLAIMS COMMISSION

## Enabling Laws

Act 158 of 2016

A.C.A. §19-10-201 et seq. (Creation & Operations)

A.C.A. §19-10-101 et seq. (Claims against the State)

A.C.A. §21-5-701 et seq. (Death & disability benefit eligibility)

A.C.A. §6-82-501 et seq. (Scholarship benefit eligibility)

## History and Organization

The Arkansas Constitution, adopted in 1874, has constitutional provisions relating to sovereign immunity. The permissive provisions of the Constitution leave the decision of whether to abrogate the doctrine and to what extent, to the discretion of the General Assembly. Arkansas' Constitution in Article 5, Section 20 states: "The State of Arkansas shall never be made a defendant in any of her courts." This provision has prohibited suits against the State.

The Arkansas General Assembly, while maintaining the State's sovereign immunity, established the Claims Commission to mitigate the impact of the rigid rule of "governmental immunity" while adhering to another constitutional direction that the "General Assembly shall from time to time provide for the payment of all just and legal debts of the State."

By creating the Claims Commission a method was found by which damaged or injured persons could be compensated without the State being made a defendant in any of its courts. The first Claims Commission, consisting of the State Auditor, Attorney General and State Comptroller, was created to review claims.

The General Assembly, thereafter, biennially established a special Claims Commission and appropriated money to pay the claims approved by that Commission. This special Claims Commission was replaced by the Board of Fiscal Control in 1945 with the passage of Act 53 of 1945 and, subsequently, by Act 462 of 1949.

In response to a demand for a body removed from political influence that could efficiently determine claims filed against the State, the General Assembly, in Act 276 of 1955, created the Arkansas State Claims Commission as it is known today. Act 861 of 1985 increased the size of the Claims Commission from three to five members, but did not otherwise affect Act 276 of 1955. The ceiling for immediate payment of claims (not including statutorily specified public employee death benefits claims) is \$15,000: claims approved by the Commission exceeding \$15,000

are brought before the General Assembly at its next regular or special session. The Commission's final and binding decision on claims can be appealed only to the General Assembly to be reversed, amended or returned to the Commission for further review.

**Mission Statement-Jurisdiction and Responsibilities:**

A.C.A. §19-10-201 et seq. defines the role of the State Claims Commission. The Claims Commission is a quasi-judicial body established by the Arkansas General Assembly as its arm to hear claims against the State of Arkansas, since such tort-type claims as personal injury, property damage, breach of contract, and other designated claim types, due to the State's constitutional sovereign immunity, cannot be brought in the State courts.

**Primary Activities:**

While living in various locations across the State, the five Commissioners convene hearings on claims in Little Rock, Department of Correction units, or at other sites several days each month.



**Agency Commentary**

As in previous years, the Arkansas State Claims Commission strives to provide the needed services and assistance to the citizens and taxpayers of the State of Arkansas. Our budget in previous years and for the upcoming biennial budget period remains the same as it has

been for the past twenty plus years.

Our proposed budget for the Total Operating Expenses will remain at \$92,390.00, with Total Conference and Travel Expenses at \$3,000.00, and Claims and Awards remaining at \$1,750,000.00.

The Claims Commission has succeeded in staying within our approved budget each year, even while the rising cost of operating expenses, and the cost of claims and awards has continued to increase.

It is essential that the Arkansas State Claims Commission's biennial budget for 2017-2019 remain at its present level to ensure the financial obligations of the Arkansas State Claims Commission.

## **Audit Findings**

DIVISION OF LEGISLATIVE AUDIT  
AUDIT OF :  
ARKANSAS STATE CLAIMS COMMISSION  
FOR THE YEAR ENDED JUNE 30, 2014

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Findings

Ark. Code Ann. § 19-4-1502 states that the executive head of a state agency must maintain records of all agency property. In addition, Section R1-4-1503 of the Department of Finance and Administration (DFA) Financial Management Guide states that capital assets should be recorded in AASIS.

