



Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report – February 5, 2020

Norfolk Sheriff's Office—Civil Process Division

For the period January 1, 2017 through December 31, 2018





Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

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Sheriff Jerome P. McDermott
PO Box 149
200 West Street
Dedham, MA 02027

Dear Sheriff McDermott:

I am pleased to provide this performance audit of the Norfolk Sheriff's Office Civil Process Division. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, January 1, 2017 through December 31, 2018. My audit staff discussed the contents of this report with management of your office, whose comments are reflected in this report.

I would also like to express my appreciation to the Norfolk Sheriff's Office for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMB", written over a light blue horizontal line.

Suzanne M. Bump
Auditor of the Commonwealth

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LIST OF ABBREVIATIONS

CPD	Civil Process Division
CPCS	Committee for Public Counsel Services
ICP	internal control plan
IT	information technology
NSO	Norfolk Sheriff's Office
OSA	Office of the State Auditor
ROS	return of service

EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the Norfolk Sheriff's Office (NSO) Civil Process Division (CPD) for the period January 1, 2017 through December 31, 2018. In this performance audit, we assessed certain aspects of the division's operations, including the collection of fees for the delivery of legal services, the administration of the division's non-payroll expenses and contracting process for goods and services, the division's bank account reconciliation process, and the authorization of payments to Deputy Sheriffs for weekly activities associated with the delivery of legal services and the enforcement of civil orders. This audit was performed at the request of Sheriff Jerome McDermott.

Below is a summary of our findings and recommendations, with links to each page listed.

Finding 1 Page 9	CPD did not conduct timely reconciliations or maintain adequate records.
Recommendations Page 10	<ol style="list-style-type: none">1. CPD should develop policies and procedures that require monthly reconciliation of its bank accounts and should implement monitoring controls to ensure that these activities are performed in a timely manner.2. CPD should collaborate with NSO's Finance Department to develop policies and procedures that require canceled checks to be retained in accordance with the Massachusetts Statewide Records Retention Schedule.
Finding 2 Page 11	Norfolk County Deputy Sheriffs were not compensated for delivering attestation copies of documents.
Recommendations Page 12	<ol style="list-style-type: none">1. CPD should develop a process to ensure the accuracy of commissions paid to Deputy Sheriffs for delivering attestation copies.2. CPD should determine how many deliveries of attestation copies have been invoiced and then pay the commissions due the Deputy Sheriffs.
Finding 3 Page 12	CPD received services without a signed contract.
Recommendation Page 13	NSO should ensure that no contractor begins working before there is a properly executed contract.

OVERVIEW OF AUDITED ENTITY

The Norfolk Sheriff's Office (NSO) was established as a state agency on January 1, 2010, pursuant to Chapter 61 of the Acts of 2009. This act transferred to the Commonwealth, except where specified, all functions, duties, and responsibilities of NSO and the other six county Sheriffs' Offices that still existed, including assets, liabilities, debt, and potential litigation. This legislation made the Sheriffs employees of the Commonwealth; however, they are still elected officials with administrative and operational control of their offices.

NSO's jurisdiction is Norfolk County, which includes 28 cities and towns.¹ According to July 1, 2018 estimates from the United States Census Bureau, Norfolk County has a combined population of approximately 700,000.

NSO received state appropriations of \$30,331,946, \$30,938,585, and \$31,247,971 for fiscal years 2017, 2018, and 2019, respectively. According to NSO management, the office received supplemental funding of \$6,051,119, \$3,933,937, and \$4,224,981 for fiscal years 2017, 2018, and 2019, respectively.

NSO's Civil Process Division (CPD) is located at 181 Parkingway in Quincy. According to the NSO website,

The Norfolk County Sheriff's Office Civil Process Division is a professional law enforcement agency whose responsibility is the delivery of legal services and the enforcement of civil orders in Norfolk County. Our Civil Process Office is responsible for executing court orders and the delivery of legal documents essential to the proceedings of state-wide and county civil cases. . . .

The Civil Process Office also enforces judgments made by the court which include but are not limited to seizing property and selling property through a Sheriff's Sale (Writs & Levies), garnishing wages, and facilitating Capias arrests [physically arresting a defendant to bring him/her to court].

As of December 31, 2018, CPD employed nine full-time state employees, who were compensated through NSO's state appropriation, and four Deputy Sheriffs, who were contract employees compensated from commissions paid through CPD's General Revenue account.

