

OPERATIONAL AUDIT

OKLAHOMA INDIGENT DEFENSE SYSTEM

For the period March 1, 2012 through December 31, 2017



*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

**Audit Report of the
Oklahoma Indigent Defense System**

**For the Period
March 1, 2012 through December 31, 2017**



Oklahoma State Auditor & Inspector

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April 24, 2018

TO THE OKLAHOMA INDIGENT DEFENSE SYSTEM BOARD

This is the audit report of the Oklahoma Indigent Defense System for the period March 1, 2012 through December 31, 2017. 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.

This report is a public document pursuant to the Oklahoma Open Records Act (51 O.S. § 24A.1 et seq.), and shall be open to any person for inspection and copying.

Sincerely,

A handwritten signature in blue ink that reads "Gary A. Jones".

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

Oklahoma Indigent Defense Operational Audit

Background

The Oklahoma Indigent Defense System (Agency) implements the Indigent Defense Act, 22 O.S. Section 1355 et seq., by providing trial, appellate and post-conviction criminal defense services to persons who have been judicially determined to be entitled to legal counsel at State expense.

Oversight is provided by five board members (Board) appointed by the governor. Each examiner serves a term of five years.

Board members as of December 31, 2017 are:

Jake Jones, III, Esq. Chair
 Don G. Pope, Esq. Vice-Chair
 Dr. Kathryn A. LaFortune..... Member
 Patrick Cornell, Esq. Member
 Patrick E. Moore, Esq. Member

The following table summarizes the Agency's sources and uses of funds for fiscal years 2013 through 2017 (July 1, 2012 through June 30, 2017).

Sources and Uses of Funds for FY 2013 through FY 2017

	2013	2014	2015	2016	2017
Sources:					
Appropriations (Net)	\$14,699,353	\$15,699,533	\$16,079,721	\$14,954,139	\$15,958,326
Grants, Refunds, Reimbursements	\$1,494,203	\$1,265,881	\$1,411,301	\$1,557,857	\$1,383,760
Non-Revenue Receipts	\$0	\$1,241	\$0	\$0	\$0
Total Sources	\$16,193,556	\$16,966,655	\$17,491,022	\$16,511,996	\$17,342,086
Uses:					
Personnel Services	\$8,971,011	\$9,494,671	\$9,950,273	\$9,898,289	\$9,641,214
Professional Services	\$5,873,720	\$6,502,519	\$6,101,595	\$6,129,011	\$6,150,734
Travel	\$210,818	\$210,100	\$221,844	\$256,956	\$214,573
Administrative Expenses	\$776,739	\$776,752	\$858,778	\$895,422	\$808,558
Property, Furniture, Equipment	\$140,412	\$72,280	\$98,388	\$122,701	\$37,080
Assistance, Payments to Local Govn'ts	\$53,787	\$13,446	\$81,384	\$9,951	\$12,550
Transfers and Other Disbursements	\$85	\$160	\$32	\$0	\$116
Total Uses	\$16,026,573	\$17,069,927	\$17,312,292	\$17,312,330	\$16,864,825

Source: Oklahoma PeopleSoft accounting system (unaudited, for informational purposes only)

Oklahoma Indigent Defense Operational Audit

Scope and Methodology

Our audit was conducted in response to 74 O.S. § 212, which requires the State Auditor and Inspector’s office to audit the books and accounts of all state agencies whose duty it is to collect, disburse, or manage funds of the state.

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

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessment of materiality and risk for the period March 1, 2012 through December 31, 2017.

Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of the Oklahoma Indigent Defense System operations. Further details regarding our methodology are included under each conclusion.

We utilized sampling of transactions to achieve our objectives. To ensure the samples were representative of the population and provided sufficient, appropriate evidence, the random sample methodology was used. We identified specific attributes for testing each of the samples and when appropriate, we projected our results to the population.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, errors or fraud may occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

OBJECTIVE

Determine whether the Agency’s internal controls provide reasonable assurance that revenue, expenditures (both miscellaneous and payroll), and inventory were accurately reported in the accounting records.

