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**INDEPENDENT STATE AUDITOR'S REPORT
ON CERTAIN ACTIVITIES OF THE
GREENFIELD DIVISION OF THE
DISTRICT COURT DEPARTMENT OF THE
MASSACHUSETTS TRIAL COURT
JULY 1, 2005 TO AUGUST 31, 2006**

**OFFICIAL AUDIT
REPORT
MAY 4, 2007**

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The Massachusetts Trial Court was created by Chapter 478 of the Acts of 1978, which reorganized the courts into seven Trial Court Departments: the Boston Municipal Court, the District Court, the Housing Court, the Juvenile Court, the Probate and Family Court, the Superior Court, and the Land Court. Chapter 211B of the Massachusetts General Laws authorized the District Court Department to establish 62 Divisions, each having a specific territorial jurisdiction, to preside over civil and criminal matters that are brought before it. The Division's organizational structure consists of three separately managed offices: the Judge's Lobby, headed by a First Justice; the Clerk-Magistrate's Office, headed by a Clerk-Magistrate; and the Probation Office, headed by a Chief Probation Officer. The First Justice is the administrative head of the Division and is responsible for preparing the Division's budget and accounting for its revenues; however, the Clerk-Magistrate and the Chief Probation Officer are responsible for the internal administration of their respective offices.

The Greenfield Division of the District Court Department (GDC) presides over civil and criminal matters falling within its territorial jurisdiction that generally covers the municipalities within central and western Franklin County. During the period July 1, 2005 to August 31, 2006, GDC collected revenues of \$709,184 and disbursed them to the Commonwealth and those municipalities. In addition to processing civil entry fees and monetary assessments on criminal cases, GDC was custodian of approximately 313 cash bails amounting to \$134,468 as of August 31, 2006.

GDC is also responsible for conducting civil motor vehicle infractions (CMVI) hearings. Although GDC does not collect the associated monetary assessment when a motorist is found responsible for a CMVI, it is required to submit the results of the hearing to the Registry of Motor Vehicles, the agency that is responsible for the collections.

GDC operations are funded by appropriations under the control of either the Division (local), or the Administrative Office of the Trial Court (AOTC) or the Office of the Commissioner of Probation (central). According to the Commonwealth's records, expenditures associated with the operation of the Division were \$699,294 for the period July 1, 2005 to August 31, 2006.

The purpose of our audit was to review GDC's internal controls and compliance with state laws and regulations regarding administrative and operational activities, including cash management, bail funds, and criminal- and civil-case activity for the period July 1, 2005 to August 31, 2006.

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1. STATUS OF PRIOR AUDIT RESULTS INVOLVING BAIL - RESOLVED

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Our prior audit (No. 2000-5076-3) of the financial and management controls over bail funds at various District Court Divisions disclosed that improvements were needed at GDC regarding compliance with state laws and AOTC regulations governing bail. We recommended that GDC forward forfeited bail funds to the State Treasurer; notify

owners of unclaimed bail of the availability of the bail to be returned to the surety, declare the bail on defaulted cases as forfeited and send the money to the State Treasurer; and perform monthly reviews of bail records to ensure future compliance. Our follow-up review found that GDC is processing forfeited bail to the State Treasurer timely, periodically ordering forfeitures when defendant's default and notifying sureties of the availability of bail funds on completed cases. Additionally, court personnel periodically review the bail trial balance and related records to ensure that bail is processed correctly.

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Our review found that the GDC has not developed an internal control plan or conducted periodic risk assessments in accordance with Chapter 647 of the Acts of 1989. The lack of an effective internal control plan diminishes AOTC's efforts to ensure the integrity of court records and assets. In its response, GDC indicated that it is in the process of developing an internal control plan.

3. IMPROVEMENTS NEEDED IN CONTRACT MANAGEMENT FOR VENDING MACHINES **7**

Our audit found that improvements were needed with procurement management for vending machine contracts at both AOTC and GDC. A number of years ago, a vendor installed two vending machines for public and court employees' use. Although the machines serve the needs of the public and court employees by providing snack and beverage services at reasonable prices, the court and the Commonwealth may not have received as much benefit as they could have from this vending arrangement. GDC personnel were unable to show us that the vendor was selected as a result of a competitive process, and they also could not provide us with contracts for the vending machines. Additionally, neither the Court nor the Commonwealth receives a commission from one of the vending machines, and not all of the commissions for the other machine were received. Procurement provisions issued by AOTC require courts to seek competitive bids for these types of contracts to best serve the needs of the public, the courts, and the Commonwealth. In its response, GDC indicated that it will work with AOTC to obtain a contract with a suitable vendor.