1. The cities and towns are Avon, Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Dover, Foxborough, Franklin, Holbrook, Medfield, Medway, Millis, Milton, Needham, Norfolk, Norwood, Plainville, Quincy, Randolph, Sharon, Stoughton, Walpole, Wellesley, Westwood, Weymouth, and Wrentham.

According to the NSO website,

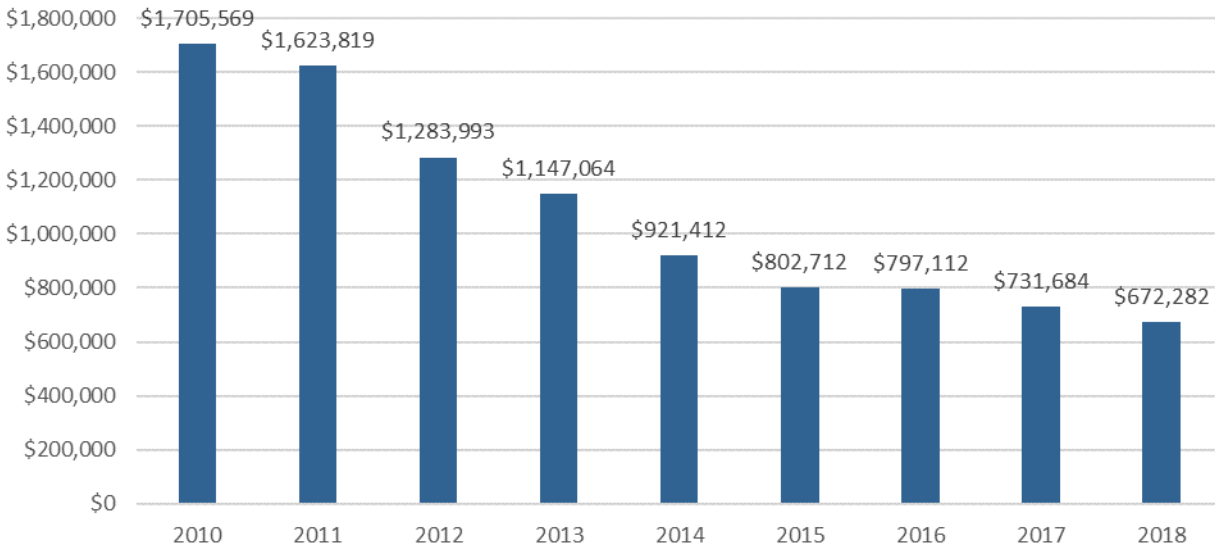
The High Sheriff of the County is mandated to serve civil process. MGL C. 37, section 3 empowers the sheriff to appoint Deputy Sheriffs to perform official acts of process. In Massachusetts, as in most states, the service of process is carried out by the Sheriff, through deputies. . . . Appointed Deputy Sheriffs are trained to properly deliver important court and non-court documents and are held to the same high standards as any law enforcement official in the Commonwealth.

Although it has no separate appropriation line item, CPD is funded through a combination of NSO's state appropriation and the revenue received in the division's General Revenue account, which is maintained outside the Massachusetts Management Accounting and Reporting System. The division generates revenue from fees charged for the delivery of legal documents and from the sale of seized property. CPD revenue totaled \$1,302,437 for the audit period.

According to CPD management, revenue at CPD has declined steadily since fiscal year 2011, when changes to Section 34 of Chapter 235 of the Massachusetts General Laws were made based on Chapter 432 of the Acts of 2010. These changes limited CPD's authority to seize motor vehicles and thus reduced its revenue stream. Previously, a debtor who owned a vehicle valued at \$700 or less was exempt from having his/her vehicle seized. Under the new law, a debtor who owns a vehicle valued at \$7,500 or less is exempt from having his/her vehicle seized. Additionally, a debtor who is more than 60 years old or handicapped, and who owns a vehicle valued at \$15,000 or less, is exempt from having his/her vehicle seized.

Additionally, collection attorneys are responsible under Rule 4.1 of the *Federal Rules of Civil Procedure* for notifying debtors of court orders. Collection attorneys use the services of CPD deputies to serve such notice. However, the new debt collection regulations promulgated by the Massachusetts Attorney General on March 1, 2012 have limited how often debtors can be notified and have prohibited notification in some cases. Because of these restrictions, the frequency with which CPD deputies serve such notice for collection attorneys has declined, along with associated revenue.

