



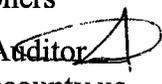
WASHOE COUNTY

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DA N/A
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HR N/A
Other N/A

STAFF REPORT BOARD MEETING DATE: January 13, 2009

DATE: December 22, 2008
TO: Board of County Commissioners
FROM: Alison A. Gordon, Internal Auditor 
328-3651, agordon@washoecounty.us
THROUGH: Katy Simon, County Manager
SUBJECT: Acknowledge Receipt of Second Judicial District Court Minimum Accounting Standards Audit Report from the Internal Audit Division (All Commission Districts)

SUMMARY

The purpose of the audit was to perform the triennial audit and financial review of the Second Judicial District Court (District Court) as required by the Minimum Accounting Standards (MAS) adopted by the Nevada Supreme Court. This included evaluating whether the procedures performed by District Court personnel comply with the MAS Compliance Checklist for Nevada Courts. In addition, this audit will assist in the County's effort to enhance its process management in accordance with the Baldrige National Quality Program.

Our procedures, observations and recommendations are as follows:

We completed the MAS Compliance Checklist for Nevada Courts, a copy of which is attached, by inquiry, observation and testing of applicable accounting transactions and processes.

Based on the results of these procedures, we noted certain items, which we believe represent instances of non compliance with the MAS Compliance Checklist.

The results of the review indicated:

- Cash receipting processes need to be adequately separated. One position is responsible for the reconciliation processes and reviews the cash receipting work performed. However, this position also provides back up for cash receipting processes. These duties should be separated.
- Voided receipts should always include sufficient information to support the void and supervisor approval.
- The court needs to establish and implement practices for the collection of accounts receivable.
- The court's written policies and procedures should be expanded.

AGENDA ITEM # 8N(5)

An implementation plan establishing responsibilities and timelines will be developed with the District Court. This plan will then be reviewed with the Audit Committee and updated at each of their meetings. Implementation of recommendations having fiscal impact will be brought to the Board of County Commissioners for approval.

County Priority/Goal supported by this item: Government Efficiency and Financial Stability

PREVIOUS ACTION

No previous action has been taken on this Board item.

BACKGROUND

The District Court's mission is to provide the timely, fair and efficient administration of justice under the law, in a manner that instills and sustains the public's confidence in the judicial system.

Nevada's district courts are established by the Constitution of the State of Nevada. District courts are general jurisdiction courts and their caseload encompasses criminal, civil, family, and juvenile cases and actions prescribed by the Nevada Constitution and Nevada Revised Statutes. Criminal cases include felony and gross misdemeanor cases; and civil cases involving disputes exceeding \$10,000. Family and juvenile cases are defined by the parties involved in the action or proceedings. District courts also serve as the court of appeals for the justice and municipal courts.

The Nevada Supreme Court provides oversight of all court functions within Nevada. The Chief Justice is considered by law to be the administrative head of the court system and the Administrative Office of the Courts (AOC) provides the administrative support. NRS 1.360 states, in part, that under the direction of the Supreme Court, the AOC shall examine the administrative procedures used by all courts and make recommendations for improvement of those procedures. In addition, the AOC is to develop procedures for accounting, internal auditing, procurement, and disbursement to the state court system.

In February 1997, the Nevada Supreme Court issued an order adopting the MAS for Nevada's justice and municipal courts. The objectives of the MAS are to:

1. Provide courts with a self monitoring tool that will assess strengths and weaknesses of a courts financial operations, internal accounting and management controls, and general acceptable accounting policies and procedures.
2. Identify areas in which courts must enhance their internal controls to protect courts from embezzlement and other crimes.
3. Assist in detecting errors and ensure information generated by the courts is reliable and accurate, improving accountability.
4. Highlight areas in which courts are attempting to come into compliance with MAS so that the appropriate resources (staff, technology, facilities) can be identified at higher levels and addressed either through funding, legislation or other additional resources.

The MAS Compliance Checklist is required to be completed and submitted to the AOC each year on December 1st. Once every three years, a MAS audit must be conducted by either an outside audit firm or internal audit agency on each district, justice and municipal court (triennial reporting requirement).

A Supreme Court order, dated October 2, 2006, required all district, justice, and municipal courts to follow the same MAS reporting standards. In compliance with the Supreme Court order, the District Court submitted its first MAS Checklist for fiscal year 2007. However, based on discussions with the AOC staff responsible for the MAS, it was determined the District Court should follow the triennial reporting requirement beginning fiscal year 2008. AOC staff also agreed the County's Internal Audit Division could perform the triennial MAS audit. This will save the court the cost of hiring a contractor to perform this work. The next triennial MAS audit for the District Court will be due for fiscal year 2011.

