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**INDEPENDENT STATE AUDITOR'S REPORT
ON CERTAIN ACTIVITIES OF THE
SUFFOLK DIVISION OF THE PROBATE AND
FAMILY COURT DEPARTMENT OF THE
MASSACHUSETTS TRIAL COURT
JULY 1, 2005 TO NOVEMBER 30, 2007**

**OFFICIAL AUDIT
REPORT
AUGUST 19, 2008**

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 217 of the Massachusetts General Laws authorized the Probate and Family Court Department (PFCD), which established 14 Divisions, each having a specific territorial jurisdiction, to preside over probate and family 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 Register of Probate's Office (RPO), headed by a Register of Probate who is an elected official; 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; however, the Register of Probate and Chief Probation Officer are responsible for the internal administration of their respective offices.

The Suffolk Division of the Probate and Family Court Department (SPFC) presides over probate and family-related matters falling within its territorial jurisdiction of Suffolk County. During the period July 1, 2005 through November 30, 2007, SPFC collected revenues of \$3,517,293 and disbursed them to the Commonwealth. In addition to processing monetary assessments on probate and family cases, SPFC was the custodian of 145 custodial bank accounts valued at \$1,440,854 as of November 30, 2007.

SPFC operations are funded by appropriations under the control of either the Division, the Administrative Office of the Trial Court (AOTC), or the Office of the Commissioner of Probation. According to the Commonwealth's records, expenditures associated with the operation of the Division were \$6,944,695 for the period July 1, 2005 to November 30, 2007.

The purpose of our audit was to review SPFC's internal controls and its compliance with applicable laws and regulations regarding administrative and operational activities, including cash management and revenue. Our review focused on the activities of the RPO for the period July 1, 2005 to November 30, 2007.

AUDIT RESULTS

5

1. NONCOMPLIANCE WITH CHAPTER 647 OF THE ACTS OF 1989 REPORTING REQUIREMENTS

5

Our examination found that the RPO, contrary to reporting requirements set forth in Chapter 647 of the Acts of 1989, did not report serious internal control deficiencies and indicators of possible malfeasance, as well as cash shortages (uncovered by AOTC internal auditors) to the Office of the State Auditor (OSA). As a result, the OSA was precluded from carrying out its responsibilities under Chapter 647. Moreover, not adhering to prescribed reporting requirements ultimately may have played a role in delaying needed upgrades to funds management internal controls.

2. ADDITIONAL IMPROVEMENTS NEEDED IN DEVELOPING AN INTERNAL CONTROL PLAN AND CONDUCTING PERIODIC RISK ASSESSMENTS **7**

Our examination determined that although the RPO has made progress in developing an internal control plan, improvements are still needed to fully comply with Chapter 647 of the Acts of 1989 and AOTC rules and regulations. Specifically, our review disclosed that the RPO's internal control plan did not identify and explain all fiscal and administrative operations of the office, and that a department-wide risk assessment was not completed as part of the development of its plan. As a result, AOTC's efforts to ensure the integrity of court records and to protect court assets have been diminished.

3. INTERNAL CONTROLS OVER FUNDS MANAGEMENT NEED TO BE STRENGTHENED **11**

Our audit identified a number of internal control deficiencies related to funds management activities of the bookkeeper and cashiers that differed from AOTC prescribed policies and procedures and OSC year-end closing instructions. These deficiencies illustrate that supervision, monitoring, guidance, and training of staff are lacking. As a result, the Register has reduced assurance that its bookkeeper and cashier functions are being performed in accordance with set policies and procedures.

4. IMPROVEMENTS NEEDED IN CONTRACT MANAGEMENT FOR PUBLIC USE OF PHOTOCOPIER MACHINES **18**

Our audit found that both the AOTC and SPFC should improve their procurement management for public use of photocopier machines. Specifically, our review determined that for more than 11 years, the RPO has had three vendor-owned (coin operated) photocopy machines for public use. Neither the court nor the Commonwealth received commission income from the vendor for the use of space and utility being provided for these photocopiers. Even though procurement provisions issued by AOTC require courts to seek competitive bids for these types of services to best serve the needs of the public, the court, and the Commonwealth, this arrangement was executed without the benefit of a competitive bid and a written contract. The lack of a competitive procurement process may result in the RPO and the Commonwealth not receiving the maximum potential benefit and value from this arrangement. Similarly, without a written contract signed by both parties, the rights and obligations of each party are not clearly defined. Furthermore, should there be a misunderstanding or a need to quickly resolve a performance issue, a written contract can also serve as an important point of reference.

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 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 for the Trial Court; 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 217 of the Massachusetts General Laws authorized the Probate and Family Court Department (PFCD), which has jurisdiction over family matters such as divorce, paternity, child support, custody, visitation, adoptions, termination of parental rights, and abuse prevention. Along with general equity jurisdiction, PFCD's jurisdiction extends over all probate matters that include wills, administrations, guardianships, conservatorships, and change of name. The PFCD established 14 Divisions, each having a specific territorial jurisdiction, to preside over probate and family matters brought before it. The Division's organizational structure consists of three main areas: the Judge's Lobby, headed by a First Justice; the Register of Probate's Office (RPO), headed by a Register of Probate who is an elected official; and the Probation Office, headed by a Chief Probation Officer. The First Justice is the administrative head of the Division, whereas the Register of Probate and the Chief Probation Officer are responsible for the internal administration of their respective offices.