CPD Fiscal Year Revenue



Source: CPD management.

CivilServe Application

CPD uses the CivilServe application to track court case papers and data, record service and payment activity, reconcile financial data, create correspondence, and produce detailed reports of all these activities. CPD clerks enter each case into CivilServe separately, and each case is assigned a sequential jacket number. All documents received from attorneys or other individuals, such as defendants representing themselves, are electronically scanned into their jackets, and the clerks enter fees for the service/s as well. Jackets are then assigned to Deputy Sheriffs for serving process. After serving process, the Deputy Sheriffs record the fact that they have done so on a tablet computer, which automatically updates the jacket, indicating that the service has been performed. The clerks then complete an invoice of fees in CivilServe and a return of service (ROS), which is the proof that the service has been completed. They return the original ROS and the invoice to the attorney or other individual, and the jacket is closed.

Additionally, CivilServe generates reports that include commissions and accounts receivable for Deputy Sheriffs (also known as payroll and deputy accounts receivable reports), receipts entered, and invoices generated for services delivered by Deputy Sheriffs.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Norfolk Sheriff's Office (NSO) Civil Process Division (CPD) for the period January 1, 2017 through December 31, 2018.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is a list of our audit objectives, indicating each question we intended our audit to answer; the conclusion we reached regarding each objective; and, if applicable, where each objective is discussed in the audit findings.

Objective	Conclusion
1. Does CPD collect fees for the delivery of legal services in accordance with Chapter 262 of the General Laws and with NSO policies and procedures?	Yes
2. Does CPD administer its contracting process for goods and services in accordance with its policies and procedures?	No; see Finding <u>3</u>
3. Does CPD administer non-payroll expenses in accordance with its policies and procedures?	Yes
4. Does CPD reconcile its bank accounts monthly?	No; see Finding <u>1</u>
5. Does CPD authorize payments to Deputy Sheriffs for weekly activity in accordance with its policies and procedures?	No; see Finding <u>2</u>

To achieve our audit objectives, we gained an understanding of the internal control environment we determined to be relevant to our audit objectives by reviewing NSO's internal control plan (ICP), titled *CSD 302 Internal Control Plan*, and NSO policies and procedures; reviewing applicable laws and regulations; and conducting interviews with CPD staff members and managers. We tested the design and effectiveness of controls over the collection of fees for the delivery of legal services, the administration of the contracting process for goods and services, non-payroll expenses, and the authorization of payments made to Deputy Sheriffs for weekly activity.

Additionally, we performed the following procedures.

Collection of Fees for the Delivery of Legal Services

To determine whether CPD charged and collected fees in accordance with rates established by Chapter 262 of the General Laws and NSO policies and procedures, we selected a random nonstatistical sample of 60 jackets from a total population of 26,818 jackets that were generated during our audit period. We then compared fee rates charged for each jacket from our sample to the fees defined in Sections 8, 10, and 15 of Chapter 262 of the General Laws, as well as NSO policies and procedures.

Contracting Process for Goods and Services

To determine whether NSO properly administered its contracting process for goods and services funded through CPD's General Revenue account, we obtained a list of the 26 contracts funded through this account at some point during the audit period. From the list, we selected the 12 that were initiated and terminated within our audit period, and we reviewed the contracting process for compliance with procedures established in NSO's ICP and guidelines in the Commonwealth's Standard Contract Form.

Administration of Non-Payroll Expenses

To determine whether CPD administered its non-payroll expenses in accordance with its policies and procedures, we selected a random nonstatistical sample of 35 vendors from a total population of 135 non-contracted vendors that submitted invoices for non-payroll goods or services during our audit period. We reviewed the associated expenditures to determine whether any duplicate payments were made to any vendor for the same service on the same date and whether receipts for goods and services were verified before payment.

Reconciling Bank Accounts

CPD maintains the following five bank accounts.²

1. General Revenue account: The primary checking account maintained by the NSO Finance Department. The division's bills, office supplies, and other budgeted items are paid for out of this account by the Finance Department.
2. Escrow account: A non-interest-bearing checking account that holds third-party funds.

2. The division's Witness Fee Variance account balance was transferred to the Witness Fee, Registry, and Refund account and closed in August 2019.

