EXAMINATION OF CERTAIN OPERATIONS, INTERNAL CONTROLS, AND POLICIES OF THE ADMINISTRATIVE OFFICE OF THE COURTS

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July 12, 2018

Laurie Dudgeon, Director
Administrative Office of the Courts
1001 Vandalay Drive
Frankfort, KY 40601

Dear Ms. Dudgeon:

The Auditor of Public Accounts (APA) has completed its examination of the Administrative Office of the Courts (AOC). This report summarizes the procedures performed and communicates the results of those procedures.

The focus of the examination was to evaluate AOC's policies and procedures related to its financial activities and operations. Our procedures included interviews with AOC employees, review of practices and procedures, analysis of financial documents and contracts, and other procedures as necessary.

The purpose of this examination was not to provide an opinion on the financial statements, but to ensure appropriate processes are in place to provide strong fiscal management and oversight of the financial activity of AOC and to review specific issues brought to the attention of this office.

Detailed findings and recommendations based on our examination are presented in this report to assist AOC in implementing corrective action. Finding 1 (page 10) summarizes significant weaknesses identified that contribute to a weak overall control environment at AOC. Chapters 3-6 detail particular examples of failure to follow existing policy or lack of appropriate policies, procedures, or processes. Overall, these findings indicate the following:

- AOC has failed to follow its own policies and guidance. AOC staff are sometimes mistaken or uninformed about these policies. Many policies and practices are insufficient to produce adequate records, or to guard against waste, fraud, and abuse.
- Due to a lack of sufficient controls over inventory and surplus property sales, AOC is at high risk of misappropriation or misplacing of assets.
- AOC's administrative rules are not applied equally to higher levels of management and elected officials. Senior management, Justices, and judges must be held to the same standards as other employees when it comes to such matters. While elected officials

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cannot be terminated, revocation of privileges such as take-home vehicles, for example, may occur when policies are violated.

- The KYCourts II system contains serious security lapses that must be addressed and corrected. These issues must also be addressed as the new KYCourts III system is developed and implemented. As AOC continues to move toward electronic case management and filing, it must do so in a responsible manner with appropriate safeguards and processes.
- While many of the identified lapses occurred within the Departments under the authority of the former Executive Officer of Administrative Services, AOC management in general did not adequately monitor or oversee all areas of operations.

To assist AOC in addressing the serious management issues identified in the report, APA will conduct training later this month in the areas identified in Appendix I: APA Training Topics for AOC.

We appreciate your assistance and the assistance of your staff throughout the examination. If you have any questions or wish to discuss this report further, please contact me or L. Christopher Hunt, Executive Director, Auditor of Public Accounts.

Sincerely,

Mike Harmon
Auditor of Public Accounts

cc: Chief Justice John D. Minton, Jr.

CHAPTER I: INTRODUCTION

Scope and Impetus of Examination

The Auditor of Public Accounts (APA) initiated a special examination of the Administrative Office of the Courts (AOC) in response to the request of the AOC Director and the Chief Justice. The primary purpose of this examination was to evaluate AOC's policies and procedures related to its financial activities and other operations to determine whether management can rely on these processes to help ensure the risk of waste, fraud, and abuse is at an acceptably low level. The purpose of the examination was not to provide an opinion on financial statements. Any findings identified by the APA as part of this special examination are presented in this report, along with recommendations to ensure AOC's operations are appropriate and transparent.

To complete this examination, the APA conducted numerous interviews and reviewed thousands of documents, including, but not limited to: Kentucky Court of Justice (KCOJ) policies, AOC department guidelines and procedures, local facility audits, contracts and leases, vendor payments, travel and expense reimbursements, inventory records, surplus sales receipts, and fleet records. Unless otherwise specified, the examination covered activities from July 1, 2015, through June 30, 2017. To fully assess some matters, the time period of certain documents reviewed by the APA and issues discussed with those interviewed may have varied.

