

STATE OF CONNECTICUT



*AUDITORS' REPORT
OFFICE OF THE PROBATE COURT ADMINISTRATOR
FOR THE FISCAL YEARS ENDED JUNE 30, 2005, 2006, 2007 AND 2008*

AUDITORS OF PUBLIC ACCOUNTS

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September 23, 2009

**AUDITORS' REPORT
OFFICE OF THE PROBATE COURT ADMINISTRATOR
FOR THE FISCAL YEARS ENDED JUNE 30, 2005, 2006, 2007 AND 2008**

We have made an examination of the financial records of the Office of the Probate Court Administrator for the fiscal years ended June 30, 2005, 2006, 2007 and 2008.

Financial statement presentation and auditing of the books and accounts of the State are done on a Statewide Single Audit basis to include all State agencies including the Office of the Probate Court Administrator. This audit examination has been limited to assessing the Office of the Probate Court Administrator's compliance with certain provisions of financial related laws, regulations, and contracts and evaluating the internal control policies and procedures established to ensure such compliance.

This report on that examination consists of the Comments, Condition of Records, Recommendations and Certification that follow.

COMMENTS

FOREWORD:

The Office of Probate Court Administrator (Office) operates under Title 45a, Chapter 801, of the General Statutes and is responsible for the supervision of the probate courts throughout the State including the review of the administrative and financial operations of the courts to ensure that State statutes and rules of probate are followed and that courts are operated efficiently. The duties of the Probate Court Administrator (Administrator) include the review of the accounting, statistics, billing, recording, filing and other court procedures and the recommendation of uniform rules and practices that become binding upon all probate courts upon adoption. Under the provisions of Section 45a-77, subsection (d), of the General Statutes, the Administrator is required to regularly review the operations of the courts of probate and Section 45a-77, subsection (e), requires the Administrator, or his designee, to visit and examine the court records and files of each court at least once during each two-year period.

The Probate Court Administrator is appointed by and serves at the pleasure of the Chief Justice of the Supreme Court. The Honorable James J. Lawlor served as Administrator throughout the audited period. The Honorable Paul J. Knierim was appointed to replace Judge Lawlor, effective October 1, 2008.

Connecticut Probate Assembly:

The Connecticut Probate Assembly operates in accordance with Sections 45a-90 and 45a-91 of the General Statutes and consists of all probate judges in the State. The following judges were officers of the Assembly, as of June 30, 2008:

Honorable Fred J. Anthony, President
Honorable Daniel F. Caruso, First Vice-President
Honorable Heidi Famiglietti, Second Vice-President
Honorable Beverly Streit-Kefalas, Executive Secretary
Honorable Sydney W. Elkin, Recording Secretary
Honorable Cheryl H. Brown, Treasurer

The Administrator meets with the Assembly at various times during the year to discuss the business, policies, procedures and administration of the probate courts in order to improve the efficiency and effectiveness of the probate court system.

The financial operations of the Assembly are separate from the Office of the Probate Court Administrator. Annually, the financial activity of the Assembly is audited by an independent certified public accountant.

New Legislation:

Public Act 07-184 of the January 2007 Regular Session gives the Probate Court Administrator additional powers over probate courts and probate court judges. It authorizes the Probate Court Administrator to enforce statutes and regulations related to probate court administration. In addition, it authorizes him to reassign pending cases to a special assignment probate judge or another probate judge for cases in which a judge has not conducted court business in accordance with statutes or regulations. This Act was effective July 1, 2007.

Public Act 07-4 of the June 2007 Special Session requires the Probate Court Administrator to establish an Extended Family Guardianship and Assisted Care Pilot Program in the regional children's court of New Haven. The purpose of this program is to reduce the number of abused or neglected children placed out of their communities and in foster care. It is designed to reach out to local family members and appoint them as guardians. This Act was effective October 1, 2007.

RÉSUMÉ OF OPERATIONS:

Operations of the Office are financed through the Probate Court Administration Fund, a Special Revenue Fund established under Section 45a-82 of the General Statutes. The State Treasurer, pursuant to Section 45a-82 of the General Statutes, is custodian of the Fund and has the authority to administer and invest its monies. Financial activity of the Probate Court Administration Fund during the audited period is presented below:

