



**New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor**

**Judiciary
Administrative Office of the Courts
Office of Management and Administrative
Services**

July 1, 2007 to March 31, 2010

**Stephen M. Eells
State Auditor**

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New Jersey State Legislature

OFFICE OF LEGISLATIVE SERVICES

OFFICE OF THE STATE AUDITOR

125 SOUTH WARREN STREET

PO BOX 067

TRENTON NJ 08625-0067

ALBERT PORRONI

Executive Director

(609) 292-4625

OFFICE OF THE STATE AUDITOR
(609) 292-3700
FAX (609) 633-0834

STEPHEN M. EELLS
State Auditor

THOMAS R. MESEROLI
Assistant State Auditor

JOHN J. TERMYNA
Assistant State Auditor

The Honorable Chris Christie
Governor of New Jersey

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Mr. Albert Porroni
Executive Director
Office of Legislative Services

Enclosed is our report on the audit of the Judiciary, Administrative Office of the Courts, Office of Management and Administrative Services for the period of July 1, 2007 to March 31, 2010. If you would like a personal briefing, please call me at (609) 292-3700.

Stephen M. Eells
State Auditor
August 24, 2010

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Judiciary
Administrative Office of the Courts
Office of Management and Administrative Services

Scope

We have completed an audit of the Judiciary, Administrative Office of the Courts (AOC), Office of Management and Administrative Services for the period July 1, 2007 to March 31, 2010. Our audit included financial activities accounted for in the state's General Fund. It also included the following funds that are not accounted for in the state's accounting system and are audited by an independent accounting firm: Board of Bar Examiners, Disciplinary Oversight Committee, New Jersey Lawyers' Assistance Program, New Jersey Lawyers' Fund for Client Protection, Superior Court of New Jersey Trust Fund, and Trial Attorney Certification Program. We did not audit the financial activities initiated at the vicinage level because the vicinages are audited by the AOC Internal Audit and Control unit.

Average annual expenditures of the AOC during the audit period were \$328 million. The prime responsibility of the AOC is to provide administrative services to the courts. Average annual revenues were \$117 million during our audit period. The major components of revenue were court judgments and fees.

The AOC was awarded \$5.4 million in American Recovery and Reinvestment Act (ARRA) funds for the Recovery Act: Edward Byrne Memorial Competitive Grant Program: Providing for Funding of Neighborhood Probation and Parole Officers for the period August 1, 2009 to July 31, 2011. These funds are to be used to hire 30 project specialists in an attempt to reduce the number of individuals with a mental illness from returning to prison. As of March 31, 2010, \$46,000 had been expended.

Objectives

The objectives of our audit were to determine whether financial transactions were related to AOC operations, were reasonable, and were recorded

properly in the accounting systems. In regard to ARRA funds, our objectives were to determine whether costs charged to the ARRA program were allowable; the funds were separately accounted for in the state's accounting system; and adequate controls were in place for effective cash management, and accurate and timely financial reporting.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section I, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

Our audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States.

In preparation for our testing, we studied legislation, administrative code, *Rules Governing the Courts of the State of New Jersey*, circular letters promulgated by the Department of the Treasury, and policies of the Judiciary. Provisions that we considered significant were documented and compliance with those requirements was verified by interview, observation, and through our samples of financial transactions. We also read the budget messages, reviewed financial trends, and interviewed AOC personnel to obtain an understanding of the programs and the internal controls.

A nonstatistical sampling approach was used. Our samples of financial transactions were designed to provide conclusions about the validity of transactions as well as internal control and compliance attributes. Sample populations were sorted and transactions were judgmentally selected for testing.

Conclusions

We found that the financial transactions included in our testing were related to AOC operations, were reasonable, and were recorded properly in the accounting systems. In making these determinations, we noted matters of compliance

with laws and regulations, and certain internal control weaknesses meriting management's attention. We also identified opportunities for cost savings and revenue enhancement.

We determined that costs charged to the ARRA program were allowable; the funds were separately accounted for in the state's accounting system; and adequate controls were in place for effective cash management, and accurate and timely financial reporting. Because of delays in the hiring of project specialists, the AOC estimates that \$2.2 million in ARRA funds will not be expended by the close of the grant period. However, U.S. Department of Justice personnel did state that, with reasonable justification submitted by AOC, the grant period may be extended.

Vacation Leave Time

Judges' Secretaries should not receive excessive vacation time.