INTRODUCTION

Background

The Massachusetts Trial Court was created by Chapter 478 of the Acts of 1978, which reorganized the courts into seven Trial Court Departments: the Boston Municipal Court, the District Court, the Housing Court, the Juvenile Court, the Probate and Family Court, the Superior Court, and the Land Court. The statute also created a central administrative office managed by a Chief Administrative Justice (CAJ), who is also responsible for the overall management of the Trial Court. The CAJ charged the central office, known as the Administrative Office of the Trial Court (AOTC), with developing a wide range of centralized functions and standards for the benefit of the entire Trial Court, including a budget; central accounting and procurement systems; personnel policies, procedures, and standards for judges and staff; and the management of court facilities, security, libraries, and automation.

Chapter 211B of the Massachusetts General Laws authorized the District Court Department (DCD), which has civil jurisdiction over money-damage cases involving tort and contract actions; small claims; summary process; civil motor vehicle infractions (CMVI); mental health, alcoholism, and drug abuse commitments; and juvenile matters in Districts without a Juvenile Court. Its criminal jurisdiction extends over all misdemeanors and certain felonies. The DCD established 62 Divisions, each having a specific territorial jurisdiction, to preside over the civil and criminal matters that are brought before it. The Division's organizational structure consists of three separately managed offices: the Judge's Lobby, headed by a First Justice; the Clerk-Magistrate's Office, headed by a Clerk-Magistrate; and the Probation Office, headed by a Chief Probation Officer. The First Justice is the administrative head of the Division and is responsible for preparing the Division's budget and accounting for its revenues; however, the Clerk-Magistrate and the Chief Probation Officer are responsible for the internal administration of their respective offices.

The Greenfield Division of the District Court Department (GDC) presides over civil and criminal matters falling within its territorial jurisdiction that generally covers the municipalities within central and western Franklin County. During the audit period, July 1, 2005 to August 31, 2006, GDC collected revenues of \$709,184 and disbursed them to the Commonwealth and those municipalities. The majority (approximately 95%) of revenue collected by GDC was paid to the Commonwealth as either general or specific state revenue—totaling \$676,598—as follows:

Revenue Type	Total	July 1, 2006 to August 31, 2006	July 1, 2005 to June 30, 2006
General Revenue	\$256,088	\$41,673	\$214,415
Victim Witness	35,051	6,720	28,331
Surcharges	22,760	3,900	18,860
Indigent Defense	13,700	1,250	12,450
Counsel Fees	77,712	10,838	66,874
Highway Fund	8,097	1,806	6,291
Drug Analysis Fund	670	335	335
Head Injury Program	11,263	2,544	8,719
Probation Fees	218,623	41,750	176,873
Environmental Fees	6,400	350	6,050
Alcohol Fees	25,149	3,330	21,819
Indigent Salary Enhancement Trust	570	30	540
Miscellaneous	<u>515</u>	<u>59</u>	<u>456</u>
Total	<u>\$676,598</u>	<u>\$114,585</u>	<u>\$562,013</u>

Approximately \$98,551 of those funds consisted of suspended fines and costs that were collected by the Probation Office and submitted to the Clerk-Magistrate's Office for transmittal to the Commonwealth. The Probation Office collected approximately \$79,208 of restitution money that it paid directly to the parties owed the funds.

In addition to processing civil case-entry fees and monetary fee assessments on criminal cases, GDC was custodian of approximately 313 cash bails amounting to \$134,468, as of August 31, 2006. Bail in cash (GDC does not accept non-cash forms of bail) is the security given to the Court by defendants or their sureties to obtain release and to ensure appearance in court, at a future date, on criminal matters. Bail is subsequently returned, upon court order, if defendants adhere to the terms of their release.

GDC is also responsible for conducting civil motor vehicle infraction (CMVI) hearings, which are requested by the alleged violator and heard by a Clerk-Magistrate or judge who determines whether the drivers are responsible for the CMVI offenses cited. GDC does not collect the associated

monetary assessment when a violator is found responsible, but it is required to submit the results of the hearing to the Registry of Motor Vehicles, which follows up on collections.

GDC operations were funded by appropriations under the control of either the Division (local) or the AOTC or Commissioner of Probation Office (central). Under local control was an appropriation for personnel-related expenses of the Clerk-Magistrate's Office, Judge's Lobby support staff, and certain administrative expenses (supplies, periodicals, law books, etc.) Other administrative and personnel expenses of the Division were paid by centrally controlled appropriations. According to the Commonwealth's records, local and certain central appropriation expenditures associated with the operation of the Division for the period of July 1, 2005 to August 31, 2006 totaled \$699,294¹.