Arkansas Legislative Audit (ALA) staff review of capital assets revealed the following:

- Ten items purchased, totaling \$7,732, were not added to the Agency's asset listing or recorded in AASIS. Documentation supporting the Director's approval for one item could not be located.
- Three items, valued at \$3,026, were sent to Marketing and Redistribution (M&R) but not removed from the Agency's asset listing or AASIS.

A subsequent onsite observation of all capital assets revealed the following additional

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Recommendations

We recommend the Agency establish and implement control procedures to ensure compliance with state laws and Financial Management Guide regulations regarding capital assets and consult DFA for assistance with this process as necessary.

**Agency Response:**

Upon the new Director's arrival, the Agency was completely reorganized, and all files and records were accurately updated. During this process, the Director became aware of certain assets that were inconsistent with the Agency's asset listing. The Director immediately contacted DFA for assistance. The Agency is still working closely with DFA to complete this task.

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Findings

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Recommendations

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deficiencies:

- Tag numbers on two items were inconsistent with tag numbers recorded in the Agency's asset listing and in AASIS.
- Numerous items did not contain tag numbers or any other identifying information.
- Numerous items containing tag or serial numbers were not recorded in the Agency's asset listing or in AASIS.

Failure to adhere to state law and the Financial Management Guide regarding proper asset recording could lead to the misuse and misappropriation of assets.

ALA staff review of expenditures revealed invoice discrepancies for one vendor. The current Director stated the vendor was the husband of the former Administrative Analyst, whose position was eliminated on February 12, 2011; however, additional inquiry revealed that the former Administrative Analyst, not the husband, performed computer-related services for the Agency.

ALA staff review of all payments to this vendor, which occurred from June 2011 to February 2015 and totaled \$9,199, revealed the following:

- Four payments totaling \$2,318 in fiscal year 2011. Date of service was not provided on three invoices totaling \$2,059.
- One payment totaling \$338 in fiscal year 2012, for which an invoice could not be located.
- Eight payments totaling \$3,525 in fiscal year 2013:
  - Purchase orders for five invoices totaling \$2,288 were signed by the former Administrative Analyst, rather than a current Agency employee.
  - Four invoices totaling \$1,988 could not be located.
  - Five invoices totaling \$1,275 listed "processing invoices" as the service provided.
  - One invoice totaling \$263 did not include a date of service.

We recommend the Agency establish and implement control procedures to ensure resources are utilized in the best interest of the State.

**Agency Response:**

The Agency has terminated all business with the identified vendor. All computer repairs and maintenance issues for the Agency are now being handled by the Department of Information Systems. The employee responsible during this period of time terminated employment with the Agency prior to the audit. The Agency is also working closely with DFA staff to ensure that documentation of financial transactions and expenditures have been properly identified and charged to appropriate general ledger accounts.

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- Eleven payments totaling \$2,287 in fiscal year 2014. Date of service and service description for all invoices appeared to be duplicates of previous invoices, and all payments were coded to the general ledger as “parking fees.”
- Five payments totaling \$731 in fiscal year 2015, with one invoice for “training new employees,” which would have been the responsibility of the current Administrative Analyst. All of these payments were coded to the general ledger as “parking fees.”

Financial Management Guide section R2-19-4-1108 states that agencies are required to retain all records and supporting documentation for audit purposes. However, the Agency was unable to provide original credit card statements or corresponding receipts for its two P-Cards, with purchases totaling \$4,387 for the two-year period ending June 30, 2014. ALA staff obtained copies of the statements from DFA but, without receipts, were unable to determine if all charges were for a business purpose. In addition, sufficient, appropriate evidence could not be located for one non P-Card purchase totaling \$123.

Furthermore, due to a lack of controls regarding P-Card purchases, five purchases totaling \$448 were made using the former Administrative Analyst’s P-Card subsequent to employment termination.

Lack of controls and failure to adhere to state law and the Financial Management Guide regarding P-Card and other purchases could lead to the misuse and misappropriation of assets.