3. Escrow Variance account: An account whose purpose is identical to that of the Escrow account; however, the balance of this account is from civil actions that occurred before the civil process was computerized in 1996.
4. Witness Fee, Registry, and Refund account: An interest-bearing account used to administer witness fees, refunds to CPD customers who have overpaid, and miscellaneous contractual services such as US Post Office payment fees.
5. Electronic Funding account: A checking account designed to accept only credit card, e-check, and PayPal payments. Once a deposit has cleared this account, a disbursement check is paid to CPD's General Revenue account and the customer account is credited.

All CPD financial activity is recorded in QuickBooks.³ Monthly bank statements are reconciled to the monthly QuickBooks statements.

During our audit period, CPD was transitioning from Randolph Savings Bank to Eastern Bank. During this transition, three separate CPD accounts were split between these two banks. The overlap was necessary to allow for all checks from Randolph Savings Bank to clear. The overlap affected the following accounts:

- General Revenue: January 2017 through March 2018 (15 months)
- Witness Fee, Registry, and Refund: January 2017 through December 2017 (12 months)
- Escrow: January 2017 through March 2018 (15 months)

To determine whether bank reconciliations were conducted in a timely manner, we reviewed a random nonstatistical sample of 49 reconciliations from a total population of 162 reconciliations performed during our audit period.

Authorizing Payments to Deputy Sheriffs

To determine whether the correct fees were assessed for the delivery of service and whether the correct commissions were paid to Deputy Sheriffs, we selected a random nonstatistical sample of 60 jackets from a total population of 26,818 jackets created during our audit period. We reviewed the fees charged to determine whether they were consistent with those in Chapter 262 of the General Laws and whether the commissions were paid in accordance with CPD policy.

To determine whether Deputy Sheriffs' biweekly payrolls authorized by NSO were processed correctly through its contracted payroll service, we selected a random nonstatistical sample of 20 out of 52 pay periods during the audit period. We reconciled all of the contracted payroll service's issued checks'

3. QuickBooks is an accounting software package often used by small and midsize entities.

amounts for these pay periods to CivilServe payroll reports and to CPD's General Revenue account bank statements.

Data Reliability

We determined the reliability of data from CivilServe, QuickBooks, and Aestiva (a procurement application that automates the purchase order process) by performing interviews and reviewing certain information technology controls over account management, security training and identification, and authentication policies and procedures.

We ensured the completeness and accuracy of our contract data by selecting the 12 contracts that were initiated and terminated during our audit period from binders containing the original source documents maintained at the Braintree Public Safety Office. We then reconciled maximum obligation⁴ dollar amounts documented in these contracts to actual expenses paid from the CPD General Revenue account.

To determine the completeness and accuracy of service fee data created during the audit period, we directly extracted the data from jackets maintained in CivilServe. We reconciled the data to QuickBooks and the CPD General Revenue account.

To determine the completeness and accuracy of our sample of payments made to Deputy Sheriffs, we extracted payment information from CivilServe and traced invoiced fees to biweekly payroll reports provided by CPD's contracted payroll service and reconciled to the CPD General Revenue account.

We determined that the data from Aestiva, CivilServe, and QuickBooks were sufficiently reliable for the purposes of this audit.

Whenever sampling was used, we applied a nonstatistical sampling approach, and as a result, we could not project our results to the entire population.

4. This is the maximum amount of money that can be expensed during a contract term.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. The Civil Process Division did not conduct timely reconciliations or maintain adequate records.

The director of the Norfolk Sheriff's Office (NSO) Civil Process Division (CPD), who is responsible for preparing and approving the monthly bank account reconciliations, did not always perform them within 30 days of month end. From our sample of 49 account reconciliations completed during our audit period, 28 were untimely in the opinion of the Office of the State Auditor (OSA) because they were not completed within 30 days of month end (they ranged from 1 to 960 days late). Lack of timely account reconciliations may increase the risk of unaccounted-for variances, losses, shortages, or thefts of funds.

Additionally, during our test of contracted vendor payments, we found that NSO's Finance Department and CPD did not retain electronic copies or hard copies of canceled checks for payments aged less than three years. Therefore, there is no assurance that checks sent to our sample of vendors had been signed by an authorized NSO employee and endorsed by the intended parties.

