

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

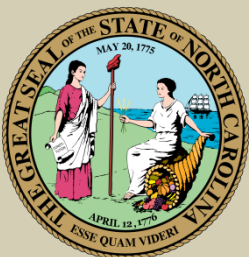


BERTIE COUNTY CLERK OF SUPERIOR COURT

WINDSOR, NORTH CAROLINA

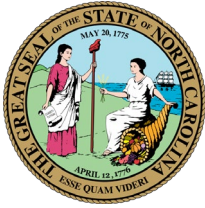
PERFORMANCE AUDIT

JULY 2022



NC OSA
The Taxpayers' Watchdog

STATE OF NORTH CAROLINA
Office of the State Auditor



Beth A. Wood, CPA
State Auditor

2 S. Salisbury Street
20601 Mail Service Center
Raleigh, NC 27699
Telephone: (919) 807-7500
Fax: (919) 807-7647
www.auditor.nc.gov

AUDITOR'S TRANSMITTAL

The Honorable Roy Cooper, Governor
The General Assembly of North Carolina
The Honorable Vasti F. James, Bertie County Clerk of Superior Court

Ladies and Gentlemen:

We are pleased to submit this performance audit report for Bertie County Clerk of Superior Court. The audit objective was to identify improvements needed in internal control over selected financial matters, as listed on pages 2-3.

This audit was conducted in accordance with Chapter 147, Article 5A of the North Carolina General Statutes.

The results of our audit identified deficiencies in internal control and instances of noncompliance that are considered reportable under *Government Auditing Standards*. These items are described in the FINDINGS, RECOMMENDATIONS, AND RESPONSES section of this report.

We appreciate the courtesy and cooperation received from management and the employees of the Bertie County Clerk of Superior Court during our audit.

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.

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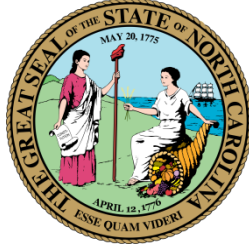
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State Auditor

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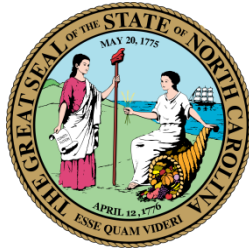


BACKGROUND

We have conducted a performance audit of Bertie County Clerk of Superior Court, as authorized by Chapter 147, Article 5A of the North Carolina General Statutes, which requires the Office of the State Auditor to periodically examine and report on the financial practices of state agencies.

The voters of each county elect a Clerk of Superior Court for a four-year term. Clerks are responsible for all clerical and record-keeping functions of the superior court and district court. The Clerks' offices collect, invest, and distribute assets in a fiduciary capacity. For example, the Clerks' offices collect fines and court costs, hold cash and property bonds, administer estates on behalf of minors, and distribute resources to governmental and private parties as required.

The North Carolina Administrative Office of the Courts (NCAOC) provides statewide support services for the courts, including court programs and management services; information technology; human resources services; financial, legal, and legislative support; and purchasing services. In addition, the NCAOC prepares and administers the court system's budget.



OBJECTIVES, SCOPE, AND METHODOLOGY

The objective of this performance audit was to identify improvements needed in internal control over selected financial matters. 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. Errors or fraud may nevertheless occur and not be detected because of the inherent limitations of internal control. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or that compliance with policies and procedures may deteriorate.

Our audit scope covered the period July 2021 through March 2022. In conducting our audit, we observed, documented, and evaluated the effectiveness of selected internal controls related to:

- *Cash* - The Clerk's office collects various fines, fees, and court costs daily, as well as bonds, judgments, and other amounts. We examined internal controls to determine whether such controls were designed and implemented to ensure that the Clerk properly safeguarded and accounted for cash receipts. We also examined internal controls designed to ensure compliance with laws and regulations related to depositing cash receipts. During the audit period, the Clerk collected \$1,539,018 in cash.
- *Estates* - The Clerk's office is to ensure that all estates are charged an application fee plus an assessment based on the value of each estate's inventory. An estate inventory is to be filed by the representative of the estate. We examined internal controls to determine whether such controls were designed and implemented to ensure that the Clerk properly obtained an inventory for each estate in compliance with laws and regulations. We also examined internal controls designed to ensure compliance with laws and regulations related to the appropriate assessment and collection of estate fees. During the audit period, the Clerk collected \$29,422 in estate fees related to estates.