	Fiscal Year Ended June 30,			
	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Beginning Fund Balance	\$17,332,099	\$16,904,345	\$13,622,117	\$11,065,321
Revenues	10,768,997	9,466,343	11,731,508	11,129,151
Expenditures	(8,640,938)	(10,520,942)	(11,796,092)	(11,986,003)
Transfers to Retirement Fund	<u>(2,555,813)</u>	<u>(2,227,629)</u>	<u>(2,492,212)</u>	<u>(2,788,773)</u>
Ending Fund Balance	<u>\$16,904,345</u>	<u>\$13,622,117</u>	<u>\$11,065,321</u>	<u>\$ 7,419,696</u>

Revenues:

Probate Court Administration Fund revenues consisted primarily of assessments received from the various probate courts, as specified under Section 45a-92 of the General Statutes. During the audited period, excess cash balances of the Fund were invested in the State Treasurer's Short Term Investment Fund (STIF). A summary of Probate Court Administration Fund revenues during the audited period follows:

	Fiscal Year Ended June 30,			
	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Assessments	\$10,382,114	\$ 8,809,702	\$11,049,989	\$10,733,497
Investment Income	386,883	656,641	681,519	395,654
Total Revenues:	<u>\$10,768,997</u>	<u>\$ 9,466,343</u>	<u>\$11,731,508</u>	<u>\$11,129,151</u>

Assessment revenue decreased 15 percent and increased 25 percent for the 2005-2006 and 2006-2007 fiscal years, respectively. The reason for variance appears to be timing. Assessments are paid on a calendar year basis and large payments for calendar year 2006 assessments were paid in fiscal year 2007. Variances in investment income were due to lower STIF interest rates during fiscal years ended June 30, 2005 and 2008.

Expenditures and Transfers:

During the audited period, Probate Court Administration Fund expenditures and transfers consisted of operating costs of the Office and retirement contributions to the Probate Judges' and Employees' Retirement Fund. A summary of Probate Court Administration Fund expenditures and transfers during the audited period follows:

	Fiscal Year Ended June 30,			
	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Personal Services & Benefits	\$ 4,230,629	\$ 4,706,641	\$ 5,404,257	\$ 5,558,706
Employee Expenses	10,147	13,403	36,652	27,548
Purchased & Contractual Services	3,241,196	4,041,435	4,444,233	4,891,410
Motor Vehicle Costs	4,447	9,133	6,342	5,481
Premises & Property Expenses	243,428	687,101	851,729	438,175
Information Technology	528,920	451,449	556,422	521,652
Purchased Commodities	44,071	97,011	102,963	120,346
Other Expenditures	98,656	226,065	125,102	322,920
Capital Outlays	<u>239,445</u>	<u>288,706</u>	<u>268,389</u>	<u>99,766</u>
Total Expenditures	8,640,939	10,520,944	11,796,089	11,986,004
Transfers to Retirement Fund	<u>2,555,813</u>	<u>2,227,629</u>	<u>2,492,212</u>	<u>2,788,773</u>
Total Expenditures and Transfers	<u>\$11,196,752</u>	<u>\$12,748,573</u>	<u>\$14,288,301</u>	<u>\$14,774,777</u>

Expenditures increased 14 percent, 12 percent and 3 percent for the 2005-2006, 2006-2007 and 2007-2008 fiscal years, respectively. The increases can be mainly attributed to an increase in personal services and purchased and contractual services. Personal services increased 11 percent, 15 percent and three percent for the 2005-2006, 2006-2007 and 2007-2008 fiscal years, respectively. The primary reason for this increase is an increase in the number of employees, as three were hired in fiscal year 2006 and one during fiscal year 2007. Purchased and contractual services increased 25 percent, 10 percent and 10 percent for the 2005-2006, 2006-2007 and 2007-2008 fiscal years, respectively. The main reason for these increases is attributed to the increase in indigent expenses.

In addition to the increases discussed above, expenditures related to premises and property increased 182 percent, 24 percent and decreased by 49 percent for the 2005-2006, 2006-2007 and 2007-2008 fiscal years, respectively. The Probate Court Administrator has been charging costs related to the funding of regional courts to this account. During fiscal years 2006 and 2007 there has been an increase in the amount of regional courts and an increase in the expenditures of the existing courts. In fiscal year 2008, a Judicial Department appropriation of \$1,400,000 was used to off-set amounts related to the regional courts, resulting in a lower amount reported.

The State Treasurer acts as custodian of the Retirement Fund, which operates under Sections 45a-34 through 45a-57 of the General Statutes. The State Employees' Retirement Commission administers this retirement system and periodically bills the Probate Court Administration Fund for administrative costs and amounts required to maintain proper actuarial funding of the Retirement Fund.