Kentucky's Unified Court System

In 1976, the Judicial Article to the Kentucky Constitution established the Kentucky unified court system, otherwise known as the Kentucky Court of Justice. By this article, the Judicial Branch was established as an independent branch of government, separate from the Executive and Legislative branches. Kentucky Constitution, section 109, states "the judicial power of the Commonwealth shall be vested in one Court of Justice which shall be divided into a Supreme Court, a Court of Appeals, a trial court of general jurisdiction known as the Circuit Court and a trial court of limited jurisdiction known as the District Court."

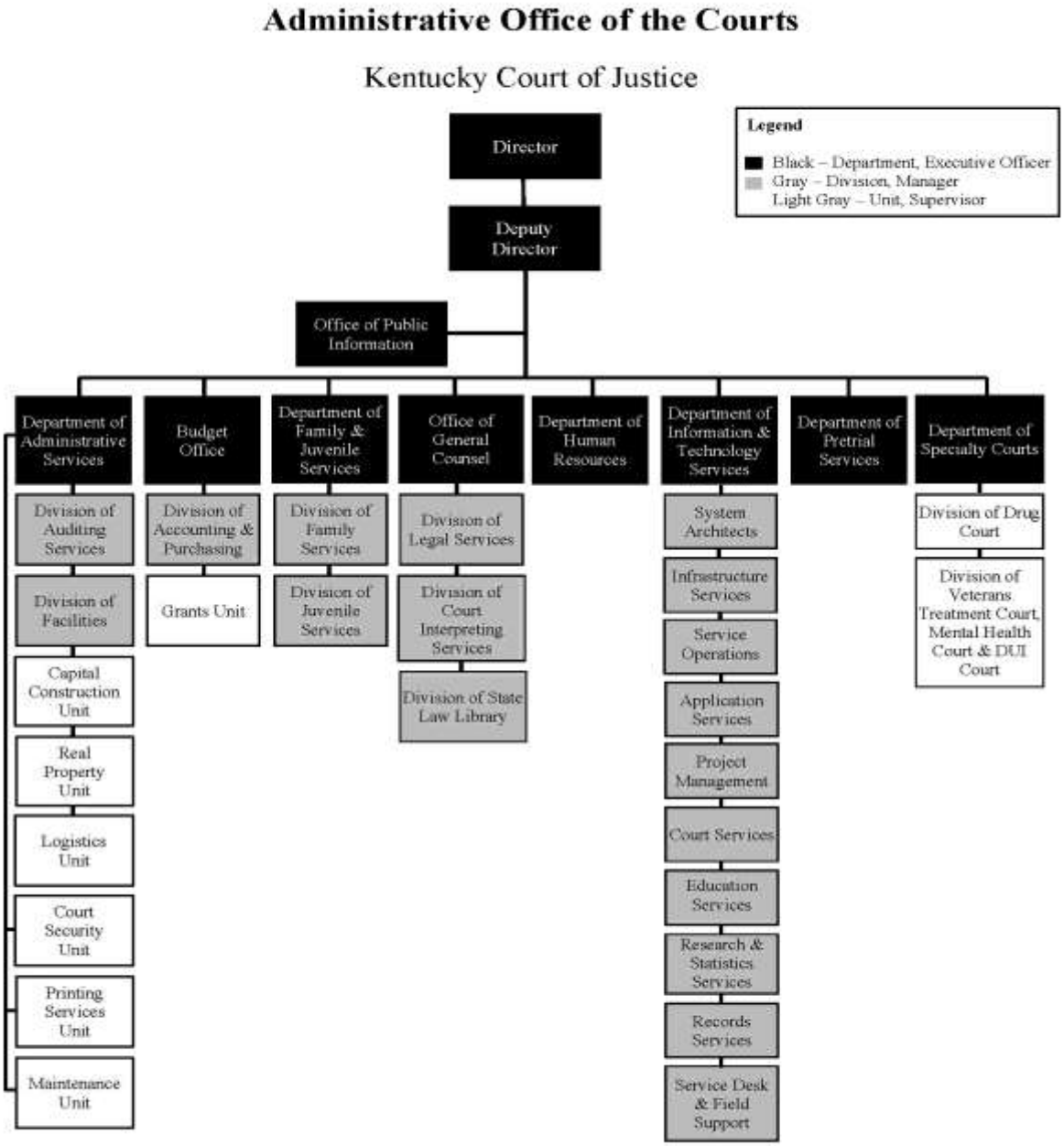
AOC is the operational arm of the Judicial Branch, used by the Chief Justice to carry out his role as the executive head of the Court of Justice.