In accordance with Financial Management Guide Section 19-4-503, maximum reimbursement rates for meals while on official state business must not exceed the rates published by the General Services Administration. Lodging costs exceeding the maximum rates may not be paid without a letter of authorization and justification to establish why exceeding the maximum rate was in the best interest of the State.

Review of travel expenditures revealed the following:

- Travel expenses totaling \$2,475 for a trip made by the former Director to Washington, D.C.:
  - Were not documented on a Travel Reimbursement (TR-1) Form.
  - Were not authorized by someone other than the former Director.

Recommendations

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We recommend the Agency establish and implement control procedures to ensure compliance with state laws and Financial Management Guide regulations regarding retention of records and documentation for auditing purposes and to ensure P-Card usage by authorized Agency employees only.

**Agency Response:**

The Agency no longer retains a P-Card. The employee who was responsible for the P-Card during this period of time has since been terminated. The current Director no longer finds a need for the office to maintain a P-Card and has implemented policies regarding record retention along with all supporting documentation for all Agency purchases.

We recommend the Agency establish and implement control procedures to ensure compliance with State laws and Financial Management Guide regulations regarding reimbursement for travel.

**Agency Response:**

The two Commissioners who exceeded the allowable rates were immediately contacted, and reimbursements were issued to the State. The Agency will now only allow state-regulated rates for meals and travel. The current Director has established procedures to ensure that all reimbursements of any kind are in compliance with state regulations. All future travel expenses for the Director will only be approved following the written approval from at least one commissioner.

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- Exceeded by \$90 the maximum rate allowable for lodging expenses and were not accompanied by a letter of authorization and justification.
- Exceeded by \$59 the maximum rate allowable for meals.
- In 23 instances totaling \$1,733, lodging expenses for a Commissioner exceeded the maximum rate, and a letter of authorization and justification was not provided. Once notified, the Commissioner refunded the overpayment.
- Lodging expenses totaling \$520 for the former Director exceeded the maximum rate, and a letter of authorization and justification was not provided. In addition, the TR-1 was signed only by the former Director, rather than a Commissioner.
- A former Commissioner was reimbursed \$134 for meals, lodging, and vicinity mileage for a Commission meeting he did not attend.

In addition, Section R1-19-4-903 of the Financial Management Guide states that reimbursement for out-of-state travel must be the lesser of coach class airfare or the established rate of private car mileage. The former Director was reimbursed for private car mileage for out-of-state travel; however, because the Agency did not maintain evidence of the cost of airfare, ALA staff were unable to determine if the former Director was properly reimbursed.

Financial Management Guide Section R1-19-4-1103 states that payment of membership dues must be approved in writing, documented in the Agency's financial records, and maintained for audit purposes. The Agency paid membership dues for the American Society for Public Administration for the former Director but did not maintain supporting documentation for audit.

Financial Management Guide Section 19-4-1103(a) states that the executive head of a state agency is responsible for establishing and implementing control procedures to ensure prompt payment of obligations. The Agency failed to pay insurance premiums and file necessary reports for four months, resulting in a \$400 penalty paid to the Employee Benefits Division (EBD).

Recommendations

We recommend the Agency establish and implement control procedures to ensure compliance with state laws and Financial Management Guide regulations regarding supporting documentation for membership due payments.

**Agency Response:**

Since the membership to the American Society for Public Administration was of interest only to the former Director of the Agency, there is no reason to further encounter charges for dues to any outside organization.

We recommend the Agency establish and implement control procedures to ensure compliance with state laws and Financial Management Guide regulations regarding prompt payment of obligations.

**Agency Response:**

Implementation of policies have been established to accurately record all financial

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Findings

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A review of the general ledger revealed that the following expenditures were incorrectly coded to postage:

- Fifteen payments totaling \$2,582 for office supplies.
- Six payments totaling \$923 to a subscription and publication company.
- Three payments totaling \$148 for cellular services.
- One payment totaling \$240 for office machines.

Other miscoded payments included nine payments totaling \$352 for beverages that were coded to parking fees and one payment of \$69 for internet services that was coded to rent of facilities.