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the General Laws, the Office of the State Auditor conducted an audit of the financial and management controls of GDC. The scope of our audit included GDC's controls over administrative and operational activities, including cash management, bail funds, and criminal- and civil-case activity, for the period July 1, 2005 to August 31, 2006.

Our audit was conducted in accordance with applicable generally accepted government auditing standards for performance audits and, accordingly, included audit procedures and tests that we considered necessary under the circumstances.

Our audit objectives were to (1) assess the adequacy of GDC's internal controls over cash management, bail funds, and civil- and criminal-case activity and (2) determine the extent of controls for measuring, reporting, and monitoring effectiveness and efficiency regarding GDC's compliance with applicable state laws, rules, and regulations; other state guidelines; and AOTC and DCD policies and procedures.

Our review centered on the activities and operations of GDC's Judge's Lobby, Clerk-Magistrate's Office, and Probation Office. We reviewed bail and related criminal-case activity. We also reviewed

¹ This amount does not include certain centrally controlled expenditures, such as facility lease and related operational expenses, as well as personnel costs attributable to judges, court officers, security officers, probation officers, probation office staff, and related administrative expenses of the probation office, since they are not identified by court division in the Commonwealth's accounting system.

cash management activity and transactions involving criminal monetary assessments and civil case entry fees to determine whether policies and procedures were being followed.

To achieve our audit objectives, we conducted interviews with management and staff and reviewed prior audit reports, the Office of the State Comptroller's Massachusetts Management Accounting and Reporting System reports, AOTC statistical reports, and GDC's organizational structure. In addition, we obtained and reviewed copies of statutes, policies and procedures, accounting records, and other source documents. Our assessment of internal controls over financial and management activities at GDC was based on those interviews and the review of documents.

Our recommendations are intended to assist GDC in developing, implementing, or improving internal controls and overall financial and administrative operations to ensure that GDC's systems covering cash management, bail funds, and criminal- and civil-case activity operate in an economical, efficient, and effective manner and in compliance with applicable rules, regulations, and laws.

Based on our review, we determined that, except for the issues noted in the Audit Results section of this report, GDC (1) maintained adequate internal controls over cash management, bail funds, and civil- and criminal-case activity; (2) properly recorded, collected, deposited, and accounted for all receipts; and (3) complied with applicable laws, rules, and regulations, for the areas tested.

AUDIT RESULTS

1. STATUS OF PRIOR AUDIT RESULTS INVOLVING BAIL - RESOLVED

Our prior audit (No. 2000-5076-3) of the financial and management controls over bail funds at various District Court Divisions disclosed that certain improvements were needed at the Greenfield Division of the District Court Department (GDC) regarding compliance with state laws and AOTC regulations and bulletins governing bail. Specifically, our prior audit reported that forfeited bails were not forwarded to the State Treasurer, the owners of unclaimed bails were not being notified that the bail was available to be returned, and bails were not being forfeited following a defendant's default. We recommended that GDC forward forfeited bail to the State Treasurer, notify owners of unclaimed bail of the availability of the bail to be returned to the surety, and declare the bail on the defaulted cases as forfeited and send the monies to the State Treasurer as Commonwealth revenue. In addition, we recommended that GDC perform monthly reviews of bail records to ensure future compliance.

Our follow-up review found that GDC is processing forfeited bail to the State Treasurer in a timely manner, periodically ordering forfeitures when defendants default, and notifying sureties of the availability of bail funds on completed cases. Additionally, court personnel periodically review the bail trial balance and related records to ensure that bail is processed correctly.

2. IMPROVEMENTS NEEDED WITH DEVELOPING AN INTERNAL CONTROL PLAN AND CONDUCTING PERIODIC RISK ASSESSMENTS

Our audit found that the GDC did not develop an internal control plan or conduct annual risk assessments as required by state law and AOTC rules and regulations. As a result, AOTC's efforts to ensure the integrity of court records and assets were diminished.

Chapter 647 of the Acts of 1989, an Act Relative to Improving the Internal Controls within State Agencies, states, in part: "Internal control systems for the various state agencies and departments of the commonwealth shall be developed in accordance with

internal control guidelines established by the Office of the Comptroller.” Subsequent to the passage of Chapter 647, the Office of the State Comptroller (OSC) issued written guidance in the form of the Internal Control Guide for Managers and the Internal Control Guide for Departments. In these guides, the OSC stressed the importance of internal controls and need for departments to develop an internal control plan, defined as follows:

[A] High-level summarization, on a department-wide basis, of the department's risks (as the result of a risk assessment) and of the controls used by the department to mitigate those risks. This high level summary must be supported by lower level detail, i.e. departmental policies and procedures. We would expect this summary to be from ten to fifty pages depending on the size and complexity of the department.

