

OKLAHOMA INDIGENT DEFENSE SYSTEM

FOR THE PERIOD
JANUARY 1, 2007 THROUGH
DECEMBER 31, 2008

OPERATIONAL AUDIT



Oklahoma State Auditor
& Inspector

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

**For the Period
January 1, 2007 through December 31, 2008**

STATE AUDITOR AND INSPECTOR

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July 8, 2009

TO THE OKLAHOMA INDIGENT DEFENSE SYSTEM BOARD

Pursuant to 74 O.S. § 212, transmitted herewith is the audit report for the Oklahoma Indigent Defense System for the period January 1, 2007 through December 31, 2008. The Office of the State Auditor and Inspector is committed to serving the public interest by providing independent oversight and by issuing reports that serve as a management tool to the State. Our goal is to ensure a government that is accountable to the people of the State of Oklahoma.

We wish to take this opportunity to express our appreciation to the agency's staff for the assistance and cooperation extended to our office during the course of our engagement.

Sincerely,

A handwritten signature in blue ink that reads "Steve Burrage". The signature is written in a cursive, flowing style.

STEVE BURRAGE, CPA
STATE AUDITOR & INSPECTOR

Mission Statement

The Oklahoma Indigent Defense System implements the Indigent Defense Act 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. The mission of the system is to provide indigents with legal representation comparable to that obtainable by those who can afford counsel and to do so in the most cost effective manner possible.

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Background

The System is a state agency created effective July 1, 1991. The System is appointed by the courts to represent all adult and juvenile indigents in 75 counties who are charged in felony, misdemeanor and traffic cases punishable by incarceration. The System is further appointed by the courts to represent all indigents in 75 counties where the State is seeking the death penalty. The System does not represent defendants charged in Oklahoma and Tulsa Counties, nor does it handle civil juvenile proceedings such as juvenile deprived cases or termination of parental rights proceedings.

The System’s operations are governed by 22 O.S. § 1355 through 1369.

Oversight is provided by a five member Board of Directors appointed by the Governor for five-year terms with the advice and consent of the Senate. The System is funded almost entirely through annual appropriations of monies by the Oklahoma Legislature.

Table 1 summarizes the agency’s sources and uses of funds for fiscal years 2007 and 2008.

Table 1-Sources and Uses of Funds for FY 2007 and FY 2008

Sources:	2007	2008
State Appropriations	\$16,718,676	\$16,814,534
Grants, Refunds and Reimbursements	817,894	1,425,049
Other	<u>130</u>	<u>326</u>
Total Sources	<u>\$17,536,700</u>	<u>\$18,239,909</u>
Uses:		
Personnel Services	\$15,900,648	\$16,225,053
Travel	306,608	338,869
Administrative Expense	631,144	622,302
Property, Furniture and Equipment	115,093	149,995
General Assistance and Awards	63,709	77,389
Scholarship, Tuition, Incentive Payments	367	372
Appropriated Transfers	<u>505,527</u>	<u>510,527</u>
Total Uses	<u>\$17,523,096</u>	<u>\$17,924,507</u>

Source: Oklahoma PeopleSoft Accounting System (unaudited; for informational purposes only)

**Authority,
Scope, and
Sample Methodology**

This 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 state officers whose duty it is to collect, disburse or manage funds of the state.

The audit period covered was January 1, 2007 through December 31, 2008.

Our samples were selected in such a way that whenever possible, the samples are representative of the populations and provide sufficient evidential matter. Sample methodologies can vary and are selected based on the audit objective and whether the total population of data was available. Random sampling is the preferred method; however, we may also use haphazard sampling (a methodology that produces a representative selection for non-statistical sampling), or judgmental selection when data limitation prevents the use of the other two methods. We identified specific attributes for testing each of the samples. When appropriate, we projected our results to that population.

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. 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.

Objective 1 - To determine if the Agency's internal controls provide reasonable assurance that revenues, expenditures, and inventory were accurately reported in the accounting records, and financial operations complied with 62 O.S. § 7.1.C., and 62 O.S. § 7.1.E.