Recommendations

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transactions timely. Policies have been implemented so Agency staff works closely with DFA to ensure all expenditures are recorded in AASIS.

We recommend the Agency establish and implement control procedures to ensure its financial statements accurately reflect Agency activity.

**Agency Response:**

Implementation of policies have been established to accurately record all financial transactions. Policies have been implemented so that Agency staff work closely with DFA to ensure all expenditures are recorded in AASIS.

**State Contracts Over \$50,000 Awarded To Minority Owned Businesses Fiscal Year 2016**

None

## Employment Summary

	Male	Female	Total	%
White Employees	3	4	7	70 %
Black Employees	1	2	3	30 %
Other Racial Minorities	0	0	0	0 %
Total Minorities			3	30 %
Total Employees			10	100 %

## Publications

### A.C.A. 25-1-201 et seq.

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution	Unbound Black & White Copies Produced During the Last Two Years	Cost of Unbound Copies Produced During the Last Two Years
		Governor	General Assembly				
Claims Commission Annual Report	A.C.A. §25-1-103	N	Y	50	Required by legislation and requested by auditors.	0	0.00
Rules and Regulations: State Claims Commission	A.C.A. §19-10-205	N	Y	500	Required by the General Assembly.	0	0.00

# Department Appropriation Summary

## Historical Data

## Agency Request and Executive Recommendation

Appropriation	2015-2016		2016-2017		2016-2017		2017-2018						2018-2019					
	Actual	Pos	Budget	Pos	Authorized	Pos	Base Level	Pos	Agency	Pos	Executive	Pos	Base Level	Pos	Agency	Pos	Executive	Pos
227 Claims Operations	551,392	10	541,124	10	595,163	10	542,960	10	542,960	10	542,960	10	543,697	10	543,697	10	543,697	10
228 Various Claims	1,311,258	0	1,750,000	0	1,750,000	0	1,750,000	0	1,750,000	0	1,750,000	0	1,750,000	0	1,750,000	0	1,750,000	0
Total	1,862,650	10	2,291,124	10	2,345,163	10	2,292,960	10	2,292,960	10	2,292,960	10	2,293,697	10	2,293,697	10	2,293,697	10

Funding Sources		%		%		%		%		%		%		%		%		%
State Central Services 4000035	551,392	29.6	541,124	23.6			542,960	23.7	542,960	23.7	542,960	23.7	543,697	23.7	543,697	23.7	543,697	23.7
Miscellaneous Revolving 4000350	1,311,258	70.4	1,750,000	76.4			1,750,000	76.3	1,750,000	76.3	1,750,000	76.3	1,750,000	76.3	1,750,000	76.3	1,750,000	76.3
Total Funds	1,862,650	100.0	2,291,124	100.0			2,292,960	100.0	2,292,960	100.0	2,292,960	100.0	2,293,697	100.0	2,293,697	100.0	2,293,697	100.0
Excess Appropriation/(Funding)	0		0				0		0		0		0		0		0	
Grand Total	1,862,650		2,291,124				2,292,960		2,292,960		2,292,960		2,293,697		2,293,697		2,293,697	

## Agency Position Usage Report

FY2014 - 2015						FY2015 - 2016						FY2016 - 2017					
Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused
	Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total	
10	10	0	10	0	0.00 %	10	10	0	10	0	0.00 %	10	10	0	10	0	0.00 %

## **Analysis of Budget Request**

**Appropriation:** 227 - Claims Operations

**Funding Sources:** HSC - State Central Services

This appropriation provides personal services and operating expenses of the State Claims Commission. The Commission is a quasi-judicial body established to hear claims against the State of Arkansas and its agencies, boards, commissions, and institutions, unless otherwise exempted by statute. The Commission consists of a staff of 10 positions, including 5 commissioners appointed by the Governor. The appropriation is funded from the State Central Services fund.

