



STATE OF NORTH CAROLINA

HENDERSON COUNTY CLERK OF SUPERIOR COURT

FISCAL CONTROL AUDIT

HENDERSONVILLE, NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

STATE AUDITOR

HENDERSON COUNTY CLERK OF SUPERIOR COURT

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THE HONORABLE KIMBERLY GASPERSON-JUSTICE

CLERK OF SUPERIOR COURT



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AUDITOR'S TRANSMITTAL

November 15, 2011

The Honorable Beverly Eaves Perdue, Governor
The General Assembly of North Carolina
The Honorable Kimberly Gasperson-Justice, Clerk of Superior Court

This report presents the results of our fiscal control audit at the Henderson County Clerk of Superior Court. Our work was performed by authority of Article 5A of Chapter 147 of the *North Carolina General Statutes* and was conducted in accordance with the performance audit standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. The objective of a fiscal control audit is to identify improvements needed in internal control over selected fiscal matters, such as financial accounting and reporting; compliance with finance-related laws and regulations; and/or management of financial resources.

The results of our audit disclosed deficiencies in internal control and/or instances of noncompliance or other matters that are considered reportable under *Government Auditing Standards*. These matters are described in the Audit Findings and Responses section of this report.

North Carolina General Statutes require the State Auditor to make audit reports available to the public. Copies of audit reports issued by the Office of the State Auditor may be obtained through one of the options listed in the back of this report.

A handwritten signature in cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA
State Auditor

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OBJECTIVES, SCOPE, METHODOLOGY, AND RESULTS

OBJECTIVES, SCOPE, AND METHODOLOGY

As authorized by Article 5A of Chapter 147 of the *North Carolina General Statutes*, we have conducted a fiscal control audit at the Henderson County Clerk of Superior Court. There were no special circumstances that caused us to conduct the audit, but rather it was performed as part of our effort to periodically examine and report on the financial practices of state agencies and institutions.

The objective of a fiscal control audit is to identify improvements needed in internal control over selected fiscal matters, such as financial accounting and reporting; compliance with finance-related laws and regulations; and/or management of financial resources. Our audit does not provide a basis for rendering an opinion on internal control, and consequently, we have not issued such an opinion.

Management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that relevant objectives are achieved. Because of inherent limitations in internal control, errors or fraud may nevertheless 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.

To accomplish our audit objectives, we gained an understanding of internal control over matters described below and evaluated the design of the internal control. We then performed further audit procedures consisting of tests of control effectiveness and/or substantive procedures that may reveal significant deficiencies in internal control. Specifically, we performed procedures such as interviewing personnel, observing operations, reviewing policies, analyzing accounting records, and examining documentation supporting recorded transactions and balances. Whenever sampling was used, we applied a nonstatistical approach but chose sample sizes comparable to those that would have been determined statistically. As a result, we were able to project our results to the population but not quantify the sampling risk.

As a basis for evaluating internal control, we applied the internal control guidance contained in *Internal Control Integrated Framework*, published by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). As discussed in the framework, internal control consists of five interrelated components, which are (1) control environment, (2) risk assessment, (3) control activities, (4) information and communication, and (5) monitoring.

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

OBJECTIVES, SCOPE, METHODOLOGY, AND RESULTS (CONCLUDED)

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.

Our audit scope covered the period January 1, 2011 through June 30, 2011. During our audit, we considered internal control related to the following accounts and control objectives:

Cash and Cash Equivalents - This classification includes change funds and cash on deposit with private bank accounts. We examined internal control designed to ensure that the Clerk properly safeguards and accounts for these assets. As of June 30, 2011, the Clerk had \$295,323 in cash and cash equivalents.

Investments - This classification includes pooled savings accounts. We examined internal control designed to ensure that the Clerk properly safeguards and accounts for these assets. We also examined evidence to support compliance with finance-related laws and regulations over these assets. These laws and regulations set limits on authorized investments, set timing requirements for investing funds, provide for the Clerk to receive a fee for administering the investments and provide for allocation of interest to the beneficial owner or owners of the funds. As of June 30, 2011, the Clerk had \$4,583,848 in investments.

Trusts - This classification includes funds held by the Clerk for minors, incapacitated adults, and others according to the terms of a court order, will, or deed. We examined internal control designed to ensure that the Clerk properly safeguards and accounts for these accounts. We also examined evidence to support compliance with finance-related laws and regulations. These laws and regulations set guidelines for the receipt, administration, and disbursement of these accounts. As of June 30, 2011, the Clerk had \$4,594,268 in trust accounts.

RESULTS

The results of our audit disclosed deficiencies in internal control and/or instances of noncompliance or other matters that are considered reportable under generally accepted government auditing standards. These items are described in the Audit Findings and Responses section of this report.

AUDIT FINDINGS AND RESPONSES

1. INAPPROPRIATE INFORMATION SYSTEMS ACCESS

The Clerk's Office has given staff access rights to information systems that are incompatible with adequate segregation of duties and not in compliance with the *Clerk of Superior Court Financial Policies and Procedures Manual*. As a result, errors or misappropriations could occur and not be detected in a timely manner.