The Clerk's office is to ensure that all estate guardians¹ are properly bonded based on the value of each annual estate inventory. An annual estate inventory is to be filed by the estate guardian of a minor or incapacitated adult. We examined internal controls designed to ensure that the Clerk properly obtained an inventory for each guardianship in compliance with laws and regulations. We also examined internal controls to determine whether such controls were designed and implemented to ensure that bonds assessed and collected were sufficient and in compliance with laws and regulations. During the audit period, auditors examined \$1,075,112 in estate guardian bonds retained by the Clerk related to 12 estates.

- *Escheats* - The Clerk's office is to transfer abandoned property to the state. The transfer results when the person legally entitled to the property fails to make a valid claim on the property within a prescribed period of time. After that time, all abandoned property held by the Clerk is required to be transferred to the North Carolina Department of State Treasurer. We examined internal controls to determine whether such controls were designed and implemented to ensure that the Clerk properly identified escheatable funds. We also examined internal controls designed to ensure compliance with laws and regulations related to escheating unclaimed funds after a prescribed period of time.

¹ Guardianship is a legal relationship in which a person(s) or agency (the guardian) is appointed by the court to make decisions and act on behalf of a minor or incapacitated adult.

During the audit period, the Clerk transferred \$41,646 in escheats to the Department of State Treasurer.

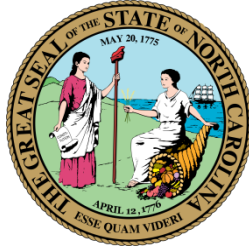
- *Trusts* - The Clerk's office receives, administers, and disburses trust funds for minors and incapacitated adults. We examined internal controls to determine whether such controls were designed and implemented to ensure that disbursements from minor and incapacitated adult trust accounts were proper to ensure compliance with laws and regulations. During the audit period, the Clerk disbursed \$5,720 from minor and incapacitated adult trust accounts.

To accomplish the audit objective, auditors gained an understanding of the Clerk's internal control over matters and evaluated the design of internal control. Auditors then performed further audit procedures consisting of tests of control effectiveness and/or substantive procedures that provide evidence about our audit objectives. Specifically, auditors interviewed personnel, observed operations, reviewed policies, analyzed accounting records, and examined documentation supporting recorded transactions and balances, as considered necessary in the circumstances. 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 as applicable but not quantify the sampling risk. This approach was determined to adequately support our audit conclusions.

Because of the test nature and other inherent limitations of an audit, together with limitations of any system of internal and management controls, this audit would not necessarily disclose all deficiencies in internal control or instances of noncompliance.

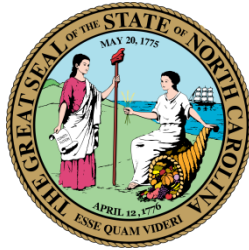
As a basis for evaluating internal control, we applied the internal control guidance contained in professional auditing standards. However, our audit does not provide a basis for rendering an opinion on internal control, and consequently, we have not issued such an opinion. See the Appendix for internal control components and underlying principles that were significant to our audit objectives.

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.



RESULTS AND CONCLUSIONS

Based on the results of audit procedures described in the OBJECTIVES, SCOPE, AND METHODOLOGY section of this report, auditors identified deficiencies in internal control and instances of noncompliance that are considered reportable under *Government Auditing Standards*. These items are described in the FINDINGS, RECOMMENDATIONS, AND RESPONSES section of this report. Management's responses are presented after the audit findings. We did not audit the responses, and accordingly, we express no opinion on them.



FINDINGS, RECOMMENDATIONS, AND RESPONSES

1. IMPROPER SYSTEM ACCESS INCREASED RISK OF UNDETECTED ERRORS AND FRAUD

Staff in the Clerk's office had inadequate segregation of duties resulting in the ability to change or delete information in multiple systems. The Clerk's office handled \$1,539,018 in receipts during the audit period.

Auditors tested the system access of all eight employees and found five (63%) employees had inappropriate access to the Financial Management System (FMS) and the Civil Case Processing System (VCAP). Specifically:

- Four (50%) employees were assigned both cashier access rights in FMS and update access rights in VCAP. As a result, the employees could have potentially misappropriated funds by collecting cash for a civil case, bypassing receipt entry into FMS, and updating VCAP to indicate all costs have been paid.
- One (13%) employee was assigned both head bookkeeper access rights in FMS and update access rights in VCAP. As a result, the employee could have potentially misappropriated funds by editing court cost or judgement information in FMS, updating VCAP to indicate all costs have been paid, and deleting civil case information.

Improper segregation of duties increases the risk that errors, unauthorized transactions, and fraud could go undetected. While no instances of fraud were identified during the audit period, an increased risk of undetected fraud existed because access rights and duties were not properly segregated.