FISCAL IMPACT

This report has no fiscal impact. However, implementation of some recommendations may have fiscal impact.

RECOMMENDATION

It is recommended the Board of County Commissioners acknowledge receipt of this MAS audit report of the District Court.

POSSIBLE MOTION

Should the Board of County Commissioners acknowledge receipt of this audit report, a possible motion would be:

Move to acknowledge receipt of the Second Judicial District Court Minimum Accounting Standards Audit Report from the Internal Audit Division.

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Attachment

Washoe County
Second Judicial District
Court

MAS Audit Report

December 22, 2008

Executive Summary

Observations

1. Areas of Noncompliance with the MAS Compliance Checklist
 - Cash receipting duties need to be adequately separated from reconciliation processes,
 - The reason for voiding a receipt is not always evident, and voided receipts are not always approved,
 - The court does not have any practices in place for the collection on monies due the court,
 - The court's written policies and procedures need to be expanded to include all the areas addressed by the MAS Compliance Checklist.

Observations and Recommendations

1. Areas of Non Compliance with MAS Checklist

Several areas of non compliance with the MAS Checklist requirements were noted. These areas are also considered weaknesses in the current system of internal controls. Strong internal controls help detect errors and insure information generated by the courts is reliable, thereby enhancing accountability.

a. MAS 1.1.3.6 – Separation of Duties

The court has not adequately separated the duties between its cash receipting and reconciliation processes. Specifically, the accounting technician's duties include reviewing the daily cash reconciliation and bank deposit, and preparing the monthly bank reconciliation. However, the Accounting Technician also serves as back up when the Main Cashier, who performs cash receipting duties, is off work or on daily breaks. Adequate separation of duties is a critical component of ensuring cash receipts are safeguarded. Additionally, separating these job functions will reduce the ability of one employee to take cash and also alter records to prevent detection. The court is in the process of determining how it will separate these duties.

b. MAS 1.12 – Voided Receipts

During the testing of cash receipts, it was noted that court staff are not adequately notating the reason for the void or obtaining supervisor approval. For three of the 36 voided receipts tested, while a reason was notated, sufficient detail was not provided to support the reasonableness of the void. Also, in another instance the voided receipt was not approved by a supervisor. Voided receipts merit special attention as they could be indicative of potential misappropriation. Both the MAS and County's *Internal Control Procedures Manual* require voided transactions be sufficiently documented and approved by supervisors. The court has practices in place addressing these issues and plans to re-emphasize to staff that these practices must be followed.

c. MAS 3.1 – Accounts Receivable

The court does not have any accounts receivable practices in place for the collection of fines and fees assessed by the court. As of August 11, 2008, the District Court had about \$26.7M in outstanding accounts receivable (not including restitution) owed by offenders as part of their sentences. Of this amount, about \$358,000 or 1 percent was past due between one to 60 days and \$26.3M or 99 percent was past due for more than 60 days. In addition, approximately 18,500 cases make up the accounts receivable and cover the years of 1988 to current.

Accounts Receivable Testing of Individual Cases

A random sample of 74 cases with outstanding accounts receivable was selected for testing to review for collection efforts, including 54 criminal and 20 mediation cases.

The following was noted during the testing of the 54 criminal cases:

- The total of accounts receivable is not accurate. For two cases the amounts recorded as receivable were incorrect. In one case the court ordered the offender to pay \$10,000 in fines. However the fines were not recorded as an accounts receivable. In the second case, the offender successfully completed a court approved program and the fees and fines of \$85 were deferred, but these were never removed from the accounts receivable totals.
- None of the criminal cases tested showed any evidence the court had made efforts to collect the amounts due. For example:
 - a. For 39 of the cases, the offender either served prison time and was subsequently released or is still incarcerated. The Court could work with the Nevada Department of Corrections to 1) obtain contact and personal data for released individuals and 2) to establish a program to ensure incarcerated individuals complete their sentence including the payment of fees and fines.
 - b. For 12 of the cases, the offenders received probation sentences including the requirements of employment and payment of fees and fines. However, none of these offenders have paid any fees and fines, and the court has not ordered penalties for this noncompliance in any of the cases. For future cases, the court could order offenders to report to court staff or the Washoe County Collections Division staff to set up a payment plan subsequent to sentencing. The court could also conduct periodic hearings to assess offenders' compliance with probation requirements.