Conclusion

The Agency’s internal controls do not provide reasonable assurance that revenues, miscellaneous expenditures, payroll expenditures, or inventory were accurately reported in the accounting records.

**Objective
Methodology**

To accomplish our objective, we performed the following:

- Documented significant internal controls related to receipting, see results in related finding.
- Documented significant internal controls related to miscellaneous expenditures, see results in related finding.
- Documented significant internal controls related to payroll expenditures, see results in related finding.
- Documented significant internal controls and process factors related to inventory; see results in related finding.
- Determined Compliance with 74 O.S. §3601.2A – Salaries of Chief Executive Officers, which included:
 - Reviewing all data on the *HR All Actions* report and comparing it to approved salary ranges established by the Office of Management and Enterprise Services.
- Determined compliance with 22 O.S. § 1369 – Contract Retention Revolving Fund, which included:
 - Reviewing a random sample of 53 expenditure claims from fund 230 during the audit period (10%, or \$324,635.43 of the population of \$3,156,156.13) to ensure compliance.

FINDINGS AND RECOMMENDATIONS

The agency does not have proper segregation of duties related to receipts.

The United States Government Accountability Office’s Standards for Internal Control in the Federal Government¹ (GAO Standards) state that, “Key duties and responsibilities need to be divided or segregated among different people to reduce the risk of error or fraud. This should include separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions, and handling any related assets. No one individual should control all key aspects of a transaction or event.”

The agency does not have proper segregation of duties related to receipts. The account clerk is responsible for receiving and receipting funds, preparing the deposit, and delivering the deposit to the bank. This creates an opportunity for someone in this position to misappropriate funds received and to conceal the misappropriation by improperly recording or modifying deposit records.

According to management, the chief finance officer (CFO) performs a reconciliation of deposit records to bank receipt records. However, the

¹ Although this publication addresses controls in the federal government, this criterion can be treated as best practices. The theory of controls applies uniformly to federal or state government.

internal bank records used in the reconciliation may not be reliable because they are maintained by the account clerk.

Recommendation

We recommend management segregate duties to ensure that the individual receiving payments does not have access to post payments received; the person preparing the deposit does not have access to record payments or deposits; and receipts are reconciled by someone independent of the receipting process.

Views of Responsible Officials

Segregation of duties is difficult to achieve due to the small number of finance employees employed by the agency. Notwithstanding the limitations, two employees will be responsible for opening daily mail. One employee will make copies of all checks received and another employee will complete the deposit slip. The employee who makes the copies will make the deposit at the bank. Afterwards, the deposit slip copy, receipt from the bank, and check copies will be given to a third employee for PeopleSoft deposit entry. All deposits will be logged in the data base, and all documents will be given to the CFO at the end of the month to be reconciled with the clearing account transfers made during that month. There will be a form to complete with signatures of all involved in receiving, receipting funds, preparing the deposit, and delivering deposit to the bank. That form will be placed in a file with the copies of the daily deposits.

The agency does not have proper segregation of duties related to expenditures.

The United States Government Accountability Office’s Standards for Internal Control in the Federal Government (2014 Revision) states, “Key duties and responsibilities need to be divided or segregated among different people to reduce the risk of error or fraud. This should include separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions, and handling any related assets. No one individual should control all key aspects of a transaction or event.”

The agency does not have proper segregation of duties related to expenditures. The agency chief financial officer (CFO) and certified procurement officers (CPOs) are responsible for approving requisitions, purchase orders, requests for acquisition, and posting items to the statewide accounting system. When items and services are received, these same individuals receive the goods in many cases and are responsible for reviewing the invoices prior to payment. In addition, there is no consistent independent review and approval of invoices by someone outside of the purchasing and transaction recording process. It appears

the CFO and CPOs may have the ability to initiate and approve inappropriate expenditures without detection. While the Board reviews a list of paid claims during their quarterly meeting, it is for informational purposes only and does not contain enough detailed information to give the Board the opportunity to discover or inquire about questionable purchases. There is no documentation of this review. There are no other consistent detailed reviews of expenditures by someone independent of the expenditure process.