Simsbury Probate Court:

On October 1, 2008, Judge Paul J. Knierim was appointed to replace Judge James J. Lawlor as Probate Court Administrator. At the time of this appointment Judge Knierim served as the Simsbury Probate Court Judge and continued to serve in this capacity while serving as Probate Court Administrator. We reviewed the records of the Simsbury Probate Court in accordance with Section 45a-92, subsection (d), of the General Statutes, which states that the books and records of the probate court of any judge acting as Probate Court Administrator shall be audited annually by the Auditors of Public Accounts during his term as Administrator and upon completion of his term as either Administrator or probate court judge, whichever occurs first. There were no findings as a result of this review.

Council on Probate Judicial Conduct:

The Council on Probate Judicial Conduct operates under the provisions of Sections 45a-62 through 45a-68 of the General Statutes and is responsible for investigating any complaint involving a judge of probate. The members of the Council on Probate Judicial Conduct, as of June 30, 2008, were as follows:

<u>Member</u>	<u>Term Expires</u>
Appointed by the Chief Justice:	
Honorable William L. Wollenberg, Chairman	September 30, 2011
Elected by the Judges of Probate:	
Honorable Patrick J. Wall	September 30, 2011
Appointed by the Governor:	
Attorney Sharon Holland Purtill	September 30, 2011
Anne S. Evans	November 11, 2011
Janet M. Wildman	November 11, 2011

Section 45a-67 of the General Statutes provides that any sums expended on behalf of the Council be appropriated from the Probate Court Administration Fund. Operating costs applicable to the Council on Probate Judicial Conduct totaled \$58,571, \$53,958, \$66,984 and \$64,737 during the fiscal years ended June 30, 2005, 2006, 2007, and 2008, respectively. Expenditures consisted of per diem compensation and travel expenses paid to Council members and fees for outside professional services.

CONDITION OF RECORDS

Our review of the financial records of the Probate Court Administrator disclosed the following matters of concern requiring Agency attention:

Property Control and Reporting:

Criteria: Section 4-36 of the General Statutes requires each State agency to keep property inventory records in the manner prescribed by the State Comptroller. The Property Control Manual, issued by the State Comptroller, provides further guidance on controls for inventory management, including that equipment reports should be accurately prepared.

Condition: We found that amounts reported to the State Comptroller did not always accurately represent the reportable value of the equipment, software and building asset categories. We estimated that the total amount of capital equipment was overstated by \$59,326, \$35,149, \$33,821 and \$31,117, for the fiscal years ended June 30, 2005, 2006, 2007, and 2008, respectively. Software developed and owned by the Probate Court Administrator was not recorded on agency inventory records and therefore was not reported to the Comptroller. We estimate this software has a value of at least \$240,000. The building's present value reported for the fiscal year ended June 30, 2008, was understated by \$9,798.

Effect: The amount reported to the State Comptroller did not accurately reflect the capitalized inventory and software inventory as of June 30, 2005, 2006, 2007, and 2008. The building's present value was not accurately reported for the fiscal year ended June 30, 2008.

Cause: Amounts reported as equipment to the Comptroller included non-capital items. The Agency was unclear on the recording and reporting requirements for agency developed software. An error was made in the calculation of the present value of the building.

Recommendation: The Office of the Probate Court Administrator should accurately report capital assets to the State Comptroller.

Agency Response: "The audit findings indicate that our inventory records contained errors on the reportable value of our building, equipment, and software.

The error in the reported value of the building resulted from our use of an incorrect adjustment factor in 2008. In that year, we applied an increase of 3% of value based upon past practice, while the figure should have been 4%.

The error in the reported value of equipment resulted from our inadvertent failure to implement the increase in the capitalized inventory threshold from \$600 to \$1,000.

In the software category, you have recommended that we add our internally developed case management software to the inventory.

We have since updated our records to reflect the recommended changes. A corrected CO-59 form has been submitted for the fiscal year ending June 30, 2008 to accurately reflect the present value of the building and the value of capitalized software inventory. Our CO-59 form for June 30, 2009 will reflect the higher capital threshold for equipment.”

RECOMMENDATIONS

Status of Prior Audit Recommendations:

The prior auditors' report on the Office of Probate Court Administrator contained three recommendations. The Agency has taken action to resolve these findings as follows:

- *The Office of the Probate Court Administrator should file annual inventory reports on a timely basis in accordance with State requirements.* – The inventory reports filed during each of the four years of our review were submitted before the October 1st deadline. This recommendation is not being repeated.
- *The Probate Court Administrator should require judges of probate to file sworn statements prior to granting temporary financial assistance.* – Our review of financial assistance agreements indicated that sworn statements were received prior to granting temporary financial assistance, therefore, this finding is not being repeated.
- *Statutorily required approvals by the Chief Court Administrator for court expenditures exceeding \$100 should be obtained when the Probate Court Administrator also serves as a judge of probate.* – During the audited period the Probate Court Administrator did not serve as a judge of probate, therefore, this finding is not being repeated.