The Judicial Article also established the position and role of Chief Justice, who is elected by the Supreme Court to serve for a four-year term. AOC is the operational arm of the Judicial Branch, used by the Chief Justice to carry out his or her role as the executive head of the Court of Justice. Duties of AOC include administering the Judicial Branch Budget, maintaining court statistics, administering personnel policies and payroll for court personnel, maintaining court facilities, and providing educational programs for judges, circuit court clerks, and support staff in all 120 counties.

Organizational Structure of AOC

The organizational structure of AOC changed shortly after the APA examination began, primarily impacting divisions and units formerly reporting to the Department of Administrative Services. Figure 1 shows the organization of AOC as of October 4, 2016:

Figure 1: Organization Chart for AOC as of October 4, 2016

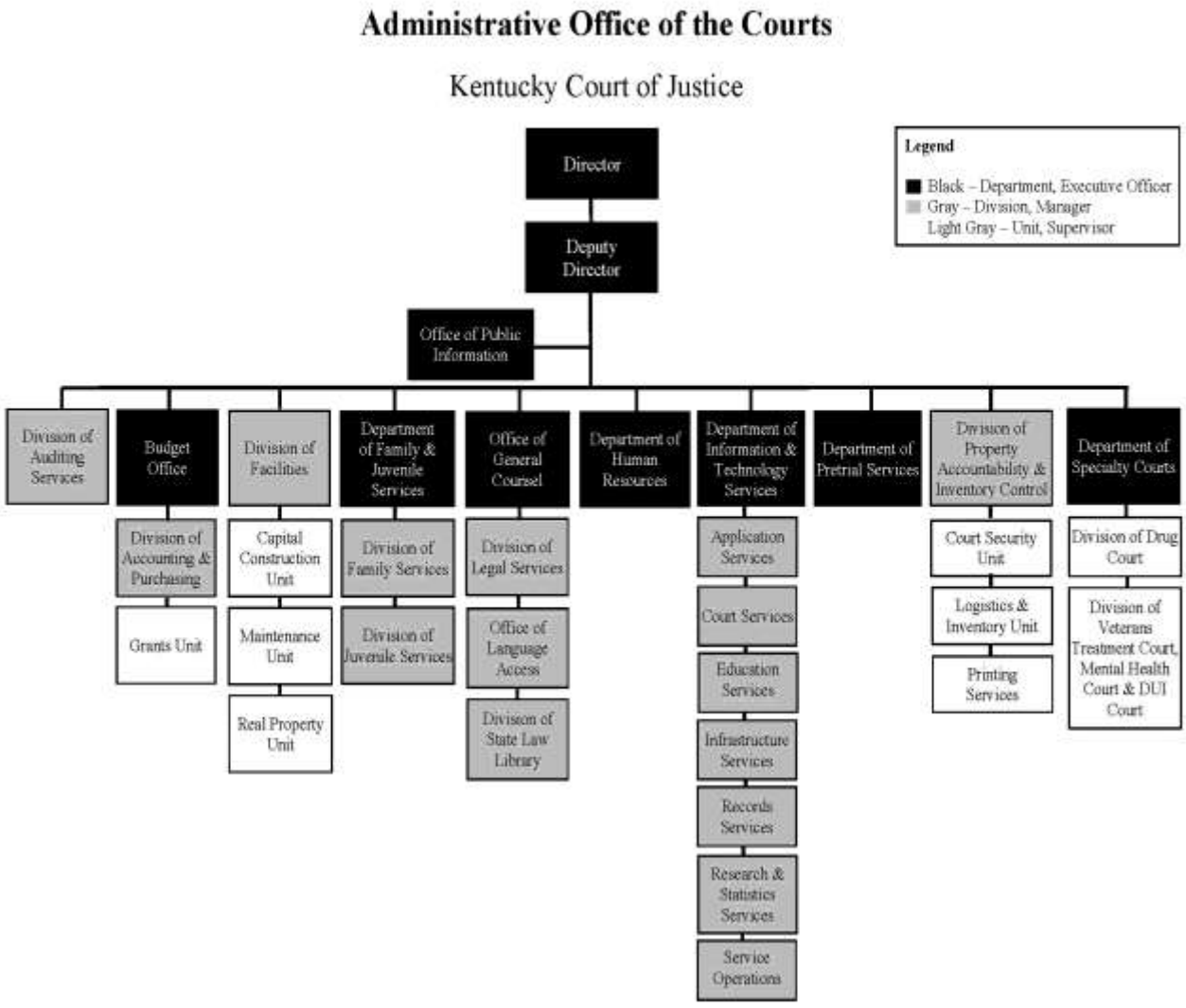


Source: Administrative Office of the Courts.

As reflected in Figure 1, the Department of Administrative Services consisted of the Division of Auditing Services, the Division of Facilities, the Capital Construction Unit, the Real Property Unit, the Logistics Unit, the Court Security Unit, the Printing Services Unit, and the Maintenance Unit. Functions handled by this department included, but were not limited to: public and private sector leasing, fleet maintenance, inventory, surplus sales, court security, and facility audits. This organizational structure was in place for the majority of the period examined.