Recommendation

The agency should establish proper segregation of key duties related to the expenditures process to ensure that a single individual would not be able to initiate, authorize, and record an expenditure transaction. In addition, someone independent of the expenditure process, such as a Board member or the Executive Director, should perform a line-item detailed review of all expenditures and document this review; for example, by reviewing, signing, and dating the 6-digit detailed expenditure report from the statewide accounting system.

Views of Responsible Officials

The account clerk is new and learning accounts payables and we are segregating accounts payable between other employees as well to separate expenditures from purchasing. All Request for Acquisitions include an internal Requisition form when the request is for products or non-professional services. The Professional Service Request Form is attached to the Request for Acquisitions form when the request is for professional services. All are initially approved by the requesting person's division chief. Next, the CFO approves the funding, the CPO signs that all required documentation is complete on the acquisition, and then the Director or Deputy Executive Director approves the request. All PeopleSoft requisitions/purchase orders will be routed to the CFO for approval through PeopleSoft by utilizing routing controls within PeopleSoft. All new purchase orders with attached internally approved documents, will be given to the CFO for signature. The CFO approves payments by voucher for purchase order expenditures by reviewing and signing the voucher.

When products are received, such as office supplies, a person from the requesting division signs the packing slip, invoice, or receipt. Receipts for hotels are signed by the employee who stayed there and matched to internal approving paperwork. Professional services invoices are approved and signed by the participating attorney and the division chief. All invoices for payment must include a receiving signature. Monthly invoices for administrative expenses or services (electricity, security, IT, etc.) are signed off by the CPO and confirmed payable by the CPO. We do

not have many of these payments, and the CFO is aware of all regular monthly payments.

The CFO ascertains that all payments, whether by voucher or P-Card, are legitimate with backup documentation and "received" signatures. In FY-2018, the CFO set up minimal purchase orders such as the authority orders, FICA payments, and a confidential purchase order regarding the agency. The CFO does not set up purchase orders for services or products, approve invoices, or make payments. The CFO only approves payments made on vouchers and by P-Card. We have two CPOs managing all of purchasing, one person managing payroll, travel claims, and direct payments for travel, and one account clerk who is also our courier.

The Board of Directors and the Executive Director will be provided a 6-digit detailed expenditure report from the statewide accounting system. The Board will vote and approve in addition to the Chair or Vice-Chair of the Board signing and dating the approval of expenditures.

Auditor Response

If fully implemented and documented, the agency's corrective action plan to have the Board and Executive Director independently review and approve the 6-digit detailed expenditure report is an appropriate mitigating control for the lack of appropriate segregation of duties.

The agency has not adequately segregated key duties related to payroll processes.

The United States Government Accountability Office's Standards for Internal Control in the Federal Government states (2014 Revision), "Key duties and responsibilities need to be divided or segregated among different people to reduce the risk of error or fraud. This should include separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions, and handling any related assets. No one individual should control all key aspects of a transaction or event."

The agency has not adequately segregated key duties related to payroll processes. The CFO and the deputy executive director have the following abilities and authority:

- Ability to modify personnel records and payroll data, including things such as leave and hours worked and employee pay rates, in the statewide accounting system.
- Authority to review and approve payroll claims.

Recommendation

We recommend management segregate duties to ensure that employees responsible for reviewing and approving payroll claims do not have the

ability to make changes to payroll or personnel data in the statewide accounting system. We also recommend that agency management, other than the CFO and deputy executive director, independently review payroll claims and detailed supporting documentation to provide assurance that only authorized payroll changes are made. This review should be documented.

Views of Responsible Officials

The Agency Security Representative has processed an OMES Form 304 to remove the CFO from the ability to modify personnel and payroll data. The Deputy Executive Director only has access to personnel data and maintains a read-only status on payroll records within the statewide accounting system. The Deputy Executive Director will no longer sign payroll claim documents. The Executive Director and the CFO will be the only employees authorized to sign payroll claim documents. The Director is the only one that approves payroll or personnel changes and has no access to the statewide system.