Base Level Regular Salaries and Personal Services Matching include the continuation of the previously authorized 2017 Salaries and Career Service Payments for eligible employees. Personal Services Matching includes the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$420 per month. Base Level salaries and matching do not include appropriation for a Cost of Living Adjustment or Merit Pay Increases. The Base Level salary of unclassified positions reflects the FY17 line item maximum plus the previously authorized 2016 1% Cost of Living Adjustment authorized by Act 1007 (3 (B)) of 2015.

The Agency is requesting Base Level of \$542,960 for FY18 and \$543,697 for FY19.

The Executive Recommendation provides for the Agency Request.

## Appropriation Summary

**Appropriation:** 227 - Claims Operations

**Funding Sources:** HSC - State Central Services

### Historical Data

### Agency Request and Executive Recommendation

Commitment Item		Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
		2015-2016 Actual	2016-2017 Budget	2016-2017 Authorized	2017-2018			2018-2019		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	334,116	322,986	359,930	323,086	323,086	323,086	323,686	323,686	323,686
<b>#Positions</b>		<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>
Personal Services Matching	5010003	126,961	122,748	139,843	124,484	124,484	124,484	124,621	124,621	124,621
Operating Expenses	5020002	84,629	92,390	92,390	92,390	92,390	92,390	92,390	92,390	92,390
Conference & Travel Expenses	5050009	0	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000
Professional Fees	5060010	0	0	0	0	0	0	0	0	0
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	5,686	0	0	0	0	0	0	0	0
<b>Total</b>		<b>551,392</b>	<b>541,124</b>	<b>595,163</b>	<b>542,960</b>	<b>542,960</b>	<b>542,960</b>	<b>543,697</b>	<b>543,697</b>	<b>543,697</b>
<b>Funding Sources</b>										
State Central Services	4000035	551,392	541,124		542,960	542,960	542,960	543,697	543,697	543,697
<b>Total Funding</b>		<b>551,392</b>	<b>541,124</b>		<b>542,960</b>	<b>542,960</b>	<b>542,960</b>	<b>543,697</b>	<b>543,697</b>	<b>543,697</b>
Excess Appropriation/(Funding)		0	0		0	0	0	0	0	0
<b>Grand Total</b>		<b>551,392</b>	<b>541,124</b>		<b>542,960</b>	<b>542,960</b>	<b>542,960</b>	<b>543,697</b>	<b>543,697</b>	<b>543,697</b>

## **Analysis of Budget Request**

**Appropriation:** 228 - Various Claims

**Funding Sources:** MTA - Miscellaneous Revolving Fund

This appropriation provides for the payment of Small Controversial Claims, Non-Controversial Claims, and Death Benefit Awards to the surviving spouses and/or dependent children of policemen, firemen, correctional officers, and specified state employees killed in the official line of duty. Payment of the claims is from the Miscellaneous Revolving Fund.

The Agency is requesting Base Level of \$1,750,000 each year of the 2017-2019 Biennium.

The Executive Recommendation provides for the Agency Request.

## Appropriation Summary

**Appropriation:** 228 - Various Claims

**Funding Sources:** MTA - Miscellaneous Revolving Fund

### Historical Data

### Agency Request and Executive Recommendation

Commitment Item		Historical Data			2017-2018			2018-2019		
		2015-2016 Actual	2016-2017 Budget	2016-2017 Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Claims	5110015	1,311,258	1,750,000	1,750,000	1,750,000	1,750,000	1,750,000	1,750,000	1,750,000	1,750,000
Total		1,311,258	1,750,000	1,750,000	1,750,000	1,750,000	1,750,000	1,750,000	1,750,000	1,750,000
<b>Funding Sources</b>										
Miscellaneous Revolving	4000350	1,311,258	1,750,000		1,750,000	1,750,000	1,750,000	1,750,000	1,750,000	1,750,000
Total Funding		1,311,258	1,750,000		1,750,000	1,750,000	1,750,000	1,750,000	1,750,000	1,750,000
Excess Appropriation/(Funding)		0	0		0	0	0	0	0	0
Grand Total		1,311,258	1,750,000		1,750,000	1,750,000	1,750,000	1,750,000	1,750,000	1,750,000