On July 13, 2017, AOC reorganized its operations, eliminating the Department of Administrative Services, and moving the Division of Auditing Services and the Division of Facilities to report to the AOC Deputy Director. It also moved the Court Security Unit, Logistics, and Printing to the newly created Division of Property Accountability and Inventory Control (DPAIC). The following diagram shows the organization of AOC as of July 13, 2017:

Figure 2: Organization Chart for AOC as of July 13, 2017



Source: Administrative Office of the Courts.

Judicial Branch Budget

Each biennium, AOC develops and submits to the Kentucky General Assembly a budget request for the entire judicial branch, which includes court operations and administration, local facilities fund, Judicial Retirement System, and capital projects. Over the last decade, until FY 2018, AOC general fund expenditures have exceeded general fund appropriations. AOC primarily covers these deficits by transferring general fund expenditures to restricted fund accounts with excess revenues. AOC reports that cost-saving measures, such as reducing personnel costs through attrition, reduces the amount of restricted funds needed to offset the deficit. To address its general fund deficits in FY 2016 and FY 2017, AOC used restricted funds from the Court Services Fund and the Master Commissioner Fund, respectively. The table below (Figure 3) presents the entire Judicial Branch Budget, including the Court of Justice and the Judicial Form Retirement System, as enacted by the legislature for the last three fiscal years:

Figure 3: Enacted Judicial Branch Budget Summary by FY

Source of Funds	FY 2015-16 Enacted	FY 2016-17 Enacted	FY 2017-18 Enacted
General Fund	$ 337,449,600	$ 347,907,700	$ 346,299,000
Restricted Funds	49,611,800	37,654,500	37,152,900
Federal Funds	3,611,200	2,593,000	1,440,400
Total Funds:	**$ 390,672,600**	**$ 388,155,200**	**$ 384,892,300**

Source: Auditor of Public Accounts based on the 2014-2016 and 2016-2018 Budget of the Commonwealth.