The Suffolk Division of the Probate and Family Court Department (SPFC) presides over probate and family matters falling within its territorial jurisdiction of Suffolk County. During the audit period July 1, 2005 to November 30, 2007, SPFC collected revenues of \$3,517,293 and disbursed them to the Commonwealth as either general or specific state revenue. The following table shows the breakdown of the \$3,517,293 in revenues collected and transferred to the Commonwealth:

| Revenue Type | July 1, 2007 to November 30, 2007 | July 1, 2006 to June 30, 2007 | July 1, 2005 to June 30, 2006 | Total for Audit Period |
|--|--------------------------------------|----------------------------------|----------------------------------|---------------------------|
| General State Revenue | | | | |
| Probate | \$331,237 | \$813,971 | \$870,889 | \$2,016,097 |
| Divorce | 146,200 | 366,796 | 347,215 | 860,211 |
| Certificates | 64,160 | 166,533 | 169,007 | 399,700 |
| Copies | 10,188 | 24,415 | 25,213 | 59,816 |
| Summons | 3,331 | 7,960 | 7,626 | 18,917 |
| Tapes | 4,105 | 8,581 | 7,350 | 20,036 |
| Miscellaneous | - | 387 | 850 | 1,237 |
| | <u>\$559,221</u> | <u>\$1,388,643</u> | <u>\$1,428,150</u> | <u>\$3,376,014</u> |
| Designated State Revenues Surcharge | <u>22,685</u> | <u>58,799</u> | <u>59,795</u> | <u>141,279</u> |
| | <u>\$581,906</u> | <u>\$1,447,442</u> | <u>\$1,487,945</u> | <u>\$3,517,293</u> |

In addition, SPFC was in control of 145 custodial bank accounts valued at \$1,440,854 as of November 30, 2007. These accounts, established pursuant to the provisions of Chapter 206 of the Massachusetts General Laws, are considered assets held in trust by the court and are kept in the custody of the RPO. These accounts usually result from the settlement of probate proceedings at the request of a fiduciary who cannot distribute the funds to the beneficiary because he or she is either a minor or an heir who cannot be located at the time of settlement.

SPFC operations are funded by appropriations under the control of either the Division (local) or the AOTC or the Commissioner of Probation Office (central). Under local control for the 29-month audit period was an appropriation for personnel-related expenses of the RPO, 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 29-month audit period amounted to \$6,944,695.¹

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 SPFC.

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 and probation staff, and related administrative expenses of the probation office, since they are not identified by court division in the Commonwealth's accounting system.

The scope of our audit included a review of SPFC's controls over administrative and operational activities, including cash management and revenue for the period July 1, 2005 to November 30, 2007.

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 SPFC's internal controls over cash management and revenues and (2) determine the extent of controls for measuring, reporting, and monitoring effectiveness and efficiency regarding SPFC's compliance with applicable state laws, rules, and regulations; other state guidelines; and AOTC and SPFC policies and procedures.

Our review centered on the activities and operations of SPFC's RPO. We reviewed cash management activity and transactions involving the collection and processing of revenue to determine whether policies and procedures were being adhered to.

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 (MMARS) reports, AOTC statistical reports, and SPFC'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 cash management and revenue collection and processing activities at SPFC was based on these interviews and our review of pertinent documents.

Our recommendations are intended to assist SPFC in developing, implementing, or improving internal controls and overall financial and administrative operations to ensure that SPFC's systems covering cash management and revenue collection and processing activities 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 our report, SPFC (1) maintained adequate internal controls over cash management and

revenue collection and processing activities and (2) complied with applicable laws, rules, and regulations for the areas tested.

AUDIT RESULTS

1. NONCOMPLIANCE WITH CHAPTER 647 OF THE ACTS OF 1989 REPORTING REQUIREMENTS

Our examination found that, contrary to reporting requirements set forth in Chapter 647 of the Acts of 1989, the Register of Probate's Office (RPO) did not report serious internal control deficiencies and indicators of possible malfeasance, as well as cash shortages (uncovered by Administrative Office of the Trial Court internal auditors)² to the Office of the State Auditor (OSA). In doing so, the OSA was precluded from carrying out its responsibilities under Chapter 647, which requires that the OSA (a) identify internal control weaknesses that may have contributed to the problems documented, (b) make recommendations to correct the conditions found, (c) identify necessary modifications to internal control policies and procedures, and (d) report the matter to management and appropriate law enforcement officials. In addition, our review determined that while the RPO is continuing to upgrade internal controls over funds management and is making progress in developing an internal control plan and ensuring that risk assessments are periodically conducted, improvements are still needed to ensure compliance with Massachusetts General Laws and Trial Court rules and regulations (see Audit Results Nos. 2 and 3).