For the 20 mediation cases tested, none of the cases showed any evidence of collection efforts. Two of the mediation receivables were paid in full during the testing, which was due solely on the volition of the participant. In addition, for 16 of the cases one party paid but the other did not; and for the other two cases neither party paid. The court could have required payment prior to providing mediation services. The court also obtained addresses, phone numbers, and social security numbers for the mediation participants, and could have used this information to contact the individuals involved.

Cash Bail

The court needs to use cash bail amounts on deposit to pay court ordered fees and fines, if owing. Currently the court routinely returns cash bail amounts even when fees and fines are owed. However, according to Nevada Revised Statute 178.528, when money has been deposited as bail, the court should apply the money in satisfaction of fees and fines, and refund the surplus, if any, to the person who deposited the bail. Therefore, the court needs to first determine whether any outstanding amounts are due for fees and fines and apply cash bail monies as appropriate before issuing refunds.

Bail Bond Forfeiture Judgments

Accounts receivable pertaining to bail bond forfeitures totaled about \$416,000 as of August 11, 2008 covering the period 1996 to current. The bail bond forfeiture judgment process begins when an offender who posted a bail bond fails to appear in court. If the offender cannot be located after 180 days, the court can issue a forfeiture judgment to collect on the bail bond which is guaranteed by a surety company. Five outstanding bail bond forfeiture judgments were randomly selected for testing collection efforts. None of the five tested showed any evidence by the court to secure payment from the surety company. Two of the County's other courts work with the Washoe County Detention Bureau to compel payment of forfeited bail bonds by surety companies. This cooperative effort has proven successful in the collection of these monies. The District Court should coordinate collection of its bail bond forfeiture receivables with the Detention Bureau as well.

Restitution

The accounts receivable also include about \$69.3M in court ordered restitution. However, the court should not include this amount as accounts receivable as it is not money owed to government, but to victims of crime and is tracked on the state level. Nevada's Public Safety Division of Parole and Probation's Accounting Unit processes all of the restitution for the state of Nevada and maintains a system by case documenting the restitution collected and amounts owing. Moreover, the amount recorded by the court for restitution is not accurate as the court is not notified of amounts collected by other governmental agencies. Therefore the court should remove the restitution balance from its accounts receivable.

Lack of requiring compliance in paying court fees and fines denies revenue to the court as well as other County departments providing services on behalf of the court. For example, as of August 11, 2008, the court had accounts receivable totaling about \$6.5M due for legal services provided by the Public Defender's Office. In addition, accounts receivable of about \$1.4M is due to the Washoe County Sheriff's Office of Forensic Investigations which provides chemical analysis and genetic testing on certain offenders. More importantly, not requiring offenders to pay the fees and fines assessed as part of their sentence lessens the effectiveness of the judicial system.

Implementing best practices for collections would benefit the court. These include a uniform collections policy; clear lines of responsibility; establishment of realistic collection goals and targets; immediate response to default; effective and timely sanctions for default; and realistic enforcement options. Moreover, judicial commitment and qualified staff are needed.

Based on information provided by the Texas Office of Court Administration, Dallas County implemented a pilot program in 1993 using a collection model based on these best practices. The pilot program consisted of a two-person

staff serving three county criminal courts and had 12 months to produce an increase of \$250,000 in the collection of fees and fines. This goal was realized 90 days after the program began. The Texas Office of Court Administration also provided a draft copy of its collections procedure manual, which is modeled largely after the Dallas County program. This manual could be used by the court as a template for developing and implementing its collection policies and practices.

d. MAS 1.1, 2.1. 3.1 and 4.1 - Written Policies and Procedures

The court's policies and procedures need improvement. The court has some policies and procedures documented but these do not fully address the controls required by MAS. Both an adequate system of internal controls and the MAS Checklist require Nevada courts to have written policies and procedures in place. As part of the audit, we interviewed staff and documented the court's policies and procedures addressing the MAS Checklist requirements. A copy of this document was provided to the court.

Recommendations:

The Second Judicial District Court needs to implement policies and procedures to:

- *Adequately separate cash receipting duties,*
- *Notate a reason when receipts are voided, and obtain supervisor approval,*
- *Develop and implement fee and fine collection practices,*
- *Improve the court's policies and procedures to address the controls required by MAS.*

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