Language in the 2016-2018 biennial budget states, "[t]he Chief Justice of the Commonwealth of Kentucky shall have the ability to transfer funds to other programs and budget units within the Judicial Branch. Any funds transferred to other budget units within the Judicial Branch may be used to support any activity, program, or operation of the budget unit or program receiving the respective funds." According to AOC, this budget language provides flexibility to transfer certain funds in the judicial budget as needed to help address reported imbalances. In addition to budgetary imbalances, AOC overspent in the area of Technology Services during FY 2016 and FY 2017. General fund budget-to-actual expenditures for fiscal years 2016 and 2017 can be seen at Appendix A: Summary Schedule of Judicial General Fund Budget to Actual Spending FY 2016 and Appendix B: Summary Schedule of Judicial General Fund Budget to Actual Spending FY 2017. While Figure 3 includes the entire judicial branch budget, the schedules in Appendices A and B only include general fund expenditures without Judicial Form Retirement System expenditures.

CHAPTER II: THE OVERALL CONTROL ENVIRONMENT

The findings in this chapter discuss broad management and policy weaknesses at AOC that impact overall operations. Many of the findings in other chapters of this report can be traced to a poor overall control environment. Internal controls are policies or processes that ensure an agency has reliable information, operates efficiently, complies with laws, and reduces the risk of fraud. A strong culture of accountability is critical to having effective controls, and the culture is established by the tone at the top – the actions and policies of management.

> Internal Controls are policies and processes that ensure an agency has reliable information, operates efficiently, complies with laws, and reduces the risk of fraud.

Finding 1: AOC's Weak Control Environment Has Led to a Lack of Accountability

There is a pervasive lack of accountability at AOC. The agency environment is the foundation of the overall internal control structure. As is shown in this report, that control structure is weak. The actions of management contribute to the core set of values that influence decisions of agency personnel. Accountability begins with upper management and elected officials setting a proper tone by being exemplars of expected behavior and complying with policies. A strong control environment also includes proactive management that seeks out, identifies, and addresses weaknesses. A weak accountability mindset can lead to violation of policies, inefficient operations, and fraud.

Lack of Oversight

The following issues noted in the report demonstrate that AOC requires more oversight, both from its own management, and from external sources. Without external review, there is little incentive to monitor controls and policy compliance. In such an environment, even conscientious employees may become lax, and some employees are tempted to manipulate the weak control environment for personal benefit. The judicial branch is too insulated from outside review, and over a period of time this has led to multiple issues identified in this report.

- As far as AOC management and the Auditor of Public Accounts are aware, there has been no prior comprehensive external audit, review, or comprehensive examination of AOC. Furthermore, AOC's internal audit function is ineffective (Finding 3, page 17).
- Reporting lines are confusing and sometimes conflicting. There is varying guidance regarding who addresses conflicts of interest as an "appointing authority" (Finding 4, page 21). There is no single decision-maker for exceptions to competitive bidding (Finding 5, page 25).
- AOC does not maintain a log of complaints, unless the complaint was made via e-mail (Finding 3, page 17). Complaints were previously handled in an ad hoc manner. On April 15, 2018, AOC updated its internal policies to include procedures for reporting waste, fraud, and abuse (Finding 3, page 17).

- Simple documentation is not required or maintained in many instances. Exceptions to competitive bidding are not required to be documented, and a former Manager noted that "Departments are currently making their own determination" (Finding 5, page 25). Private sector lease files did not contain significant required documentation, leading to unanswered questions about the procurement process in several instances (Finding 14, page 57). Payments to local governments for court facilities were adjusted by the former Executive Officer of Administrative Services with no supporting documentation (Finding 15, page 65). No log is maintained for sanitized information technology equipment (Finding 9, page 41). Documentation of employee personal mileage for fleet vehicles was not required or maintained per IRS guidelines, and adequate vehicle and maintenance records were not maintained (Finding 12, page 52).
- AOC did not establish user security auditing for its internally developed case management system used in all 120 counties, KYCourts II (Finding 19, page 77).