Authoritative Guidance

Bank reconciliations are an important internal control over the protection of an organization's assets. They allow an organization to accurately determine its current cash balance, preventing the possibility of overdrafts, and they facilitate the detection and timely resolution of any questionable transactions. Bank statements are provided to organizations monthly, and in OSA's opinion, it is a best practice to reconcile them to the organization's accounts within a few, and no more than 30, days from their receipt.

In addition, Section D01-08 of the *Massachusetts Statewide Records Retention Schedule Quick Guide Schedule Number 06-18*, issued by the Secretary of the Commonwealth, states,

Bank and Cash Records

Retain 3 years.

Documents the handling of any cash transactions, including receipt and deposit of funds posted to the state Comptroller's systems and accounts. Includes receipt journals, canceled checks, balance books, receipts, bank deposit slips and wire transfers and reports and related correspondence.

Reasons for Issue

According to the director of CPD, in 2017, the Finance Department told the former Sheriff about a large number of uncashed checks from the Witness Fee, Registry, and Refund account. The Sheriff asked the director to look into this issue, and as part of the process, reconciliations from January 2010 onward had to be performed again. This effort contributed to the division's inability to perform timely account reconciliations of the bank statements during our audit period.

Additionally, CPD did not have documented bank reconciliation policies and procedures or internal controls to ensure that timely reconciliations were performed and canceled checks were retained in accordance with the Massachusetts Statewide Records Retention Schedule.

Recommendations

1. CPD should develop policies and procedures that require monthly reconciliation of its bank accounts and should implement monitoring controls to ensure that these activities are performed in a timely manner.
2. CPD should collaborate with NSO's Finance Department to develop policies and procedures that require canceled checks to be retained in accordance with the Massachusetts Statewide Records Retention Schedule.

Auditee's Response

1. *Concur. The Norfolk Sheriff's Office ("NSO") Finance Department will work with its Civil Process Division ("CPD") to implement policies and procedures requiring that monthly reconciliations of all bank accounts under CPD control be performed in accordance with a monthly closing schedule. The NSO finance department will develop a monthly closing schedule requiring that bank reconciliations be prepared, reviewed and approved within 30 days of the close of the month. The NSO Director of Finance will designate an individual to review all prepared bank reconciliations prior to being presented for final approval. The NSO Director of Finance will provide the final approval of all bank reconciliations. Bank reconciliations will not be considered complete until approved by the NSO Director of Finance.*
2. *Concur. CPD will work with its partner financial institutions to ensure that all canceled checks (either hard copy or electronic) are made available on a monthly basis so that they can be retained and are readily retrievable in accordance with the Massachusetts Statewide Records Retention Schedule. A written policy will be developed outlining specific individual roles and responsibilities for obtaining and maintaining these records.*

Auditor's Reply

Based on its response, NSO is taking measures to address our concerns on this matter.

2. Norfolk County Deputy Sheriffs were not compensated for delivering attestation copies of documents.

CPD did not pay the commissions due Norfolk County Deputy Sheriffs for delivering attestation copies⁵ of legal documents during our audit period. Under Section 8(3) of Chapter 262 of the Massachusetts General Laws, the fee for delivery of attestation copies is \$5.00. The Deputy Sheriffs' commission percentage for the delivery is 29% (\$1.45), which should have been automatically calculated by CivilServe. During our testing, we determined that Deputy Sheriffs did not receive any commissions for these deliveries during the audit period. We brought this to the attention of CPD management, who reviewed their records and determined that during the audit period, there were 10,678 deliveries of attestation copies and \$15,483 of uncompensated fees.

Authoritative Guidance

The director of CPD gave us a detailed list of the commission percentages programmed into CivilServe and paid by the division for the following services:

Fee Description/Charges	Compensation Percentage
Basic Service	29%
Attestation—one copy	29%
Attestation—two copies	29%
Postage and handling	45%
Conveyance	29%
Travel	29%
Diligent search	45%
Committee for Public Counsel Services (CPCS)* basic service	29%
CPCS postage	45%
CPCS copies	29%

* This agency provides legal representation for people who otherwise cannot afford it.

Reasons for Issue

CPD did not have a process or internal controls in place to ensure that all commissions generated by CivilServe were properly calculated and paid to Deputy Sheriffs for the delivery of attestation copies.