Specifically, our review of AOTC's Internal Audit Report (April 22, 2003)—funds management section—found that AOTC auditors questioned 210 electronic cash register (ECR) “voided” transactions involving receipts totaling \$12,885. In addition, AOTC's audit report identified internal control inadequacies in the daily closing process that allowed cash shortages to go undetected and unaddressed. For this reason, AOTC reported the following to RPO management:

Based on the audit findings detailed throughout the Funds Management Section, it is apparent that serious internal control deficiencies exist in the area of financial record keeping. The lack of a segregation of duties, accountability and supervisory oversight has fostered an operation that lacks efficiency and indicators of possible malfeasance.

While it is important to address all of the issues outlined in this report, it is essential that a review of the deficiencies just presented be undertaken immediately by management. Based on the facts as currently known, serious implications can be drawn. The full authority of the Court must be exercised to research, investigate and interview, as required, in order to come to some final conclusions. It is necessary that a thorough

² Administrative Office of the Trial Court, Internal Audit Report dated April 22, 2003, Suffolk Division Probate and Family Court Department, July 1, 2000 to June 30, 2002.

accounting be provided of these transactions and the funds associated with each of these cases. Please report the results of this endeavor as soon as possible so that, if necessary, the appropriate investigatory agency can be consulted.

Additionally, the report states that:

All shortages and variances must be reported to both the AOTC and Office of the State Auditor through the completion of a Report on Unaccounted for Variances, Losses, Shortages, or Thefts of Funds or Property form.

In accordance with Chapter 647 of the Acts of 1989, all state agencies, including the Trial Court, are required to report all unaccounted-for variances, losses, shortages, or thefts of property or funds to the OSA.³ Furthermore, Chapter 647 requires the OSA to determine the internal control weaknesses that contributed to or caused an unaccounted-for variance, loss, shortage, or theft of funds or property; make recommendations to correct the condition found; identify the internal control policies and procedures that need modification; and report the matter to appropriate management and law enforcement officials.

When questioned, the RPO explained that an in-house examination of voided transactions—as determined essential by AOTC auditors—was carried out and results were made available to the Suffolk County District Attorney’s Office for investigation. According to the Register, the District Attorney’s Office later concluded that there was insufficient evidence to prosecute. Further, while the Register acknowledged being unfamiliar with the Chapter 647 reporting requirements, the Register added that he believed he took appropriate action by reporting the matter to the District Attorney’s Office. Although we made requests to both the AOTC and the Register to review the outcome of the District Attorney’s investigation, no report or information was available. Because the RPO had not followed prescribed reporting requirements, the OSA was precluded from carrying out its responsibilities under Chapter 647. Ultimately, this preclusion may have played a role in delaying the needed upgrades to funds management internal controls detailed in this report (see Audit Result No. 3).

We are pleased that the RPO has taken steps to address emerging issues as they developed. Toward that end, the Register, as a result of our review, set in motion corrective procedures to ensure that reporting requirements as set forth in Chapter 647 and the Administrative Office of

³ Reporting requirements are also promulgated in the AOTC Internal Control Guidelines, Section 1.5.8, Reporting Unaccounted for Variances, Losses, Shortages or Thefts of Funds or Property.

the Trial Court (AOTC) Internal Control Guidelines are incorporated into the court's internal control plan.

Recommendation

RPO should continue to strengthen its internal control plan to ensure compliance with Chapter 647 reporting requirements and report all unaccounted-for shortages, variances, losses, or thefts of funds or property directly to the OSA.

Auditee's Response

The Register of Probate provided the following response:

The Suffolk County District Attorney's Office was asked to investigate an apparent loss of funds in 2003. The discrepancy was discovered during an internal audit conducted by the AOTC, and our office set out immediately to figure out how and where the problem occurred. Our bookkeeper worked weekends to record 106 cash voids from January 2001 to June 2002. From the ECR "Z" reading tapes, he listed the date, docket number, transaction number, transaction time, and void amount. He then went back to the time sheets and then listed who was working the ECR at that particular time. As you are aware, all of the information collected was forwarded to the Suffolk County District Attorney's Office, which conducted a thorough investigation, but was unable to come to a conclusion.

Regarding non-compliance, the Register's office was unaware of the reporting requirements of Chapter 647, and believed that appropriate action was taken when the District Attorney's Office was asked to investigate the matter.

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

Our review disclosed that while the RPO has made progress in developing an internal control plan, improvements are still needed to fully comply with Chapter 647 of the Acts of 1989 and AOTC requirements. Specifically, our examination determined that RPO's internal control plan did not identify and explain all fiscal and administrative operations of the office, and that a department-wide risk assessment was not completed as part of the development of the internal control plan. As a result, AOTC's efforts to ensure the integrity of court records and to protect court assets have been diminished.

Chapter 647 of the Acts of 1989 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. The OSC's most recent Internal Control Guide⁴ continues to stress the importance of internal controls and the need for departments to develop an internal control plan, defined as follows:

A high-level department-wide summarization of the department's risks and the controls used to mitigate those risks. This high level summary must be supported by lower level detail, i.e., department policies and procedures.

Also, the new OSC Internal Control Guide continues to put emphasis on a department-wide risk assessment, which is defined as "the identification and analysis of the risks that could prevent the department from attaining its goals and objectives." For this reason, the risk assessment is an integral part of an internal control plan because it assists management in prioritizing those activities where controls are most needed. To comply with Chapter 647, management is responsible for evaluating and implementing, at least annually, any changes necessary to promote efficiency, reducing the risk of asset loss, helping to ensure the reliability of financial activity and compliance with laws and regulations, and maintaining the integrity and effectiveness of the internal control system.

Further, the 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.

⁴ The OSC issued its seventh edition of their Internal Control Guide on September 13, 2007 that streamlines the contents of existing manuals and incorporates the principles of Enterprise Risk Management (ERM) that tie risk to strategic planning. Accordingly, the new guide replaced both the *Internal Control Guide for Managers, Volume I*, and *Internal Control Guide for Departments, Volume II*.

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)⁵ in an effort to promote effective internal controls in court Divisions and offices.

Although enhancements to the RPO internal control plan are ongoing, our review noted that not all fiscal and administrative processes are clearly documented. For example, the AOTC, as part of its commitment to assist department heads in the development of an internal control plan, provided training that included the issuance of 12 internal control templates; each intended to address a specific section, to be used as guidance in developing a department's internal control plan. Even though the court's designated internal control officer attended AOTC's training, we noted that three of the AOTC suggested templates were omitted from the RPO plan, as follows:

- An *Introduction* that defined the following essential internal control concepts, as follows: Risk Assessments; Documentation of 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 Thefts of Funds or Property.
- An *Office Administration* section detailing such controls as: Access and Security, Security of Assets, Electronic Security, and Passwords and Identification Codes.
- An *Inventory* section explaining asset management requirements, as follows: Fixed Assets, GAAP Fixed Assets, and Materials and Supplies.

Furthermore, our review found that RPO case management operations, i.e., the process in which cases are initiated (docketing procedures), monitored, and retained, were not documented in the internal control plan. Moreover, despite the indication of possible malfeasance as outlined in AOTC's most recent Internal Audit Report, the existing plan does not communicate integrity and ethical values expected of management and staff. Also, our review found numerous memos, forms, and policies and procedures added to the back of the internal control plan that were not referenced to related sections in the plan. AOTC's appendix template, designed to make easier the documentation and management of attachments, was not integrated into the current plan.

⁵ Additional AOTC internal control guidelines are disseminated to all: Chief Justices, First Justices, Clerk Magistrates, and Registers of Probate of the Trial Court; Recorder of the Land Court; and Commissioner of Probation, Jury Commissioner, and Chief Probation Officers of the Trial Court.

Due to the significance of the internal control deficiencies reported in AOTC's previous audit, AOTC recommended that the department head immediately develop and implement an internal control plan. Our review demonstrates that while the RPO is making progress, improvements are still necessary. Further, although responsible court personnel stated that they were aware of AOTC's internal control requirements, it is clear from our review that appropriate supervision and approval of work at critical points during the development of the internal control plan did not take place, and that additional training and assistance from AOTC is needed.

While conducting our audit fieldwork, the RPO Internal Control Officer attended an AOTC Risk Assessment training seminar and received a risk assessment template as a guide to conducting a department-wide risk assessment.

Recommendation:

The RPO should review the OSC's Internal Control Guide and the AOTC's Internal Control Guidelines for the Trial Court, conduct a risk assessment, and continue to develop, upgrade, and document its internal control plan that addresses the risks and internal control requirements specific to all fiscal, administrative, and, if applicable, program operations. Our report has identified internal control weaknesses that should be given appropriate priority by management. Additionally, the RPO should ensure that a risk assessment is conducted annually and that its internal control plan is updated based on the results of the risk assessment, as necessary. Further, the RPO should modify and integrate—based on its specific operations—all AOTC internal control templates into its internal control plan. The internal control plan should also incorporate, in addition to risk assessments, the following key internal control concepts: segregation of duties; supervision of assigned work; transaction documentation; transaction authorization; controlled access to resources; and the action necessary to report unaccounted-for variances, losses, shortages, or thefts of funds or property to the OSA and AOTC. The RPO's designated internal control officer should continue to take advantage of all AOTC-offered training sessions. We also encourage the department head to participate in these training sessions. As a final point, the internal control plan is an important communication vehicle that management should use to raise awareness of as well as to underscore management's commitment to integrity. For this reason, the RPO should ensure that integrity and ethical

values expected of management and staff is well documented in its plan and made available to all court personnel.

Auditee's Response

The Register of Probate provided the following response:

The internal control plan has since been updated to further describe and document the fiscal and administrative operations of the Registry, as well as to detail the specific responsibilities of staff in these areas. In addition, the management team will exceed the annual risk assessment requirement by conducting a biannual risk assessment review, and adjust the internal control plan accordingly.

[Regarding the internal control templates] our representative received only [certain] templates from the AOTC during the training. We were completely unaware that others existed. As soon as the audit team informed us of this, we requested the missing templates and received them in March 2008. While the audit team was still at the Registry, we began updating the internal control plan to include all templates. It now include an introduction, office administration, and inventory sections – all specifically noted in the draft audit report as being omitted from the internal control plan.

3. INTERNAL CONTROLS OVER FUNDS MANAGEMENT NEED TO BE STRENGTHENED

During our review we identified a number of RPO internal control weaknesses relating to funds management activities that highlight a need for improvement. Strengthening internal controls over funds management will enhance the integrity of court records and RPO's internal control system as well as ensure compliance with funds management rules and regulations established by the AOTC and OSC. Summarized below are activities performed by the RPO bookkeeper and cashier(s) that differed from AOTC-promulgated accounting policies and procedures:

a. Bookkeeper

- In view of ECR “*transaction void*” concerns that surfaced during AOTC's most recent audit (see Audit Result No. 1), we examined 10 ECR transaction voids⁶ totaling \$1,530 to determine compliance with AOTC-prescribed receipting and financial recordkeeping procedures.⁷ Our review found that eight of 10 (80%) transaction voids had not been executed in accordance with long-established document-validation procedures. Of the eight, in four instances relevant case documents were not validated through the ECR to indicate that the transaction had been voided, whereas incorrect case documents were validated through the ECR in four other instances. We also observed that even though AOTC policies and procedures instruct that the bookkeeper must sign and initial ECR receipts with transaction voids, our review showed that all 10 transaction void receipts had been initialed and dated by the cashier rather than the bookkeeper. As a result, the

⁶ The following ECR transaction void days were randomly selected: 7/06/2005, 10/07/2005, 4/25/2006, 6/29/2006, 7/11/2006, 1/08/2007, 3/02/2007, 6/28/2007, 9/13/2007, and 11/23/2007.

⁷ Trial Court Fiscal Systems Manual, Section 8.3

Register cannot be certain that appropriate segregation of duties was practiced because the cashier had signed all ECR void receipts. Additionally, we noted that four of 10 transaction voids had not been listed on the cashier's Daily Cash Sheet (see 3b. Cashier). Maintaining a proper audit trail is contingent upon the efficiency and accuracy of court records such as the Daily Cash Sheet.

Although responsible court personnel could not explain case document validation missteps, the bookkeeper commented that he was not familiar with the procedural requirement that the bookkeeper sign and initial transaction void ECR receipts. In fact, the Funds Management Section of the RPO Internal Control Plan, contrary to the Trial Court's set policies and procedures, states that: "The voids are validated on the proper case documentation and the void receipt is signed by the cashier." We maintain that because the bookkeeper's initials are not on the transaction void receipts, there is little support that the bookkeeper actually completed the transaction void.

- ECR "X" (subtotal) readings are not executed on the day revenues are collected. We learned that because the bookkeeper's normal working hours conclude before the cashier closes out the ECR for the evening, an ECR "X" reading is not completed by the bookkeeper until the following morning. This practice is contrary to AOTC-approved accounting procedures, which require that an additional ECR "X" reading be made when new funds are collected after a "Z" (grand total) reading is taken. Because ECR "X" readings are not completed as required, the RPO is at risk of losing valuable revenue information should an ECR memory failure occur. Furthermore, this routine likely played a role in year-end revenue cut-off deficiencies detailed later in this report. Although the bookkeeper remarked that the practice was acceptable to AOTC, an AOTC representative commented that AOTC's standard advice to the Trial Court is to follow the procedures outlined in its Fiscal Systems Manual.
- Annually, the OSC issues closing and opening instructions that highlight the most important aspects of the year-end closing and fiscal year opening of the Massachusetts Management Accounting and Reporting System (MMARS).⁸ To ensure that all revenues and cash are recognized in the proper fiscal year, the OSC requires state agencies to deposit all cash received and on-hand through the end of the last business day of the fiscal year and enter all revenue data pertaining to these deposits into MMARS by a prescribed date.⁹ Our analysis to determine compliance with OSC year-end closing requirements for fiscal years 2006 and 2007 disclosed that RPO cash receipts totaling \$7,733 and \$12,369, respectively, were improperly accounted for and reported as fiscal year 2007 and 2008 revenues, respectively. The bookkeeper indicated that he was not aware of nor was he instructed about required year-end closing procedures. In addition, our test revealed that the RPO made three bank deposits on July 6, 2006. The deposits, amounting to \$17,568.25, represented cash receipts collected on 6/30/06, 7/3/06, 7/5/06, and 7/6/06. The daily deposit of all funds, including checks, is required under Massachusetts General Laws as well as AOTC and OSC policies and procedures. In the event that revenues are not properly safeguarded, not depositing cash receipts daily increases the risk of revenues being misplaced, lost, stolen, or misused. In the above

⁸ MMARS represent the official accounting records of the Commonwealth.

⁹ The AOTC disseminates similar year-end closing guidelines to all Trial Court divisions and offices.

case, the lack of daily deposits resulted from the designated backup bookkeeper not consistently performing all the bookkeeper functions in the absence of the primary bookkeeper.

- AOTC’s records retention policy calls for the retention of bank statements for “3 years after audit.” Our review found, however, that prior to February 2007 and for 19 of 29 (66%) custodial account reconciliations completed during our 29-month audit period—with aggregate Assets Held in Trust¹⁰ account balances averaging \$1,492,842.43—the RPO did not ensure that custodial bank statements were saved and filed with its custodial accounts reconciliations. Without custodial account bank statements the Register cannot be certain that custodial account reconciliations are accurate, complete, that interest earnings are being credited annually, and that account balances are in agreement with the RPO’s Custodial Bank Accounts Log Book. The bookkeeper stated that he was not aware of AOTC’s record retention policy and the need to keep bank statements after reconciling the accounts. As a result of our review, custodial bank account statements are now kept and filed with related bank reconciliations.
- Internal controls were not in place to ensure that payment documents can be properly validated when the ECR is inoperable and the One-Write Receipts Register¹¹ system is utilized. Specifically, on 7/3/2006, because not all RPO cashiers were on-hand, the bookkeeper used the One-Write Receipts Register system in place of the ECR. When using the One-Write System, AOTC policies require that the second copy of the One-Write receipt be attached to the document for which payment has been collected. This procedure was implemented to ensure that all transactions and payment documents are properly validated. However, we found that instead of attaching the court’s copy of the receipt to related payment documents, the bookkeeper batched and retained the receipts. As a result, the payment documents for transactions processed on 7/3/2006 are not validated in case files to show evidence of payment received. The bookkeeper explained that he was not familiar with the AOTC payment validation procedures under the One-Write System.
- During our review of the RPO monthly bank reconciliation process, we learned that due to the difficulty of receiving the Register’s written approval on monthly Bank Account Reconciliation Forms,¹² the Register provided the bookkeeper with a rubber stamp signature. Our examination determined that, although AOTC standards prohibit the use of rubber stamp signatures, the bookkeeper used the Register’s rubber stamp signature to approve 28 of 29 monthly bank reconciliations completed by the bookkeeper during our audit period. As a result, the Register cannot be certain that monthly bank reconciliations are being performed accurately, on a timely basis, and whether

¹⁰ Assets Held in Trust represents the cash and other assets that the Commonwealth holds in a trustee capacity for others. Upon the issuance of a judicial order, the Register of Probate’s Office sets up separate custodial bank accounts that must be maintained in accordance with standards established by AOTC.

¹¹ The AOTC has designated the One-Write Receipts Register system as the only receipting system authorized for use by all Trial Court divisions to serve as a backup if the ECR is inoperable and where no ECR is in place or to receive funds collected at satellite locations.

¹² The Bank Account Reconciliation Form is used monthly to reconcile the court’s book of accounts (Cash Journal, Check Register, Trial Balance) totals to cash-on-hand.

adjustments are valid. As a result of our review, as of January 2008, monthly bank reconciliations are being reviewed and approved by the Register.

- During our analysis of the Cash Journal, we identified 12 instances where white-out was used to cover up incorrect entries made during our audit period. AOTC policies specifically disapprove of the use of white-out or heavy crossing out to correct mistakes. As a result of our review, the bookkeeper now draws a line through the error so it is not obscured.

b. Cashier

- Contrary to AOTC-prescribed policies and procedures, ECR-validated payment documents are not being retained by cashiers up to the close of business. For this reason, proper daily closing reconciliations of payments processed through the ECR to validated documents cannot be completed by the bookkeeper. The AOTC requires, as part of the cashier's daily closeout responsibilities, that in addition to turning over all cash, and checks, and the cashier Daily Cash Sheet to the bookkeeper, all validated case documents must also be provided. This problem was first noted in the recent AOTC audit. Management maintains that validated case documents cannot be held until the daily closing because typically case files need to be put back into the system that day for various reasons. Without this information, the bookkeeper is unable to verify that funds receipted through the ECR were recorded at the proper amount and in the correct receipt category. In response to the AOTC audit, management implemented a Cashier's Report that cashiers completed daily, listing each transaction processed through the ECR by docket number, receipt category, and amount. In lieu of retaining validated payment documents, the Cashier's Report was made available to the bookkeeper as a substitute. Nevertheless, the bookkeeper commented that the Cashier's Report was only used to reconcile variances between the Daily Cash Sheet and the ECR "Z" (grand total) reading. Moreover, our review found that the Cashier's Reports were inaccurate and unreliable because receipt entries were not always recorded, especially when the cashier was busy. For example, during our year-end closing reviews we noted that the Cashier's Report totals did not match the ECR "Z" reading or the Daily Cash Sheet totals on all eight days reviewed. On average, the Cashier's Report totaled \$225 less than the ECR "Z" reading total. Accordingly, the Register cannot be assured that funds receipted through the ECR were recorded for the correct amount and receipt category and that payment documents are being properly validated and retained in case files.
- Although AOTC transaction void procedures call for the cashier to specifically note incorrect information entered in the ECR on its Daily Cash Sheet, our examination showed that 4 of the 10 "transaction voids" examined (40%) were not listed by the cashier on Daily Cash Sheets. Omitted transaction void information heightens the risk that voided transactions may not receive the AOTC-required bookkeeper processing and bypass necessary segregation of duties.
- Our review identified six separate instances whereby the RPO's two cash register tills were not each left with the same \$25 amount of cash-on-hand at the end of the day. AOTC's daily closing procedures require that the same amount, as determined by the advance issued to the court by AOTC, must be on-hand and left in the till at the end of

the day. Furthermore, the two cash register tills did not contain AOTC's mandated \$50 minimum to make change. Our observations noted that in all six occurrences the second cash drawer was short by \$5 because currency denominations were not suitable to maintain \$25 of cash on-hand. As a result, the two cash register tills totaled only \$45 instead of \$50 and deposits on these days were \$5 greater than funds received through the ECR and reported on the Daily Cash Sheets. Even though in all cases the second cash drawer was later restored to \$25, this practice is not consistent with AOTC-prescribed procedures.

- AOTC receipt of funds procedures requires that "separate cash tills with locking tops must be maintained for each cashier for which he/she is fully accountable;" however, we noted that even though separate cash tills were assigned to cashiers, all four backup cashiers were using the same password when receipting funds collected through the ECR. Maintaining accountability and a proper audit trail are critical internal control elements necessary to ensure that funds received are properly accounted for. Not assigning cashiers separate passwords compromises the internal control benefit gained by assigning separate cash tills and the integrity of the collection of funds, while simultaneously increasing the risk that unassigned cashiers may have access to the ECR, making the tracking of mistakes more difficult. As a result of our review, the office manager, who oversees the cashiering function, acknowledged the need to assign separate passwords.
- Our review found that ECR daily closing procedures were not always followed as stipulated in the AOTC Fiscal Systems Manual. Specifically, we noted that on six occasions the primary cashier performed closeout proceedings on both cash register drawers and reported and signed off, on the same Daily Cash Sheet, the cash register activity from both cash drawers. To maintain the necessary checks and balances, AOTC requires each cashier to complete a verification of cash and checks contained in their respective cash drawer and to fill out the Cashier's Receipts section of the Daily Cash Sheet at the close of each business day. The primary cashier reasoned that it was more expedient and less disruptive to have her close out both cash drawers and to complete one Daily Cash Sheet than to interrupt cashiers performing other duties or have to close out the drawer(s) whenever an employee leaves for the day. Nonetheless, the cashiers' verification process and completion of Daily Cash Sheets is essential to ensuring proper accountability and preserving the integrity of the collection process.

Additionally, we determined that cashiers are consistently not filling out information requested by AOTC at the top and in the Cashier's Receipts section of each Daily Cash Sheet. For example, such information as entering the "Court Department," "Court Division," "Court Office," and "Date," as well as checking the appropriate box to indicate the register key and cash till used and recording ECR opening and closing transaction numbers, is not filled out.

The above-mentioned funds management deficiencies illustrate that supervision, monitoring, guidance, and training of staff are lacking. As a result, the Register has reduced assurance that its bookkeeper and cashiers were properly performing duties and responsibilities defined in AOTC's

Fiscal Systems Manual and adhering to OSC year-end closing regulations. Management's willingness to initiate corrective action is a positive step towards continued operational improvement.

Recommendation

In order to correct the above weaknesses, the RPO needs to ensure that supervisor duties and responsibilities are clearly communicated and are more closely monitored and that assigned staff possesses the technical knowledge and skill necessary for the type of work being performed. Toward that end, the bookkeeper and cashier performances would be enhanced through closer supervision and guidance and continued education to ensure adherence to specific policies and procedures outlined in the Trial Court Fiscal Systems and OSC year-end closing instructions. At a minimum, the RPO should establish and implement the necessary internal controls to ensure that: 1) all transactions processed through the ECR and One-Write Receipt Register as well as daily closing verification, reconciliation, and document-validation proceedings are segregated and performed in accordance with AOTC policies and procedures; 2) annual OSC year-end cash closing instructions and daily deposit requirements are adhered to; 3) AOTC's record retention policy is properly communicated to all staff and followed; 4) both primary and backup cashiers are completing all AOTC-stipulated procedures for their own cash drawers, including filling out their own Daily Cash Sheets; and 5) separate passwords are assigned to all cashiers to ensure accountability.

Auditee's Response

The Register of Probate provided the following response:

- *"Our review found that eight of 10 (80%) transaction voids had not been executed in accordance with long-established document-validation procedures."*

Immediately upon being notified of this discrepancy by the audit team, new procedures were set in place whereby the bookkeeper has been assigned the specific duty of processing, signing and initialing all ECR voids. The Registry's internal control plan has also been updated to reflect the requirements of this procedure.

- *"ECR "X" (subtotal) readings are not executed on the day revenues are collected."*

Immediately upon being notified of this discrepancy by the audit team, new 'end of day' procedures were initiated whereby an office manager was assigned the specific task of conducting an "X" subtotal reading at the close of each business day. This procedure includes a manager's review of the collections to ensure that the totals match amounts specified on the ECR "X" report, as well as the compilation of a spreadsheet listing cash and check receipt

totals for each ECR till. (A second manager has also been assigned this duty in the absence of the primary manager.) The funds and supporting materials are then forwarded to the bookkeeper via a secure locking steel safe for further processing.

- *"To ensure that all revenues and cash are recognized in the proper fiscal year, the OSC requires state agencies to deposit all cash received and on-hand through the end of the last business day of the fiscal year."*

Because of his assigned work hours, the bookkeeper had been conducting the fiscal year-end ECR "Z" reading and making the June 30th deposit in the mid-afternoon rather than at the full completion of the business day. As a result of this audit team finding, new procedures have been put in place whereby the bookkeeper will conduct the "Z" reading and make the deposit just prior to the commencement of the business day on July 1 – a procedure that was, in fact, used this year.