Judges' Secretaries have been granted excessive vacation leave time because of vague regulations and inadequate controls. The Judiciary Benefit Information Handbook states that vacation leave for these secretaries "is granted at the Judges' discretion". We found a number of cases where the amount of vacation leave granted was unreasonable.

The maximum annual amount of vacation leave time provided to a state employee is 25 days upon completion of 20 years of service. The New Jersey Rules of Court state that, for the judges' supporting personnel, "The amount of vacation time allowed shall be commensurate with that allowed other public employees holding comparable positions". We reviewed the vacation leave granted to all Supreme and Appellate Court judges' secretaries for the period 2007 to 2009 and found 54 of 142 instances where they received vacation leave credits of more than 25 days in a given year, totaling 442 additional days. One secretary received 61 days in 2007, while another secretary, with less than five years of service, was credited with 42 days in 2009. We also found that three out of five Law Clerks tested were credited with a total of ten excessive vacation days during their one-year term from September 2007 to August 2008.

We found that there is no formal documentation submitted by the judges authorizing additional vacation leave credits. The AOC payroll unit relies solely on the timesheets in determining the amount of vacation leave to be credited on the Time and Leave Reporting System (TALRS). Payroll employees have the ability to credit employees with additional vacation leave time on TALRS without supervisory oversight and approval. As a result of discovering this weakness, we reviewed all vacation leave time granted in excess of 25 days to all other AOC employees and found no additional exceptions.

Recommendation

We recommend that vacation leave granted to AOC employees be commensurate with that granted to other state employees. If it is determined that additional leave is permissible for Judges' Secretaries and Law Clerks, judges should provide formal authorizations to the payroll unit. Additionally, modifying credit entries to TALRS should be subject to supervisory approval and be adequately documented.

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Board of Bar Examiners

Bar examiners should be treated as independent contractors.

The AOC treats its bar examiners as employees although they meet the definition of independent contractors as set forth by the IRS. As a result, they have received employment benefits that they are not entitled to. The Board of Bar Examiners consists of seven appointees approved by the Supreme Court for individual expertise in their respective areas of the law. The duties of the board are to independently prepare and conduct semi-annual examinations for applicants seeking admission as attorneys; prescribe rules, forms, and procedures relating thereto; and state the topics upon which applicants will be examined. The bar examiners serve for a term of three years and may be reappointed to successive full terms for a maximum of 12 years. They do not work at the AOC and are not subject to the AOC's employment regulations.

The bar examiners are paid \$12,000 annually through the bi-weekly payroll process. They also receive full medical and dental benefits and pension credits for their limited service. Four of the seven members are receiving these benefits as a result of their service on the board, while the remaining three receive full benefits by virtue of their other state or state-sponsored positions.

Recommendation

We recommend the AOC remove the members of the Board of Bar Examiners from the bi-weekly payroll, discontinue their health and pension benefits, and pay them as independent contractors.

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Prior Year Purchase Orders

The AOC should follow Treasury guidelines when obligating funds.

A purchase order represents a written contract between an agency and a vendor where funds are reserved for the purchase of specific goods or services at a stipulated price. A purchase order that is no longer needed for its intended purpose should be cancelled and the funds released for other approved uses. The Department of the Treasury, Office of Management and Budget (OMB) reviews prior year open obligations at the end of each fiscal year to determine what purchase orders should be cancelled.

On June 13, 2005, the AOC authorized a purchase order in the amount of \$850,000 for the stated purpose of renovating the sixth floor at the Richard J. Hughes Justice Complex. As of September 2006, the renovation project had not started and OMB cancelled the purchase order with the intent to lapse these funds back to the General Fund. On September 22, 2006, the AOC requested the purchase order be reinstated and claimed the renovation project would be completed by the spring of 2007. In July 2007, with the project still not started, the AOC issued another purchase order in the amount of \$400,000 to the same vendor for what was then called Phase II of the same project. Although the sixth floor renovations did not occur, neither purchase order was cancelled. Instead, the \$1.25 million was used for similar projects at various locations from December 2006 through February 2010. By not cancelling the purchase orders, the AOC was able to prevent OMB from lapsing these funds and instead used these funds for other purposes.

Recommendation

We recommend the AOC review its purchase orders and projects to ascertain their continued need. In those cases where funds have been reserved for

projects that are no longer active, the AOC should cancel the purchase orders.

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Vehicle Usage and Reporting

Vehicle tracking reports should be reviewed and underutilized motor vehicles should be recalled.