5. An attestation copy is a signed copy of a document verifying that is a true copy of an original document.

According to an email to OSA from the director of CPD,

After several discussions concerning the commission percentages paid to the serving deputies we discovered there to be a glitch in the CivilServe software that did not pay the 29% for Attestation—1 Copy to the deputy for all services with this charge. The amount not paid was 29% of \$5.00 resulting in a deficit of \$1.45 per service to each deputy being paid.

While investigating this issue, CPD management contacted the division's CivilServe vendor, which had been aware of the issue since June 2019 but had not notified the division's management or its information technology (IT) contractor (see [Other Matters](#)).

Recommendations

1. CPD should develop a process to ensure the accuracy of commissions paid to Deputy Sheriffs for delivering attestation copies.
2. CPD should determine how many deliveries of attestation copies have been invoiced and then pay the commissions due the Deputy Sheriffs.

Auditee's Response

1. *Concur. The CPD worked collaboratively on this issue with its CivilServe vendor. The software error that caused the non-payment of the 29% commission for Attestation—1 Copies to the deputies was rectified. All outstanding commissions due to deputies have been paid by CPD. The CPD will develop a process to reconcile total attestations to commissions paid to deputies to ensure the accuracy of commissions paid to Deputy Sheriffs for delivering all attestation copies. The process will include the Director of the Civil Process designating an individual or individuals to make updates to the commission rate schedule in CivilServe. The Director of Civil Process will approve all commission changes in the CivilServe system before any changes to the Deputy's commission schedule [become] effective.*
2. *Concur. Commissions are paid to Deputies once the CPD customer invoice has been paid. CPD will work with its CivilServe vendor to provide more transparency into the type of commissions being paid to Deputies. Specifically, a report will be developed that will provide an itemized accounting of the individual types of commissions paid to deputies. This will provide for more granular reporting and auditable reporting.*

Auditor's Reply

Based on its response, NSO is taking measures to address our concerns on this matter.

3. CPD received services without a signed contract.

During fiscal year 2017, CPD hired a consultant (NCG Office Systems, Inc.) to provide various IT services, including hardware replacements, antivirus software installation, email configuration, and system

maintenance. From January 6, 2017 through April 21, 2017, this consultant provided these services even though CPD did not execute a formal contract with the consultant for the services until November 8, 2017. Services performed without a signed contract increase the risk that service expectations may not be met or services provided may not be authorized.

Authoritative Guidance

According to Section .07(2)(a) of the state Sheriffs' Offices' "Policy Governing the Procurement of Commodities and/or Services,"

The identification of a Selected Bidder(s) shall create no contractual obligation on the Sheriff's Office or the State. Performance may not begin until a Contract is properly executed.

Reasons for Issue

CPD could not provide an explanation for the contracted services being delivered before a contract was executed.

Recommendation

NSO should ensure that no contractor begins working before there is a properly executed contract.

Auditee's Response

Concur. The NSO Director of Finance will develop a training program to be conducted on an annual basis that reviews the Office of the Sheriff policy governing the procurement of commodities and goods and services, CSD 300—Budget & Fiscal Management, CSD 302—Internal Control Plan and CSD 339—Inventory Control. The objective of the training is to ensure that all staff (NSO and CPD) are aware of their responsibilities under the policies and have the necessary competencies to see that all policy requirements are adhered to.

Auditor's Reply

Based on its response, NSO is taking measures to address our concerns on this matter.

OTHER MATTERS

Information Technology Services

The Norfolk Sheriff's Office (NSO) Civil Process Division (CPD) contracts with an information technology (IT) consultant to provide hardware and software support. The consultant also maintains an independent email account for CPD and provides incidental equipment and supplies as needed. However, under the current arrangement, the NSO IT Department cannot oversee the operation of CPD's applications and systems and therefore cannot ensure that all applications are functioning properly or that appropriate system security standards are in place and are adhered to, which is critical to the effective and efficient operation of the division.

The NSO IT director has indicated that he believes the NSO IT Department can perform the contracted IT services; therefore, we believe that NSO should consider consolidating all IT functions, including those associated with CPD, within the IT Department.

Auditee's Response

Shortly after taking the oath of office on December 22, 2018. . . . I directed the NSO IT department to perform an assessment of all CPD IT systems with the objective of integrating systems with NSO in order to ensure that all CPD applications are functioning properly and that appropriate system security standards are in place and are adhered to.

Auditor's Reply

Based on its response, NSO is taking measures to address our concerns on this matter.