Known Problems Have Not Been Addressed

Proactive management should actively seek to identify and address weak processes and policies.

AOC management is largely reactive, addressing problems as they arise. However, in several instances identified in this report, even known problems were worked around or ignored. Issues brought to the attention of management should be addressed directly and promptly. Furthermore, management should take an active interest in seeking out weak controls and inefficiencies to keep the agency operating effectively, ethically, and to prevent small issues from becoming larger problems.

- Both the AOC Director and the Chief Justice acknowledged problems with the policymaking process. The AOC Director noted that there was no central location for policies. Policies are scattered, conflicting, and ambiguous (See Finding 4, page 21; Finding 5, page 25). The AOC Director and Legal Services had different impressions of whether the Legal Services Department was always involved in policy review (Finding 2, page 14).
- AOC did not follow advice documented in a 2010 memo from its legal counsel regarding how to conduct surplus property sales. Instead, AOC held multiple employee-only sales and engaged in additional private transactions from 2012 to 2016. A former Executive Officer participated in the sales as a buyer and also determined which items would be sold, set the sales prices for items, and coordinated the sales, all with little to no oversight (Finding 6, page 30).
- AOC maintains three separate databases for inventory. The third database was created because one department did not trust the data entry of another department. Rather than correcting this problem, the third database was created. Due to this and other factors, AOC has at least $2 million in inventory system errors, putting AOC at high risk of misappropriation of assets (Finding 7, page 34).
- Multiple problems with fleet reimbursement are identified in Finding 12 (page 52). The Chief Justice questioned whether it is necessary for Justices to have take-home vehicles

and suggested that mileage reimbursement may be sufficient instead. This policy change has not been implemented.

- Near the beginning of the examination, internal audit staff identified two issues that resulted in findings in this report. One staff member identified lax inventory procedures and missing laptops discussed in Finding 7 (page 34). Another staff member identified the log-in template password issue discussed in Finding 18 (page 76). However, there was no internal audit plan to address these concerns (Finding 3, page 17).

Elected and Appointed Officials Have Not Set a Proper Tone

With respect to administrative matters and expense reimbursements, elected officials and executive staff members should be treated the same as other government employees. This means they should receive the same levels of benefits or reimbursements in the absence of legitimate business reason for variation. Policies must be in place to permit staff to strictly enforce these requirements and management must support the policies. The AOC Director stated that some of the AOC employees had taken a "verbal beating" from elected officials. The Chief Justice stated that he could counsel elected judges or ultimately refer them to the Judicial Conduct Commission, but otherwise did not have power over elected officials. Personnel at all levels should be held accountable for following policies, obtaining appropriate approvals, and submitting supporting documentation. Otherwise, privileges or expense reimbursements should ultimately be withheld or revoked as a consequence of violation of policies to ensure appropriate use of taxpayer dollars and prevention of fraud.

> Even an elected official is not entitled to reimbursement without a receipt.

- A former Executive Officer purchased multiple items at employee-only sales events that he conducted, including items with significant discrepancies in the process that were in his favor. Two Supreme Court Justices purchased surplus property (furniture and a vehicle) in private transactions that were not advertised and not part of the employee sales events. AOC revised its surplus property sales policy in April 2017 after media coverage of the sales (Finding 6, page 30).
- The vast majority of credit card expenses by the Chief Justice and the AOC Director that auditors examined lacked any supporting documentation. There was no pre-approval or subsequent review of credit card activity by anyone other than the cardholder, and no cardholder agreements were required for key officials issued a credit card (Finding 11, page 50).
- AOC practice is to allow elected or appointed officials to submit reimbursement requests directly to the Division of Accounting and Purchasing with no other authorization prior to processing. