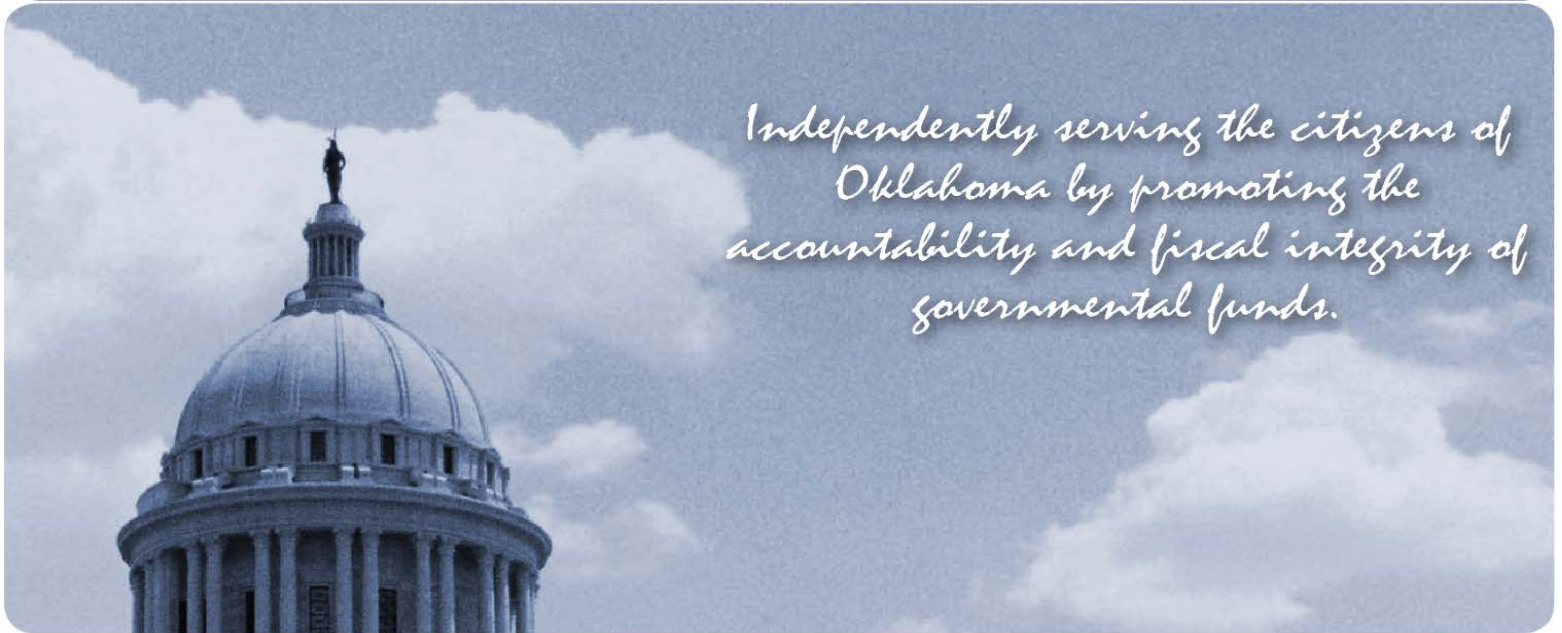


STATUTORY REPORT

**DISTRICT ATTORNEY
DISTRICT 16
BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION PROGRAM
RESTITUTION AND DIVERSION PROGRAM
PROPERTY FORFEITURE PROGRAM**

For the period of July 1, 2013 through June 30, 2016



*Independently serving the citizens of
Oklahoma by promoting the
accountability and fiscal integrity of
governmental funds.*



Oklahoma State
Auditor & Inspector
Gary A. Jones, CPA, CFE

**JEFF SMITH, DISTRICT ATTORNEY
DISTRICT 16**

**STATUTORY REPORT
BOGUS CHECK RESTITUTION PROGRAM
SUPERVISION PROGRAM
RESTITUTION AND DIVERSION PROGRAM
DRUG ASSET FORFEITURE PROGRAM**

FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2016

This publication, issued by the Oklahoma State Auditor and Inspector's Office as authorized by 74 O.S. § 212.E and 22 O.S. §§ 114, 991d, 991f-1.1, and 63 O.S. § 2-506 has not been printed, but is available on the agency's website (www.sai.ok.gov) and in the Oklahoma Department of Libraries Publications Clearinghouse Digital Prairie Collection (<http://digitalprairie.ok.gov/cdm/search/collection/audits/>) pursuant to 65 O.S. § 3-114.



Oklahoma State Auditor & Inspector

2300 N. Lincoln Blvd. • State Capitol, Room 100 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

June 30, 2017

Jeff Smith, District Attorney
District 16
LeFlore County Courthouse
Poteau, Oklahoma 74953

Transmitted herewith is the statutory report for the District Attorney of District 16, LeFlore and Latimer County, Oklahoma (the District) for the period of July 1, 2013 through June 30, 2016.

A report of this type is critical in nature; however, we do not intend to imply that there were not commendable features in the present accounting and operating procedures of the District.

The goal of the State Auditor and Inspector is to promote accountability and fiscal integrity in state and local government. Maintaining our independence as we provide this service to the taxpayers of Oklahoma is of utmost importance.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during our engagement.

Sincerely,

A handwritten signature in blue ink that reads "Gary A. Jones". The signature is fluid and cursive, with a long horizontal stroke at the end.

GARY A. JONES, CPA, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

**JEFF SMITH, DISTRICT ATTORNEY
DISTRICT 16
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2016**

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**JEFF SMITH, DISTRICT ATTORNEY
DISTRICT 16
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FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2016**

INTRODUCTORY INFORMATION

BOGUS CHECK PROGRAM

The bogus check program was created by the Oklahoma Legislature in 1982 as a special type of deferred prosecution program and every district attorney is required to operate a bogus check program. The program provides an alternative way to handle bogus check cases without any additional cost to courts, prosecutors, or the state prison system. The primary emphasis of the program is collecting restitution for the victim of the crime, rather than punishing the offender.

Bogus checks are a significant cost to business, a cost that is passed on to the consumer and paid by all citizens and taxpayers in the state. The bogus check program has been an effective way to address the economic problem caused by bogus checks. The program offers a way to address criminal conduct without sending a large number of offenders to state correctional facilities.

DISTRICT ATTORNEY SUPERVISION PROGRAM

The district attorney supervision program was created by the Oklahoma Legislature in 2005 as an alternative from supervision by the Department of Corrections. When the court imposes a deferred or a suspended sentence for any offense and does not order supervision by the Department of Corrections, the offender shall be required to pay the district attorney a monthly supervision fee. However, the legislation provides that in hardship cases, the district attorney shall expressly waive all or part of the fee.

RESTITUTION AND DIVERSION PROGRAM

The restitution and diversion program was created by the Oklahoma Legislature in 2001 as a special type of deferred prosecution program. The legislation required that each district attorney create such a program. The purpose of the program is to allow the district attorney the discretion to divert criminal complaints involving property crimes from criminal court and to collect restitution for victims.

The program allows the district attorney's office to receive, disburse, and monitor victim restitution payments. The program offers an alternative way to address criminal conduct. The District Attorney's office no longer participates in this program. The Fee Account and Merchant Account were closed in February, 2014.

DISTRICT ATTORNEY DRUG ASSET FORFEITURE PROGRAM

Most district attorneys in the state have a Drug Asset Forfeiture Fund. The fund is not subject to fiscal year limitations and is to be used for enforcement of controlled dangerous substance laws, drug abuse prevention

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and education, and is maintained by the District Attorney to be used at his or her discretion for those purposes. The revenues for said fund come from the proceeds of forfeited assets.

Any cash, vehicles, real property, or other assets used in the commission of or acquired as a result of a crime as described in the Uniform Controlled Dangerous Substances Act is presumed to be forfeitable.

Asset forfeiture is an effective law enforcement tool used by local district attorneys to deprive criminals of their ill-gotten gains by seizing the proceeds of criminal activity and property used to facilitate crime. The proceeds of seized, forfeited assets make a substantial contribution to the investigation and prosecution of drug related offenses.



Oklahoma State Auditor & Inspector

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Statutory Report

Jeff Smith, District Attorney
District 16
LeFlore County Courthouse
Poteau, Oklahoma 74953

For the purpose of complying with 74 O.S. § 212.E and 22 O.S. §§ 114, 991d, 991.f-1.1, and 63 O.S. § 2-506, we have performed the following procedures as they relate to the records of the District Attorney's programs for the period of July 1, 2014 through June 30, 2016.

Bogus Check, Supervision, and Restitution and Diversion Programs:

- Determine that internal controls are designed and operating over the collections and expenditures process.
- Examine fees to determine that the correct fees are assessed, receipted, and deposited in compliance with 28 O.S. § 153, 22 O.S. §§ 114, 991d, 991f-1.1, and 19 O.S. § 215.11.
- Determine whether expenditures are used to defray the expenses of the District Attorney's office in accordance with 22 O.S. §§ 114 and 991f-1.1, and whether expenditures are supported by approved claims, invoices, and verification that goods or services paid for were received.
- Determine whether the District Attorney reconciles all accounts with the County Treasurer's ledgers.
- Determine whether the District Attorney prepares and submits an annual report to the District Attorneys Council that shows total deposits and total expenditures for the Bogus Check Restitution Program, the Supervision Program, and Restitution and Diversion Program.

Drug Asset Forfeiture Program:

- Determine that internal controls are designed and operating over the collections and expenditures process.
- Determine that the District Attorney maintains a true and accurate inventory of all property seized in accordance with 63 O.S. § 2-506.K.
- Review sale documentation for selected cases to determine whether forfeited assets were sold after due notice at public auction to the highest bidder in accordance with 63 O.S. §§ 2-506 and 2-508.
- Review the distribution of proceeds to determine the distribution was in accordance with court orders pursuant to 63 O.S. §§ 2-506.K and 2-508.
- Test expenditures to determine they are supported by approved claims, invoices, and independent verification that goods or services paid for were received.

- Determine if the District Attorney prepared and submitted an annual report to the District Attorneys Council showing the total deposits, total expenditures, beginning and ending balances in accordance with 63 O.S. § 2-506.L.3.
- Determine if the District Attorney reconciles account balances with the County Treasurer.

All information included in the financial records of the bogus check restitution program, supervision program, restitution and diversion program, and the drug asset forfeiture program are the representation of the District Attorney for their respective district.

Our engagement was limited to the procedures performed above and was less in scope than an audit performed in accordance with auditing standards generally accepted in the United States of America. Accordingly, we do not express an opinion on any basic financial statement of LeFlore or Latimer County.

Based on our procedures performed, we have presented our findings in the accompanying schedule.

This report is intended for the information and use of the District Attorney and the County Officials. However, this report is a matter of public record and its distribution is not limited.

A handwritten signature in blue ink that reads "Gary A. Jones". The signature is written in a cursive style with a long horizontal stroke at the end.

GARY A. JONES, CPA, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

May 9, 2017

**JEFF SMITH, DISTRICT ATTORNEY
DISTRICT 16
STATUTORY REPORT
FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2016**

SCHEDULE OF FINDINGS AND RESPONSES

Finding 2016-1 – Inadequate Segregation of Duties – Bogus Check Restitution, Supervision Fee, and Drug Asset Forfeiture Programs (Repeat Finding)

Condition: Upon inquiry of the District Attorney’s office staff and observation of records, the following instances of the lack of segregation of duties in personnel were noted:

LeFlore County

A lack of segregation of duties continues to exist in the procedural process of the Bogus Check Restitution (Merchant and DA Fees) and Supervision Fee Programs. One employee receives and enters payments, prepares and delivers the deposit, prepares and issues disbursements, maintains District ledgers, performs monthly reconciliations, and prepares the annual report. No one other than the preparer reviews the deposits or reconciliations to ensure accuracy of the amounts reconciled.

A lack of segregation of duties continues to exist in the procedural process of the Drug Asset Forfeiture Program (DA Controlled Substance and DA Seizure). One employee receives payments, prepares and delivers the deposit, prepares and issues disbursements, maintains District ledgers, performs monthly reconciliations, and prepares the annual report. No one other than the preparer reviews the deposits or reconciliation to ensure accuracy of the amounts reconciled.

Latimer County

A lack of segregation of duties continues to exist in the procedural process of the Property Forfeiture Program (DA Controlled Substance and DA Seizure). One employee receives payments, prepares and delivers the deposit, prepares disbursements, and maintains District ledgers.

Cause of Condition: Policies and procedures have not been fully designed and adequately implemented to properly separate key accounting functions.

Effect of Condition: A single person having responsibility for more than one area of recording, authorization, custody of assets, and execution of transactions could result in unrecorded transactions, misstated financial reports, clerical errors, or misappropriation of funds not being detected in a timely manner.

Recommendation: The Oklahoma State Auditor and Inspector’s Office (OSAI) recommends the District Attorney be aware of these conditions and realize that concentration of duties and responsibilities in a limited number of individuals is not desired from a control point of view. The most effective controls lie in the District Attorney’s overseeing of office operations and a periodic review of operations. OSAI recommends the District Attorney provide segregation of duties so that no one employee is able to perform all accounting functions. In the event that segregation of duties is not possible due to limited personnel, OSAI recommends implementing compensating controls to mitigate the risks involved with a concentration of duties.

**JEFF SMITH, DISTRICT ATTORNEY
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The District Attorney staff should provide evidence of review and approval of accounting functions including:

- Someone other than the preparer reviewing documents,
- Initialing and dating the review of deposits, claims, and vouchers,
- Re-performing and reviewing reconciliations, and
- Initialing and dating the review of deposit summaries, monthly reports, and annual reports.

Management Response:

District Attorney: The District Attorney is aware of the finding and will address the current situation within the confines of personnel and budget constraints.

Criteria: Demonstration of accountability and stewardship are goals used in evaluating management's accounting for funds. A basic component of adequate internal controls is the segregation of duties so that one individual cannot perpetuate and conceal errors and irregularities in the normal course of his/her duties. To help ensure a proper accounting of funds and strong internal controls, the duties of taking funds and issuing receipts, preparing and making deposits, maintaining ledgers, reconciling with the County Treasurer, and preparing annual reports should be segregated.

Finding 2016-2 – Inadequate Internal Control Environment – Written Policies and Procedures for Bogus Check Restitution and Supervision Fee Programs (Repeat Finding)

Condition: As part of our review of District Attorney's account and records, we tested receipts, disbursements, and cash balances. The District Attorney's office has established written policies and procedures for internal controls and the safeguarding and reporting of program funds. However, deficiencies were noted in certain areas, which include the following:

Information Technology

- Employees receiving payments are able to delete payments without prior approval or oversight.
- IT software audit reports are not reviewed for voided, altered, or deleted receipts.
- Override or write-off reports are not reviewed periodically for unusual activity.
- A time out security measure has not been assigned in the system nor are employees required to log out of the system when leaving their workstation.

Bogus Check Restitution Program

LeFlore County

- Deposits were not performed daily. We noted several instances where four (4) days had lapsed before bogus check payments were deposited.

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FOR THE PERIOD OF JULY 1, 2013 THROUGH JUNE 30, 2016**

Supervision Fee Program

LeFlore County

- Deposits were not performed daily. We noted several instances where three (3) to four (4) days had lapsed before Supervision Fee payments were deposited.

Cause of Condition: The District Attorney's office does not have formal policies established and/or implemented to ensure that all payments received by the District are processed, documented, and deposited in a timely manner and to provide effective internal controls over the District's use of computer software for financial reporting for the Bogus Check Restitution and Supervision Fee programs.

Effect of Condition: These conditions could result in employee error for the financial reporting and documentation of the collection of payments, unrecorded transactions, and misappropriation of funds for the Bogus Check Restitution and Supervision Fee programs.

Recommendation: OSAI recommends that the District Attorney's staff adopt and implement written policies and procedures for the accounting of program funds and the maintenance of client files. Implementing this recommendation would ensure that all employees are aware of their duties and responsibilities and that each program is properly accounted for and is in compliance with applicable laws and regulations. Such policies should include the following:

- Guidelines for the oversight of the daily collection process and the deposit of funds with the County Treasurer.
- Guidelines for the administrative approval and review of IT software deletions, voids, and write-off activity.
- Guidelines for system security and system inactivity management.

Furthermore, we recommend the District Attorney identify, analyze, and manage risks. The District Attorney should also assess the quality and effectiveness of the organization's internal control process over time and implement appropriate controls and oversight of each program's daily transactions and recordkeeping. This will ensure that the District Attorney and staff have taken the necessary steps in safeguarding the District assets.

Management Response:

District Attorney: The District Attorney will contact the software provider for ideas on how to improve safeguards to our financial information and assets. The District Attorney will review current guidelines and policies and revise them where necessary.

Criteria: Basic components of effective internal controls include ensuring written policies and procedures for performing essential duties are adequately documented to ensure compliance with laws and regulations, to facilitate efficient transition of duties when changes in personnel occur, and to obtain supporting documentation for transactions and items affecting management decisions and, to safeguard data.

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Finding 2016-3 – Inadequate Internal Control Environment and Noncompliance Over Forfeited Inventories for the District Attorney Drug Asset Forfeiture Program (Repeat Finding)

Condition: As part of our review of District Attorney’s account and records, we tested receipts, disbursements, and cash balances. The District Attorney’s office has established written policies and procedures for internal controls and the safeguarding and reporting of program funds. However, deficiencies continue to be noted in certain areas, which include the following:

LeFlore County

- Various seized items were returned to the defendant prior to an order of forfeiture or dismissal by the court.

Latimer County

- An inventory of seized property was not maintained by the District.
- District ledgers were not reconciled monthly to the County Treasurer’s balance of the District Attorney Drug Asset Forfeiture Program.

The test of fifteen (15) disbursements from the District Attorney Drug Asset Forfeiture Program reflected the following exceptions:

- One (1) disbursement did not have an invoice attached to validate the expense.
- Fourteen (14) disbursements were not verified ensuring that goods and/or services had been received (i.e., receiving report).
- Seven (7) disbursements were not used for the enforcement of controlled substance laws, drug abuse prevention, and drug abuse education.

Additionally, the review of a pending drug forfeiture case indicated the following exception:

- A Mossberg gun with Camo Nikon scope, which was stored at the Latimer County Sheriff’s office, could not be located due to the basement flooding.

Cause of Condition: The District Attorney’s office is not monitoring policies and procedures for collections, disbursements, and financial reporting for the Drug Asset Forfeiture Program to ensure that internal controls are being implemented. The District Attorney’s office has not implemented policies and procedures to ensure that program account activity is properly reconciled to the County Treasurer, or to ensure disbursements are properly approved, have all supporting documentation, and spent in accordance with Title 63 O.S. § 2-506L. Furthermore, the District is not tracking civil forfeiture cases and the disposition of property inventory to ensure compliance with Title 63 O.S. § 2-506K.

Effect of Condition: These conditions could result in employee error for the financial reporting and documentation of the collection of payments, unrecorded transactions, and misappropriation of funds for the Drug Asset Forfeiture Program. These conditions resulted in noncompliance with state statutes and inadequate safeguarding of District forfeiture assets held in trust.

**JEFF SMITH, DISTRICT ATTORNEY
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Recommendation: OSAI recommends the District Attorney adhere to the written policies and procedures of the office and implement further internal controls for the safeguarding program funds. Implementing this recommendation would ensure that all employees are aware of their duties and responsibilities and that each program is properly accounted for and is in compliance with applicable laws and regulations. Such policies should include the following:

- Guidelines for the oversight and documentation of forfeiture case file maintenance and status of forfeited and pending forfeiture inventory.
- Guidelines for the oversight of District ledgers and monthly reconciliations to the County Treasurer's account balances.
- Guidelines for the process of documentation of account disbursements.

Furthermore, we recommend the District Attorney identify, analyze, and manage risks. The District Attorney should also assess the quality and effectiveness of the organization's internal control process over time and implement appropriate controls and oversight of each programs daily transactions and recordkeeping. This will ensure that the district Attorney and staff have taken the necessary steps in safeguarding the department's assets.

Management Response:

District Attorney: The District Attorney will address and implement policies and procedures to assure adequate safeguards in any other perceived problem areas.

Criteria: Basic components of effective internal controls include ensuring written policies and procedures for performing essential duties are adequately documented to ensure compliance with laws and regulations, to facilitate efficient transition of duties when changes in personnel occur, and to obtain supporting documentation for transactions and items affecting management decisions.

Title 63 O.S. § 2-506 L (3) states in part, "The balance to a revolving fund in the office of the county treasurer of the county wherein the property was seized, said fund to be used as a revolving fund solely for enforcement of controlled dangerous substances laws, drug abuse prevention and drug abuse education..."

Title 63 O.S. § 2-506K states in part, "Property taken or detained under this section shall not be replevable, but shall be deemed to be in the custody of the office of the district attorney of the county wherein the property was seized, subject only to the orders and decrees of the court or the official having jurisdiction thereof; said official shall maintain a true and accurate inventory and record of all such property seized under the provisions of this section."

**JEFF SMITH, DISTRICT ATTORNEY
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Finding 2016-4 – Inadequate Internal Controls Over the Preparation and Review of Annual Reports (Repeat Finding)

Condition: As part of our review of District Attorney Programs, we ensure that amounts on Annual Reports reconcile with the County Treasurer’s balances and are accurately reflected in the amounts submitted to the District Attorneys Council (DAC). From our review, the following discrepancies were noted:

- At June 30, 2016 the “amount collected for victims” and the “amount paid to victims” was overstated by including DA fees in the amount of \$150,261.86.
- At June 30, 2015 the “amount collected for victims” and the “amount paid to victims” was overstated by including DA fees in the amount of \$148,766.10. Because the Bogus Check Restitution account ledgers did not have any supporting documentation attached, we were not able to reconcile the DA account activity with the County Treasurer’s account activity. Therefore, our office relied on the County Treasurer account balances to verify the annual reporting to District Attorney Council.
- At June 30, 2014 the “amount collected for victims” and the “amount paid to victims” was overstated by including DA fees in the amount of \$192,406.06. Because the Bogus Check Restitution account ledgers did not have any supporting documentation attached, we were not able to reconcile the DA account activity with the County Treasurer’s account activity. Therefore, our office relied on the County Treasurer account balances to verify the annual reporting to District Attorney Council.

Cause of Condition: Annual Reports were not reviewed by someone other than the preparer to ensure amounts reported are accurate.

Effect of Condition: These conditions resulted in inaccurate annual reporting of collections and account balances submitted to the District Attorney’s Council (DAC) for program fund activity.

Recommendation: OSAI recommends that the District Attorney adopt written policies and procedures for the accounting and reporting of program funds. Implementing this recommendation would ensure that all employees are aware of their duties and responsibilities and that the program is properly accounted for and is in compliance with applicable laws and regulations. Such policies should include the following:

- Guidelines for the oversight of monthly reconciliations to the County Treasurer’s account balances.
- Guidelines for accurate reporting of annual reports and the review process.

Management Response:

District Attorney: The District Attorney, after an informative explanation by the Auditor, was aided by the Auditor and corrected and amended the Annual Reports for the years 2014, 2015, and 2016. The District Attorney will continue to review existing policies and procedures and revise and implement said revision when necessary.

**JEFF SMITH, DISTRICT ATTORNEY
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Criteria: Basic components of effective internal controls include an independent review of financial reports to ensure accuracy of the information. Written policies and procedures for performing essential duties should be adequately documented to ensure employees understand their responsibilities and to ensure reliability of financial reporting of the District.



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