Auditor Response

We agree with the agency's corrective action plan to eliminate the CFO's ability to modify personnel and payroll data and removing the Deputy Executive Director's authority to sign payroll claims. However, our recommendation that the agency implement an independent documented review of payroll changes stands.

The agency does not have proper segregation of duties related to inventory.

The United States Government Accountability Office's (GAO) Standards for Internal Control in the Federal Government (2014 Revision) states, "Key duties and responsibilities need to be divided or segregated among different people to reduce the risk of error or fraud. This should include separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions, and handling any related assets. No one individual should control all key aspects of a transaction or event."

The Standards also state that "Management must establish physical control to secure and safeguard vulnerable assets. . . . Management periodically counts and compares such assets to control records." Furthermore, GAO Standards state that management should design "an internal control system to provide reasonable assurance regarding prevention or prompt detection and correction of unauthorized acquisition, use, or disposition of an entity's assets."

The agency does not have proper segregation of duties related to inventory. The certified procurement officer is responsible for approving purchase requisitions, purchase orders, and invoices; maintaining

inventory records; reconciling the results of the annual inventory count to the records; and disposing of unwanted inventory items. The certified procurement officer also receives goods and performs the annual physical inventory count. These conflicting duties create the opportunity for this individual to misappropriate an inventory item and conceal it by misstating what was received or falsifying the inventory count.

In addition, the agency does not perform an annual inventory count. While they do maintain an inventory listing that is required for state reporting, without a regular count and the above control deficiencies, there is a risk that inventory reports submitted to OMES as required by 74 O.S. §110.1-2 and Oklahoma Admin rule 260:110-3-1 are inaccurate or incomplete. Also, without an inventory count to identify discrepancies, property may be lost or misappropriated without detection.

Recommendation

We recommend management segregate duties to ensure that no one individual can initiate purchases, authorize transactions, and modify inventory records. We also recommend that management ensure that a comprehensive annual physical inventory count is performed and documented by someone independent from purchasing assets, maintaining inventory items and inventory records, and disposing of surplus assets. The ability to edit electronic inventory records should be limited to as few employees as possible, based upon their inventory-related duties.

Views of Responsible Officials

The account clerk is new and learning accounts payables and we are segregating accounts payable between other employees as well to separate expenditures from purchasing. When an employee orders an item, that request is approved by the chief of that division. The approval, along with Request for Acquisition and Requisition, goes through the proper procedures that have always been in place. After all signatures, the CPO signs the Request for Acquisition stating that all required documentation is complete on the acquisition. All PeopleSoft requisitions/purchase orders will be routed to the CFO for approval through PeopleSoft by utilizing routing controls within PeopleSoft. All new purchase orders with attached internally approved documents, will be given to the CFO for signature. When products are received such as office supplies, the employee from the requesting division signs the packing slip, invoice, or receipt. The CPO does not sign as the receiver of products or approve the purchase of products.

The CPO maintains the inventory records and completes the inventory reports. Disposal of unwanted inventory items must be approved by the Executive Director or Deputy Executive Director. The Surplus Property

Transfer Form is sent to State Surplus for approval. This form is also used by State Surplus to confirm what they are receiving when it arrives.

We will have an independent person outside of purchasing assets to annually perform physical inventory count and participate in disposal of surplus items.

The Board of Directors and the Executive Director will be provided a 6-digit detailed expenditure report from the statewide accounting system. The Board will vote and approve in addition to the Chair or Vice-Chair of the Board signing and dating the approval of expenditures.

Auditor Response

The agency's corrective action plan to have someone independent of the purchasing process perform physical inventory counts is appropriate. If fully implemented and documented, the agency's corrective action plan to have the Board and Executive Director independently review and approve the 6-digit detailed expenditure report is an appropriate mitigating control for the lack of appropriate segregation of duties.



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