



The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

ONE ASHBURTON PLACE, ROOM 1819
BOSTON, MASSACHUSETTS 02108

A. JOSEPH DeNUCCI
AUDITOR

TEL. (617) 727-6200

NO. 2007-1313-30

**INDEPENDENT STATE AUDITOR'S REPORT
ON CERTAIN ACTIVITIES OF THE
WORCESTER DIVISION OF THE
HOUSING COURT DEPARTMENT OF THE
MASSACHUSETTS TRIAL COURT
JULY 1, 2005 TO FEBRUARY 28, 2007**

**OFFICIAL AUDIT
REPORT
AUGUST 28, 2007**

TABLE OF CONTENTS/EXECUTIVE SUMMARY

INTRODUCTION

1

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 Housing Court Department, which established five Divisions, each having a specific territorial jurisdiction, to preside over housing-related matters that are brought before it. The Division's organizational structure consists of two separately managed offices: the Judge's Lobby, headed by a First Justice; and the Clerk-Magistrate's Office, headed by a Clerk Magistrate. The First Justice is the administrative head of the Division and is responsible for preparing the Division's budget, appointing housing specialists, and accounting for its revenues; however, the Clerk-Magistrate is responsible for the internal administration of that office.

The Worcester Division of the Housing Court Department (WHC) presides over housing-related matters falling within its territorial jurisdiction: the cities and towns of Worcester County, the jurisdiction known as Devens, and the following specific municipalities in other counties, the city of Marlborough, and the towns of Ashby, Bellingham, Hudson, and Townsend. During the period July 1, 2005 through February 28, 2007, WHC collected revenues of \$1,049,095 and disbursed them to the Commonwealth and those municipalities. In addition to the funds collected and transferred to the Commonwealth, WHC was in control of 47 civil escrow accounts valued at \$40,109 as of February 28, 2007.

WHC operations are funded by appropriations under the control of the Division and the Administrative Office of the Trial Court (AOTC). According to the Commonwealth's records, expenditures associated with the operation of the Division for the 20-month period amounted to \$1,400,767.

The purpose of our audit was to review WHC's internal controls and compliance with state laws and regulations regarding administrative and operational activities, including housing case activity, cash management, payroll time and attendance reporting, and inventory for the period July 1, 2005 to February 28, 2007.

AUDIT RESULTS

4

1. IMPROVEMENTS NEEDED IN DOCUMENTING DEPARTMENT-WIDE RISK ASSESSMENTS

4

Our audit found that the WHC prepared an internal control plan that covered the major operational areas of the Clerk's Office. However, the Court did not formally document its risk assessment that would be the starting point for developing the internal control plan, and the Court was unaware of the need to conduct periodic risk assessments as required by state law and AOTC rules and regulations. As a result, the AOTC's efforts to ensure the integrity of court records and assets were not optimized.

2. IMPROVEMENTS NEEDED IN CONTROLS OVER FIXED ASSET INVENTORY**5**

Our audit found that WHC did not conduct a complete physical inventory in accordance with AOTC requirements. Although WHC staff conducted annual physical inventories, they did not confirm the existence of 40% of the items reported on the inventory list. Additionally, WHC staff did not adjust inventory records to reflect the disposition and replacement of 11 computers that the court acquired in 2004. As a result, WHC's inventory reported at \$114,486 as of February 28, 2007, was vulnerable to theft, loss, or misuse; and asset values were potentially misreported on the Commonwealth's financial statements.

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 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 Housing Court Department (HCD), which has jurisdiction over the use of any real property and activities conducted thereon affecting the health, welfare, and safety of any resident, occupant, user or member of the general public and which is subject to regulation by local cities and towns under the state building code, state specialized codes, state sanitary code, and other applicable statutes and ordinances. The HCD established five Divisions, each having a specific territorial jurisdiction, to preside over the housing-related matters that are brought before it. The Division's organizational structure consists of two separately managed offices: the Judge's Lobby, headed by a First Justice; and the Clerk-Magistrate's Office, headed by a Clerk-Magistrate. The First Justice is the administrative head of the Division and is responsible for preparing the Division's budget, appointing housing specialists, and accounting for its revenues; however, the Clerk-Magistrate is responsible for the internal administration of that office.