Accordingly, AOTC issued Internal Control Guidelines for Trial Court, established the following requirement for Department heads when developing an internal control plan, including important internal control concepts:

[The internal control plan] must be documented in writing and readily available for inspection by both the Office of the State Auditor and the AOTC Fiscal Affairs department, Internal Audit Staff. The plan should be developed for the fiscal, administrative and programmatic operations of a department, division or office. It must explain the flow of documents or procedures within the plan and its procedures cannot conflict with the Trial Court Internal Control Guidelines. All affected court personnel must be aware of the plan and/or be given copies of the section(s) pertaining to their area(s) of assignment or responsibility....

The key concepts that provide the necessary foundation for an effective Trial Court Control System must include: risk assessments; documentation of an internal control plan; segregation of duties; supervision of assigned work; transaction documentation; transaction authorization; controlled access to resources; and reporting unaccounted for variances, losses, shortages, or theft of funds or property.

In addition to issuing Internal Control Guidelines, the Fiscal Systems Manual, and Personnel Policies and Procedures Manual, AOTC has issued additional internal control guidance (administrative bulletins, directives, and memorandums) in an effort to promote effective internal controls in court Divisions and offices.

The Head Administrative Assistant for the Judge's Lobby, who was assigned as the internal control officer for the GDC, informed us that the GDC was using AOTC's Internal Control Guidelines as an internal control plan.

Recommendation

The GDC should review AOTC's Internal Control Guidelines for the Trial Court, conduct a risk assessment, and document their high-level internal control plan that addresses the risks and internal control requirements specific to their operations. The GDC should conduct annual risk assessments and update their internal control plan based on the results of the risk assessments, as necessary.

Auditee's Response

The First Justice concurred with our recommendation and noted that the court is in the process of developing such a plan.

3. IMPROVEMENTS NEEDED IN CONTRACT MANAGEMENT FOR VENDING MACHINES

Our audit found that improvements were needed with procurement management for vending machine contracts at both AOTC and GDC. A number of years ago, a vendor installed two vending machines that are used by the public and court employees. Although the machines serve the needs of the public and court employees by providing snacks and beverages at reasonable prices², the court and the Commonwealth may not have received as much benefit as they could have from this vending arrangement. GDC personnel were unable to show us that the vendor was chosen as a result of a competitive process and they also could not provide us with contracts for the vending machines. Although the court receives commission checks for 10%³ of the snack machine sales, no commissions are paid for the beverage machine revenue. We also noted that GDC did not receive commission checks for snack machine revenue for the four-month period October 2005 through January 2006. Procurement provisions issued

² Soft drinks cost \$1.25 and snack prices range between \$.70 and \$1.25.

³ Average snack machine monthly commission was \$29.

by AOTC require courts to seek competitive bids for these types of contracts to best serve the needs of the public, the courts, and the Commonwealth.

AOTC's Chief Justice for Administration and Management in January 1994 provided guidance to courts related to the competitive procurement of vending machines. Section 2 of the memo provides the basic provisions for such procurement and states, in part:

Basic Provisions: Requests for Proposals (RFP's) should include provisions which best ensure that the public will be fairly served and the Commonwealth receives a benefit, and that you will be able to fairly compare the vendors' responses.

Additionally the memo states, in part:

For all vending machines that are installed in State owned buildings, a file must be retained for audit purposes. This file should contain all agreements/contracts and validation documents when income is received.

Court personnel told us that the vending machines had been in place a long time, and they were uncertain whether a competitive process was originally used to select the vendor or if a contract was ever signed. In addition, court personnel could not explain why commission revenue was not received for the four-month period of October 2005 to January 2006 or why commissions are not received for beverage sales.

Recommendation

The AOTC Procurement Section of the Fiscal Affairs Department and GDC should review its procurement policies to determine whether they properly address current issues dealing with the vending machines. The Procurement Section should then review the current arrangement to determine whether it is best serving the needs of the public, the Court, and the Commonwealth, and should provide guidance, as necessary, to GDC regarding how to proceed with this vending arrangement. Lastly, GDC court personnel should determine why commissions were not received for the four-month period of October 2005 through January 2006.

Auditee's Response

The First Justice provided the following response:

We have gone back through the history of how the machines came to be installed to determine if there is a contract. At this time, we have been unable to locate any evidence of a contract with the vendor for these machines. Apparently, they were installed when this building was owned and run by the Franklin County Commissioners. We will work through our procurement department in Boston to obtain a contract with a suitable vendor for all of these machines.