The Clerk did not ensure that system access rights assigned to staff resulted in proper segregation of duties. While the Clerk was aware of procedures developed by the North Carolina Administrative Office of the Courts to serve as compensating controls for the inappropriate access, the Clerk did not ensure these procedures were implemented.

Adequate segregation of duties is required by the *Clerk of Superior Court Financial Policies and Procedures Manual*. Proper segregation of duties involves assigning duties and access to assets and information systems so that one employee's duties automatically provide a cross-check of the work of other employees.

Recommendation: The Clerk should properly segregate duties in accordance with the *Clerk of Superior Court Financial Policies and Procedures Manual*. If it is not practical to segregate all incompatible duties, then the Clerk should increase oversight to ensure that compensating controls are implemented to reduce the risk of errors or fraud.

Clerk's Response: See page 8 for the Clerk's response to this finding.

2. FAILURE TO COMPEL ESTATE INVENTORY FILINGS

The Clerk's office did not compel the filing of estate inventories in accordance with state law.

Auditors examined all 43 estates in the audit period that required an inventory to be filed. For 25 (58%) estates, the inventories were not filed timely and the Clerk failed to issue written requests requiring inventory filings.

The Clerk's failure to compel the filing of inventories could allow unauthorized transactions to occur, such as the removal of estate assets without the knowledge of qualified heirs. It could also delay the family of the deceased from finalizing the estate.

According to the Clerk, staff prioritized other duties over reviewing the inventory reports for filing deadlines. Additionally, the Clerk did not have monitoring procedures in place to ensure that estate inventories were compelled.

Chapter 28A, Article 20 of the North Carolina General Statutes and the *North Carolina Clerk of Superior Court Procedures Manual*, Chapter 74, require the filing of an estate inventory within three months after the Clerk's appointment of the estate's personal representative. If an inventory is not filed, the Clerk must compel the inventory by issuing written requests requiring the personal representative to file the inventory or explain why the personal representative should not be replaced.

Recommendation: The Clerk should implement monitoring procedures to ensure inventory reports are reviewed and estates are compelled to file inventories.

Clerk's Response: See page 8 for the Clerk's response to this finding.

3. FAILURE TO COMPEL INVENTORY FILINGS AND ASSESS AND COLLECT SUFFICIENT BONDS FOR ESTATES OF MINORS AND INCAPACITATED ADULTS

The Clerk's office did not compel the filing of guardianship estate inventories or assess and collect sufficient² bonds to protect wards (minors or incapacitated adults) in accordance with state law.

Auditors examined all 12 guardianship estates for wards that required bonds and the filing of an annual inventory of the ward's assets. For eight (67%) of the guardianship estates, the Clerk failed to compel an annual inventory filing and/or failed to assess and collect sufficient bonds. Specifically:

- For three of the guardianship estates, annual inventories were not filed and the Clerk failed to issue written requests requiring the inventory filings.
- For five of the guardianship estates, the bonds assessed and collected were insufficient as of the current inventory filings. Assets in these estates totaled

² North Carolina General Statutes 35A-1230 and 35A-1231 require bonds for estate guardians to equal 125% of the ward's personal property (if less than or equal to \$100,000) or 110% of personal property (if greater than \$100,000). Per the *North Carolina Clerk of Superior Court Procedures Manual*, Chapter 86, bond amounts should be reviewed upon the filing of annual inventories to ensure they remain sufficient.

\$801,064 and required \$901,206 in bonds. However, the Clerk only assessed and collected \$270,432 in bonds.

Failure to compel the filing of inventories prevents the Clerk from assessing and collecting sufficient bonds from guardians and could result in financial loss to the ward if the guardian misuses the assets in the estate. Additionally, the Clerk may be liable³ for the financial loss if bonds are not sufficient.

According to the Clerk, staff prioritized other duties over reviewing the inventory reports for filing deadlines. Additionally, the Clerk did not have monitoring procedures in place to ensure that inventories were compelled and bonds were sufficient for the guardianship estates.

North Carolina General Statutes 35A-1230 and 35A-1231 require the Clerk to assess and collect sufficient bonds before appointing a guardian to the estates of minors and incapacitated adults or permitting guardians from receiving the wards' property. North Carolina General Statutes 35A-1264 and 35A-1265 require the annual filing of an inventory of the ward's personal property. If an inventory is not filed, the Clerk must compel the inventory by issuing written requests requiring the guardian to file the inventory.

Recommendation: The Clerk should implement monitoring procedures to ensure inventory reports are reviewed, guardians are compelled to file inventories, and bonds assessed and collected are sufficient.

Clerk's Response: See pages 8-9 for the Clerk's response to this finding.

³ Chapter 35A, Article 7 of the North Carolina General Statutes.