The Worcester Division of the Housing Court Department (WHC) presides over housing-related matters falling within its territorial jurisdiction: the cities and towns of Worcester County, the jurisdiction known as Devens, and the following specific municipalities in other counties, the city of Marlborough, and the towns of Ashby, Bellingham, Hudson, and Townsend. During the audit period, July 1, 2005 to February 28, 2007, WHC collected revenues totaling \$1,049,095 and disbursed them to the Commonwealth as either general or specific state revenue. The following

table shows the breakdown of the \$1,049,095 in revenues collected and transferred to the Commonwealth:

Revenue Type	Total	July 1, 2005 to June 30, 2006	July 1, 2006 to February 28, 2007
General Revenue	\$ 937,691	\$526,708	\$410,983
Miscellaneous	160	140	20
Surcharges	<u>111,244</u>	<u>63,435</u>	<u>47,809</u>
Total	<u>\$1,049,095</u>	<u>\$590,283</u>	<u>\$458,812</u>

In addition to the funds collected and transferred to the Commonwealth, WHC was in control of 47 civil escrow accounts totaling \$40,109 as of February 28, 2007. These accounts are considered assets held in trust by the Court and kept in the custody of the Clerk-Magistrate pending disposition by the Court.

WHC operations are funded by appropriations under the control of either the Division (local) or the AOTC (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, subscriptions, memberships and licensing fees, 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 20-month period amounted to \$1,400,767.¹

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 over certain operations of the WHC. The scope of our audit included WHC's controls over administrative and operational activities; including housing case activity, cash management, payroll time and attendance reporting, and inventory, for the period July 1, 2005 to February 28, 2007.

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

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 WHC's internal controls over housing case activity, cash management, payroll time and attendance reporting, and inventory, and (2) determine the extent of controls for measuring, reporting, and monitoring effectiveness and efficiency regarding WHC's compliance with applicable state laws, rules, and regulations; other state guidelines; and AOTC and HCD policies and procedures.

Our review centered on the activities and operations of WHC's Judge's Lobby and Clerk-Magistrate's Office. We reviewed housing case activity, cash management activity, payroll time and attendance activities, and inventory records 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 WHC'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 WHC was based on those interviews and the review of documents.

Our recommendations are intended to assist WHC in developing, implementing, or improving internal controls and overall financial and administrative operations to ensure that WHC's systems covering housing case activity, cash management, payroll time and attendance reporting, and inventory, operate in an economical, efficient, and effective manner and in compliance with applicable rules, regulations, and laws.

Based on our review, we have determined that, except for the issues noted in the Audit Results section of this report, WHC (1) maintained adequate internal controls over housing case activity, cash management, payroll time and attendance reporting, and inventory; and (2) complied with applicable laws, rules, and regulations, for the areas tested.

AUDIT RESULTS

1. IMPROVEMENTS NEEDED IN DOCUMENTING DEPARTMENT-WIDE RISK ASSESSMENTS

Our audit found that the WHC prepared an internal control plan that covered the major operational areas of the Clerk's Office. However, the Court did not formally document its department-wide risk assessment that would be the starting point for developing the internal control plan and the Court was unaware of the need to conduct periodic risk assessments as required by state law and AOTC rules and regulations. As a result, the AOTC's efforts to ensure the integrity of court records and assets were not optimized.

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 the 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 the Trial Court, establishing the following requirement for department heads when developing an internal control plan, including the following 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 the Internal Control Guidelines, 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.

WHC Clerk's Office officials indicated that when the office internal control plan was developed, office operations were reviewed and those areas at risk were considered, but they did not formally document their risk assessment. Court officials further stated that they thought documenting a flow chart, as indicated within the AOTC Internal Control Guidelines, constituted the court's internal control plan when combined with the available Fiscal Systems Manual rules and various AOTC policies and procedures manuals. They were aware of AOTC's requirement to develop an internal control plan on a Division level, but were unfamiliar with the OSC's definition of an internal control plan and the availability of OSC's internal control guidance materials.