- *"AOTC's records retention policy calls for the retention of bank statements for '3 years after audit.' Our review found, however...the RPO did not ensure that custodial bank statements were saved and filed with its custodial accounts reconciliation."*

As noted in the draft audit report, custodial account statements are now retained with related bank reconciliations for the prescribed time period.

- *"Internal controls were not in place to ensure that payment documents are properly validated when the ECR is inoperable and the One-Write Receipts Register system is utilized."*

Immediately upon being notified of this discrepancy by the audit team, the cashiers were notified of the AOTC's requirements with regard to the One-Write Receipt Register system. Page six of the Registry's internal control plan has been updated to specify the need to attach a second copy of all hand-written receipts to the document for which payment has been made.

- *"...although AOTC standards prohibit the use of rubber stamp signatures. The bookkeeper used the Register's rubber stamp signature to approve 28 of 29 monthly bank reconciliations..."*

As noted in the draft audit report, the rubber stamp procedure was eliminated as of January 2008, and now all monthly bank reconciliations are specifically reviewed and approved by the Register of Probate.

- *"...our review found that the Cashier's Reports were inaccurate and unreliable because receipt entries were not always recorded, especially when the cashier was busy."*

As a result of this finding, the Registry has developed a new Cashier's Report from that includes sections for the entry of individual case docket numbers and amounts collected, as well as for the specific item(s) that were paid for (certificates, copies, summonses, recordings, etc.). Cashiers were also individually informed of their obligation to fully complete the Cashier's Report in detail while being trained in the use of the updated form.

- *"...even though separate cash tills were assigned to cashiers, all four backup cashiers were using the same password when receipting funds collected through the ECR."*

As a result of this finding, all cashiers have been issued specific and unique pass codes that will now be used to gain access to the ECR.

4. IMPROVEMENTS NEEDED IN CONTRACT MANAGEMENT FOR PUBLIC USE OF PHOTOCOPIER MACHINES

Our audit found that improvements were needed for procurement management for public use of photocopier equipment at both the AOTC and SPFC. Specifically, our review determined that for more than 11 years, the SPFC has had three vendor-owned (coin operated) photocopy machines¹³ for public use. Neither the court nor the Commonwealth received commission income from the vendor for the use of space and utility being provided for these photocopiers. Moreover, this arrangement for public use equipment was executed without the benefit of competitive bid procedures and a written contract. Procurement provisions issued by AOTC require courts to seek competitive bids for these types of services to best serve the needs of the public, the court, and the Commonwealth.

The AOTC's Chief Justice for Administration and Management provided guidance to courts relating to the competitive procurement of vending machines in January 1994. Sections 1 and 2 of the memo provide the basic provisions for such procurement and state, in part:

1. *Vending Machines/Public Use Equipment: Because coin or credit card operated vending machines, photocopiers, FAX units, and other such public conveniences can offer significant revenues to the vendor, such vendors should only be selected after a valid bid or RFP process....*

Following the bid or RFP process, a contract must be made between the vendor and the Court division.

2. *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 vendor's 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 they were unaware of the aforementioned procurement requirements. Furthermore, although the court and Commonwealth do not benefit from

¹³ Photocopy machines are provided for public use at \$.25 per copy. The vendor maintains all photocopiers, supplies paper and toner, etc., and estimates monthly collections ranging from \$500 to \$1000.

commission payments, the public's use of photocopiers benefit SPFC's staff by lessening the burden of making copies, thereby allowing staff to focus on more important probate and family matters before the court.

Competitive procurements foster competition among contractors, which usually results in achieving better prices, quality, customer service, and public benefit. The lack of a competitive procurement process may result in the SPFC and the Commonwealth not receiving the maximum potential benefit and value from their public use equipment arrangement. Likewise, a written contract, signed by both parties, is to the benefit of both parties because it defines the rights and obligations of each party while also serving as an important point of reference for both the court and the vendor should there be a misunderstanding and need to quickly resolve any performance issues.

Recommendation

The AOTC Procurement Section of the Fiscal Affairs Department should review their procurement policies to determine that they properly address current issues with procuring vending contracts. Additionally, the Procurement Section should provide guidance to the SPFC regarding how to proceed with a competitive bid process for procuring public use equipment and give assistance in determining which vendor proposal best serves the needs of the public, the court, and the Commonwealth. After selecting a vendor, the SPFC must ensure that a written contract is prepared and reviewed by the Procurement Section and is signed by both parties. Lastly, the SPFC should retain copies of all procurement documents (e.g., agreements/contracts, competitive bid form, vendor proposals, Requests for Proposals) in a file for audit purposes.

Auditee's Response

The Register of Probate provided the following response:

The Registry will address this issue by placing the contract for public photocopier services up for competitive bid in order to determine which vendor will best serve the needs of the court, the Commonwealth, and the public. A formal written contract, signed by both entities, will also be secured and retained at the Registry.