*State of North Carolina
General Court of Justice*

CLERK OF SUPERIOR COURT

VASTI F. JAMES, CLERK
EX OFFICIO JUDGE OF PROBATE

BERTIE COUNTY
PO BOX 370
WINDSOR, NC 27983
(252) 794-6800

CY A. GRANT
RESIDENT JUDGE

July 6, 2022

Ms. Beth Wood, State Auditor
20601 Mail Service Center
Raleigh, NC 27699

Re: Audit Findings and Recommendations

Dear Ms. Wood:

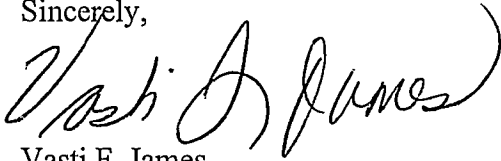
Thank you for the audit findings and recommendations that was submitted to the office. I have reviewed the report and your recommendations and will be making some changes as to how the following items are addressed in the office.

1. "Improper System Access Increased Risk of Undetected Errors and Fraud"
Response: I have removed myself from the cashier's access in that this will rectify the implementation of the compensatory controls. Please note: the office consists of six employees and some of the employees have access to several applications. These employees are considered either a back-up when the primary worker is out of the office for vacation and/or sick leave. The office must keep functioning in the event this takes place. Also, due to the downsizing in staff, and not being allowed to hire additional employees, some employees have multiple job tasks that require them to have multiple system access. It is what the small counties are having to deal with. However, all daily and monthly reports are reviewed by me. Also, I make every effort to make changes if feasible.
2. "Failure to Compel Estate Inventory Filings"
Response: All notices have been generated and we are currently up to date with this issue. In the future, I will be assisting the Estate Clerk in making sure the notices are generated and mailed in a timely manner.
3. "Failure to Compel Inventory Filings & Assess & Collect Sufficient Bonds for Estate of Minors and Incapacitated Adults"
Response: The bonds that were in place were based on initial assets involved and not the new receipts that would come into the estate. Now that this has been clarified, I will take into consideration the correct bond amount to be entered and ensure the sufficient bond is in place. I will also

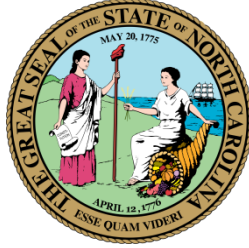
assist the Estate Clerk in making sure the notices are generated to compel the necessary filings in the estate.

I appreciate your recommendations and will make all efforts to address the issues found.

Sincerely,

A handwritten signature in black ink, appearing to read "Vasti F. James". The signature is fluid and cursive, with the first name "Vasti" being more prominent and the last name "James" following in a similar style.

Vasti F. James
Clerk of Superior Court
Bertie County



APPENDIX

Internal Control Components and Principles Significant to the Audit Objectives

Our general audit objective was to identify improvements needed in internal control over selected financial matters.

Internal control components and underlying principles that were significant to our audit objectives are identified in the table below.

COMPONENTS AND PRINCIPLES	AUDIT OBJECTIVES			
	CASH	ESTATES	ESCHEATS	TRUSTS
CONTROL ENVIRONMENT				
1. The oversight body and management should demonstrate a commitment to integrity and ethical values.	X	X	X	X
2. The oversight body should oversee the entity's internal control system.	X	X	X	X
3. Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives.	X	X	X	X
4. Management should demonstrate a commitment to recruit, develop, and retain competent individuals.				
5. Management should evaluate performance and hold individuals accountable for their internal control responsibilities.				
RISK ASSESSMENT				
6. Management should define objectives clearly to enable the identification of risks and define risk tolerances.				
7. Management should identify, analyze, and respond to risks related to achieving the defined objectives.	X	X	X	X
8. Management should consider the potential for fraud when identifying, analyzing, and responding to risks.				

9. Management should identify, analyze, and respond to significant changes that could impact the internal control system.	X	X	X	X
CONTROL ACTIVITIES				
10. Management should design control activities to achieve objectives and respond to risks.	X	X	X	X
11. Management should design the entity's information system and related control activities to achieve objectives and respond to risks.				
12. Management should implement control activities through policies.	X	X	X	X
INFORMATION AND COMMUNICATION				
13. Management should use quality information to achieve the entity's objectives.	X	X	X	X
14. Management should internally communicate the necessary quality information to achieve the entity's objectives.	X	X	X	X
15. Management should externally communicate the necessary quality information to achieve the entity's objectives.	X	X	X	X
MONITORING ACTIVITIES				
16. Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.	X	X	X	X
17. Management should remediate identified internal control deficiencies on a timely basis.	X	X	X	X

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919-807-7666