Current Audit Recommendations:

- 1. The Office of the Probate Court Administrator should accurately report capital assets to the State Comptroller.**

Comments:

Capital equipment reported to the State Comptroller was overstated by an estimated \$59,326, \$35,149, \$33,821 and \$31,117, for the fiscal years ended June 30, 2005, 2006, 2007, and 2008, respectively. Software with an estimated value of \$240,000 was not recorded on inventory records and not included in reports to the Comptroller. The present value of buildings reported for the fiscal year ended June 30, 2008 was understated by \$9,798.

INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes, we have audited the books and accounts of the Office of the Probate Court Administrator for the fiscal years ended June 30, 2005, 2006, 2007 and 2008. This audit was primarily limited to performing tests of the Agency's compliance with certain provisions of laws, regulations, contracts and grant agreements and to understanding and evaluating the effectiveness of the Agency's internal control policies and procedures for ensuring that (1) the provisions of certain laws, regulations, contracts and grant agreements applicable to the Agency are complied with, (2) the financial transactions of the Agency are properly initiated, authorized, recorded, processed, and reported on consistent with management's direction, and (3) the assets of the Agency are safeguarded against loss or unauthorized use. The financial statement audits of the Office of the Probate Court Administrator for the fiscal years ended June 30, 2005, 2006, 2007, and 2008, are included as a part of our Statewide Single Audits of the State of Connecticut for those fiscal years.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Office of the Probate Court Administrator complied in all material or significant respects with the provisions of certain laws, regulations, contracts and grant agreements and to obtain a sufficient understanding of the internal controls to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

Internal Control over Financial Operations, Safeguarding of Assets and Compliance:

In planning and performing our audit, we considered the Office of the Probate Court Administrator's internal control over its financial operations, safeguarding of assets, and compliance with requirements as a basis for designing our auditing procedures for the purpose of evaluating the Agency's financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grant agreements, but not for the purpose of providing assurance on the effectiveness of the Agency's internal control over those control objectives.

A *control deficiency* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect on a timely basis unauthorized, illegal, or irregular transactions or the breakdown in the safekeeping of any asset or resource. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects the Agency's ability to properly initiate, authorize, record, process, or report financial data reliably, consistent with management's direction, safeguard assets, and/or comply with certain provisions of laws, regulations, contracts, and grant agreements such that there is more than a remote likelihood that a financial misstatement, unsafe treatment of assets, or noncompliance with laws, regulations, contracts and grant agreements that is more than inconsequential will not be prevented or detected by the Agency's internal control.

A *material weakness* is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that noncompliance with certain provisions of laws, regulations, contracts, and grant agreements or the requirements to safeguard assets that would be material in relation to the Agency's financial operations, noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions, and/or material financial misstatements by the Agency being audited will not be prevented or detected by the Agency's internal control.

Our consideration of the internal control over the Agency's financial operations, safeguarding of assets, and compliance with requirements would not necessarily identify all deficiencies in the internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over the Agency's financial operations, safeguarding of assets, and compliance with requirements that we consider to be material weaknesses, as defined above.

Compliance and Other Matters:

As part of obtaining reasonable assurance about whether the Office of the Probate Court Administrator complied with laws, regulations, contracts and grant agreements, noncompliance with which could result in significant unauthorized, illegal, irregular or unsafe transactions or could have a direct and material effect on the results of the Agency's financial operations, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we noted certain matters which we reported to the Agency's management in the accompanying Condition of Records and Recommendations sections of this report.

The Office of the Probate Court Administrator's response to the finding identified in our audit is described in the accompanying "Condition of Records" section of this report. We did not audit the response and, accordingly, we express no opinion on it.

This report is intended for the information and use of Agency management, the Governor, the State Comptroller, the Appropriations Committee of the General Assembly and the Legislative Committee on Program Review and Investigations. However, this report is a matter of public record and its distribution is not limited.

CONCLUSION

We wish to express our appreciation for the cooperation and courtesies extended to our representatives by officials and staff of the Office of the Probate Court Administrator during the course of our audit.

David Tarallo
Associate Auditor

Approved:

Kevin P. Johnston
Auditor of Public Accounts

Robert G. Jaekle
Auditor of Public Accounts