AOC management has not acted upon the vehicle tracking reports that indicate the underutilization of motor vehicles. A record of vehicle utilization is accumulated through AOC's vehicle tracking and reporting software, but the AOC has yet to conduct a comprehensive utilization review of its entire fleet of vehicles. As a result, management may not be aware of those vehicles for which continued use cannot be justified under the Judiciary Vehicle Policy. In addition, there is no provision for the recall of vehicles that continually fail to meet both the minimum mileage and usage requirements.

According to the vehicle policy, the assignment of vehicles is justified only when minimum monthly business mileage or usage requirements are met for each of three types of vehicle categories: field, pool and executive. Field vehicles should be assigned only to individuals who accumulate an average of 1,200 business miles each month or can demonstrate that the vehicle is used for field assignments on an average of at least 80 percent of the business days each month. Pool vehicles are for the general use of all Judiciary employees for bona fide business purposes and for limited durations. Pool vehicles must maintain an average of at least 750 business miles each month or meet the 80 percent rule. The two executive assignments are not subject to the above rules.

Our analysis of the AOC's vehicle tracking and reporting software identified 406 vehicles in use at some point during the period July 1, 2008 through June 30, 2009. We updated our review of the fleet to include the period July 1, 2009 through March 31, 2010, during which time we identified 383 vehicles in use.

In the first review, we noted 13 vehicles failed both justification tests for each of the 12 months, with these vehicles averaging 347 business miles per month. Seven of the vehicles were primarily used for personal use. We also identified an additional 49 vehicles that failed both justification tests at least 50 percent of the time in use. The second review period resulted in the identification of 15 vehicles that failed for each of the nine months of use, with these vehicles averaging 356 business miles per month. In addition, there were another 43 vehicles that were in service the entire nine months that failed both justification tests at least 50 percent of the time.

Recommendation

We recommend the AOC undertake a review of the need for each of the fleet vehicles and compare those results to the mileage and usage requirements mandated in the policy. In addition, the vehicle policy should address the consequences of not meeting the minimum usage standards.

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Superior Court Trust Fund

**Superior Court Trust
Fund balances should be
transferred.**

The Superior Court Trust Fund is a temporary depository for funds claimed in connection with litigation in the New Jersey Superior Court or funds to be deposited under the jurisdiction of the New Jersey Supreme Court. The operation of the fund is conducted pursuant to guidelines issued by the Chief Justice and promulgated by the AOC. The trust fund is invested with and managed by the State of New Jersey Cash Management Fund. As of July 31, 2009, the trust fund had a balance of approximately \$260 million.

After the contract vendor for banking services was changed, the AOC properly transferred all but \$1.5 million of the trust fund to the cash management fund by the end of fiscal year 2004. The funds that were not transferred were left in a non-interest bearing checking account in the amount of \$500,000 and a low-interest investment account of approximately \$1 million. The decision to leave some funds in the

previous bank accounts may have been prudent at the time in order to cover any outstanding obligations. However, there has been no disbursement activity in the accounts, and the interest earned in those accounts is considerably less than what could have been earned if the entire amount had been transferred. According to our analysis, the fund has forgone an estimated \$144,000 in interest earnings from fiscal year 2005 through fiscal year 2009 as a result of not moving the \$1.5 million into the state's cash management fund.

Recommendation

We recommend the AOC transfer the balances of the two dormant Superior Court Trust Fund bank accounts to the State of New Jersey Cash Management Fund.

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GLENN A. GRANT, J.A.D.
Acting Administrative Director of the Courts

www.njcourts.com • phone: 609-984-0275 • fax: 609-984-6968

August 17, 2010

Mr. Stephen M. Eells, State Auditor
Office of the State Auditor
Office of Legislative Services
125 South Warren Street
P.O. Box 067
Trenton, New Jersey 08625-0067

Dear Mr. Eells:

I am in receipt of the *Judiciary Administrative Office of the Courts, Office of Management and Administrative Services* audit report for July 1, 2007 to March 31, 2010.

I wish to thank you for the work your team of auditors did while at the Judiciary. The following are responses to the findings on the draft audit report.

Page 3 – Conclusion:

“We determined that costs charged to the ARRA program were allowable; the funds were separately accounted for in the states’ accounting system; and adequate controls were in place for effective cash management, and accurate and timely financial reporting. Because of delays in the hiring of project specialists, the AOC estimates that \$2.2 million in ARRA funds will not be expended by the close of the grant period. However, U.S. Department of Justice personnel did state that, with reasonable justification submitted by AOC, the grant period may be extended.