Recommendation

The WHC should formalize in writing its department-wide risk assessment and modify its internal control plan, if necessary, for any risks not yet addressed. The WHC should review AOTC's Internal Control Guidelines and the OSC's internal control plan requirements, and conduct and document risk assessments on a department-wide basis. Moreover, WHC should conduct annual risk assessments and update their internal control plan based on the results of these risk assessments as necessary.

Auditee's Response

In response to our draft audit report, WHC's First Justice and Clerk Magistrate acknowledged the areas in need of improvement and stated that they are working diligently to address these issues.

2. IMPROVEMENTS NEEDED IN CONTROLS OVER FIXED ASSET INVENTORY

Our audit found that WHC did not conduct a complete physical inventory in accordance with AOTC requirements. Although WHC staff conducted annual physical inventories, they did not

confirm the existence of 40% of the items reported on the inventory list. Additionally, WHC staff did not adjust inventory records to reflect the disposition and replacement of 11 computers that the court acquired in 2004. As a result, WHC's inventory reported at \$114,486 as of February 28, 2007 was vulnerable to theft, loss, or misuse; and asset values were potentially misreported on the Commonwealth's financial statements.

Effective for fiscal year 2004, the responsibility for preparing and reporting the fixed asset inventory transferred from AOTC to each court division. With this revision, court locations became responsible for maintaining a fixed asset inventory of items valued over \$100 in their care and control. These revised inventory procedures were communicated to all court officials in a May 28, 2004 memo from the Chief Justice for Administration and Management, which stated, in part:

The fixed asset inventory must contain all fixed assets with a value over \$100 that is in the care and control of a court/office. There should be one fixed asset inventory for each court division or office. The fixed asset inventory is an integral part of the internal control plan for a court/office.

In conjunction with the Trial Court Information Technology Department, the Fiscal Affairs Department has developed a spreadsheet utilizing Microsoft Excel that captures the essential inventory information [current tag number, equipment type, source, date received, site location, room location, description, cost]. The new procedures require courts and offices to initially enter their inventory data into the Excel spread sheet and make additions and deletions as equipment is received and disposed.

The information on the inventory spreadsheet must be reconciled by courts and offices at the end of each fiscal year. The information must then be reported, via email, to the Fiscal Affairs Department no later than October 1st each year.

In preparation for reporting the fixed asset inventory, courts and offices should use their current inventory list as the basis of the new inventory.

Fixed assets that are provided to a court or office as part of a capital project, e.g. a new or renovated courthouse or fixed assets that are purchased centrally by the AOTC, Office of the Commissioner of Probation, et al., must be included in the inventory of the court/office which has possession of the asset. In such instances, the court/office should consult with the organization that purchased the fixed asset to obtain the pertinent data.

Our audit tests found that when the annual physical inventory review was conducted, only the existence of items purchased in the year 1999, excluding computer equipment, were confirmed, since court personnel used the 1999 equipment-received forms rather than the entire inventory list. These forms were used instead of the inventory list because equipment received forms had actual room locations on them, while the inventory list recorded all equipment as being located

in one generic room location. In addition, 11 computers with a total cost of \$14,916 were still on the inventory list, although these computers were disposed of in 2004 when AOTC provided new leased computers to the court. The old computers remained on the inventory list and the new computers were never added. According to WHC officials, the old computers were mistakenly left on the list, and the court's records will be updated to properly label these items as disposed of on the inventory list.

We discussed these conditions with WHC officials while we were conducting audit fieldwork. These officials expressed a willingness to take corrective action, noted that the court will be moving to a new location in September 2007, and indicated that they will conduct a complete inventory and use the new updated list to conduct annual physical inventories. With respect to the computers, WHC personnel sought guidance from AOTC, and will remove the old equipment from their inventory list and update the list with the new computer equipment.

Recommendation

WHC should conduct a complete physical inventory and adjust their list for any additions or deletions as necessary. When they move to the new courthouse location, they should also add any new equipment under their control to the inventory list and submit the list in accordance with AOTC requirements.

Auditee's Response

In response to our draft audit report, WHC's First Justice and Clerk Magistrate acknowledged the areas in need of improvement and stated that they are working diligently to address these issues.