In the *Clerk of Superior Court Financial Policies and Procedures Manual*, guidelines are established to maintain segregation of duties. Adequate segregation of duties involves assigning responsibilities such that the duties of one employee automatically provide a cross-check on the work of other employees.

Four employees with head bookkeeper, head cashier, or cashier access in the Financial Management System (FMS) had the ability to update case information in the Automated Criminal/Infractions System (ACIS). The employee with head cashier access in FMS also had the ability to delete cases in ACIS. Having these access rights in the different systems could permit error or fraud to occur that would not be detected in a timely manner. Though the weakness existed during the period under review, access for one of the employees was corrected prior to the audit.

Recommendation: The Clerk's Office should assign information system access rights and segregate duties in accordance with guidance contained in the *Clerk of Superior Court Financial Policies and Procedures Manual*.

Clerk's Response: I have reviewed the access that each of the employees had and found the following: Two employees, one bookkeeper, and one back-up cashier have access to ACIS to update. The bookkeeper does not receipt money; however, I have taken steps to downgrade the bookkeeper's security to ACIS "inquiry only."

I only have 2 full time cashiers. If one of these people are sick, on an appointment, or on vacation, I must use a back-up cashier during this time. One back-up cashier is presently working in the criminal division. She is the most trained and recent cashier and therefore is the employee with the best ability to back-up in cashiering. If she receipts the citation for ACIS, appropriate steps are taken to provide these citations to her supervisor to update. She updates but does not receipt money on a daily basis. We had completed and sent in "An Exception to Policy" form for her and it had been approved and was on record here at the Clerk's Office at the time of the audit.

There is one other back-up cashier with ACIS "Main Menu" access. This person rarely is used as a cashier and the bookkeeper stays with her while cashiering so to ensure accuracy due to the rarity of her working in the cashier area. We also had on file the "An Exception to Policy" form which AOC had approved on this employee at the time of the audit.

AUDIT FINDINGS AND RESPONSES (CONTINUED)

Finally, one of my Assistant Clerks was moved from the criminal division awhile ago to Special Proceedings and Criminal Divisions. She is designated as a “Head Bookkeeper.” At the time of the audit, we had submitted a request to AOC to remove her update status in criminal; however, we were told that it had not been completed at the time of the audit due to a backlog of security requests at AOC. It should have been completed at this time.

Auditor Comment: Though exception forms were submitted to the North Carolina Administrative Office of the Courts (AOC), the forms did not include an alternate internal control plan to mitigate the risks associated with the lack of segregation of duties. As stated in the form, “This segregation protects the public from the abuse of its assets and reduces the risk of fraud.”

2. DEFICIENCIES IN INTERNAL CONTROL OVER INVESTMENT REQUIREMENTS

The Clerk’s Office did not adequately monitor its trust accounts to ensure that they were invested timely as required by law. As a result, there is an increased risk of noncompliance with statutory requirements.

According to *North Carolina General Statute 7A-112(b)*, “When money in a single account in excess of two thousand dollars (\$2,000) is received by the clerk...and it can reasonably be expected that the money will remain on deposit with the clerk in excess of six months from date of receipt, the money exceeding two thousand dollars (\$2,000) shall be invested by the clerk within 60 days of receipt....” During our audit, we examined five trusts and identified three, totaling \$26,502, that were expected to be held longer than six months but were not invested as required.

Recommendation: The Clerk’s Office should strengthen internal controls to ensure that trust accounts are invested as required by law.

Clerk’s Response: I reviewed with the auditors these particular files. They consisted of condemnation files and files from city tax sales. In regards to the condemnation files, because a person or entity has one year to answer a condemnation suit, it is this Clerk’s opinion that we never know when a condemnation deposit will be held over 60 days until after the year has passed. We continually have people that answer the complaint or request the deposit up until the last minute. It has been our policy to review condemnation cases monthly to determine which ones have passed the one year threshold. At that point, we immediately invest the same. We will continue to do this.

In regards to the tax sale files. There were a series of small parcels of land that the City of Hendersonville executed tax sales on after many years in arrears. Several of the property owners surrounding the parcels were interested in them and the upset bid process was lengthy. After that process finally came to an end, the county and city had to determine what amount of taxes were owed which had to be paid out of the proceeds. This was a unique and rare case for our office to handle since we had not had one of these

AUDIT FINDINGS AND RESPONSES (CONCLUDED)

cases in many years. By the time the last monies were paid, it was near the end of October. We were slated to change banks at the end of the year and so the decision was made to not invest these proceeds until after we had switched to the new bank. Again, we had not moved banks since 1995 and therefore this was unusual in and of itself.

While my supervisor and bookkeeper do review these reports on a monthly basis, these employees will review and evaluate the cases each month together to ensure timely investment of the same.

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