Judiciary response:

The Judiciary has reached out to the Department of Justice and they have advised that they will entertain a request for extension as we close in on the grant end date and that they may approve it based on reasonable justification. They will not entertain a request for extension at this time. We will pursue an extension at the appropriate time.

Findings:

Page 4: Vacation Leave Time – Judges Secretaries should not receive excessive leave time.

OLS Recommendation:

We recommend that vacation leave granted to AOC employees be commensurate with that granted to other state employees. If it is determined that additional leave is permissible for Judges’ Secretaries and Law Clerks, judges should provide formal

authorization to the payroll unit. Additionally, modifying credit entries to TALRS should be subject to supervisory approval and be adequately documented.

Judiciary response:

The Supreme Court and Appellate Division secretaries and law clerks receive leave time at the discretion of the judge. Leave time is entered into TALRS only upon receipt of a time sheet signed by the judge for whom the clerk works. Any adjustment to the system requires the signed document and is processed by a Human Resources staff member in a supervisory position. We will explore a more formalized process for judge authorization for extra leave time.

Page 5: Board of Bar Examiners – Bar examiners should be treated as independent contractors.

OLS Recommendation:

We recommend the AOC remove the members of the Board of Bar Examiners from the bi-weekly payroll, discontinue their health and pension benefit, and pay them as independent contractors.

Judiciary Response:

We agree that the Bar examiners should be treated as contractors and have a plan to make that conversion. Bar examiners are appointed for a three year term and we will address each one as their term expires. If they are offered new terms, it would be as contractors and all new examiners would be brought in as contractors.

Page 6: Prior Year Purchase Order- The AOC should follow Treasury guidelines when obligating funds.

OLS Recommendation:

We recommend the AOC review its purchase orders and projects to ascertain their continued need. In those cases where the funds have been reserved for projects that are no longer active, the AOC should cancel the purchase orders.

Judiciary Response:

The Judiciary respectfully disagrees with this finding. Although the sixth floor project was not completed this was due to the Department of Treasury not permitting electrical upgrades to take place. The funding was used for similar projects throughout the central office of the judiciary using the same vendor and obtaining the same or similar systems furniture.

Page 7: Vehicle Usage and Reporting – Vehicle Tracking reports should be reviewed and underutilized motor vehicles should be recalled.

OLS Recommendation:

We recommend the AOC undertake a review of the need for each of the fleet vehicles and compare those results to the mileage and usage requirements mandated in the policy. In addition, the vehicle policy should address the consequences of not meeting the minimum usage standards.

Judiciary Response:

A comprehensive vehicle analysis was completed for the periods ending October 31, 2008 and October 31, 2009. The Judiciary's vehicle analysis is performed on the total annual mileage and total annual business days in use for the entire fleet of cars operated by each unit. Total business miles and total business days for each unit's entire fleet present a more accurate picture of the needs of each unit. The inevitable highs and lows of usage and mileage between individual drivers are secondary to the needs of the entire unit. However, the usage of individual vehicles is also evaluated and units are encouraged to balance the usage among their vehicles. Of the fourteen units reviewed, two units did not meet the criteria for usage. As a result, vehicles were surrendered by those units or the vehicle was no longer assigned to one specific individual and was changed to a Pool vehicle to be more effectively used by several people in the unit.

Although the vicinage vehicle usage is monitored at the central office, with a quarterly report being distributed to each fleet vehicle coordinator in the vicinage, the central office has not undertaken the same type of comprehensive analysis for the vicinage usage as we have for the central office. This analysis will be conducted with the close of the next reporting period, October 31, 2010 at which time any needed changes to the vicinage fleet will be implemented.

Page 8: Superior Court Trust Fund – Superior Court trust Fund balances should be transferred.

OLS Recommendation:

We recommend the AOC transfer the balances of the two dormant Superior Court Trust Fund bank accounts to the State of New Jersey Cash Management Fund.

Judiciary Response:

The Judiciary agrees with the OLS recommendation to transfer the balances from the dormant accounts. However, the Superior Court Trust Fund Accounts do not contain state funds. They are funds deposited by attorneys on behalf of their clients for matters such as disputed land claims, possible monetary settlements, etc. We will review the accounts and consider moving the balances into interest bearing bank accounts or into the New Jersey Cash Management Fund.

I trust you will find the Judiciary's responses to the audit exceptions acceptable. I look forward your comments.

Very truly yours,



Glenn A. Grant, J.A.D.

- c: Ms. Shelley R. Webster, Director, OMAS
- Mr. James S. Agro, Assistant Director, Management Services Division
- Mr. Robert O'Neill, Finance Administrator, Management Services Division