Conclusion

The agency's internal controls generally provide reasonable assurance that revenues, expenditures, and inventory were accurately reported in the accounting records. However, one area could be strengthened.

Compliance procedures were performed with regards to two laws:

- The agency appears to be in compliance with 62 O.S. § 7.1.C. – Receipts shall be deposited within one day of receipt, adequate safekeeping of receipts awaiting deposit, checks are restrictively endorsed immediately upon receipt;
- The agency appears to be in compliance with 62 O.S. § 7.1.E - monthly transfers from the agency's clearing account.

Methodology

To accomplish our objective, we performed the following:

- Documented internal controls related to the receipt, expenditure, personnel services and inventory processes;
- Tested controls which included:
 - Determining the person who prepared the deposit was independent of the receipting process;
 - Reviewing a random sample of 40 deposits from the period to ensure the monies were deposited within one day of receipt, the check composition of the deposit agreed to the checks received per the agency's database, checks were restrictively endorsed upon receipt, and the correct fund and account code was used;
 - Reviewing a random sample of three monthly Office of State Finance (OSF) Form 11 reconciliations to ensure they were prepared by someone independent of the receipting process, the reconciliation was mathematically accurate, the amounts reported on the reconciliation agreed to the supporting documentation, and reconciling items appeared reasonable;
 - Reviewing a random sample of 25 expenditure claims from the audit period to ensure they were properly and independently authorized. This included ensuring the invoice supported the payment, the claim amount and payee agreed to the PeopleSoft system, and the correct fund and account code was used;
 - Determining the signature stamp used to approve claims is retained in a secure location;

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- Determining the agency has written policies and procedures in place concerning the approval, accrual and usage of compensatory time;
 - Reviewing a random sample of three months of payroll information from the PeopleSoft system and selecting employees accruing compensatory time to ensure the time was approved by the supervisor and the explanation for the compensatory time appeared reasonable given the agency's mission;
 - Determining the agency's computer system requires a password login to protect confidential and sensitive data; and
 - Reviewing a random sample of 25 items easily susceptible to theft or loss to ensure the employee responsible for the item has the correct item in their possession.
- Discussed with personnel and observed the location where funds are retained prior to deposit to ensure they are adequately safeguarded as required by 62 O.S. § 7.1.C.2.a.
 - Reviewed PeopleSoft deposits for the audit period to determine if transfers from the clearing account were occurring at least monthly as required by 62 O.S. § 7.1.E.

Observation

Revenue Received

Title 22 § 1355.14 states in part:

- A. At the time of pronouncing the judgment and sentence or other final order, the court shall order any person represented by an attorney employed by the Oklahoma Indigent Defense System or a defense attorney who contracts or volunteers to represent indigents pursuant to the provisions of the Indigent Defense Act to pay the costs for representation in total or in installments and, in the case of installment payments, set the amount and due date of each installment.
- B. Cost assessed pursuant to this section shall be collected by the court clerk and when collected paid monthly to the Oklahoma Indigent Defense System for deposit to the Indigent Defense System Revolving Fund.

The Oklahoma Indigent Defense System (OIDS) depends on the county court clerks to remit the appropriate amounts collected. The county court clerks do not report to OIDS what fees, if any, have been assessed for representation; therefore, OIDS has no way of establishing or tracking receivable balances. OIDS could potentially fail to receive all funds owed them by the county court clerks.

Recommendation

We recommend OIDS obtain a collections report from the county court clerks. Using this report, OIDS should be able to reconcile the amount collected by the county court clerk offices to the amount received by OIDS to ensure they have received the total amount due.

Views of Responsible Officials

OIDS will request that the county court clerks furnish OIDS with a copy of reports detailing collections of assessed costs of representation. OIDS will then use these reports for reconciliation of the amounts actually paid to OIDS by the various county court clerks. As the auditor notes, this only assists in reconciling collections by the court clerks to receipts by OIDS. Reliable data regarding assessments and balances still to be paid are not available.



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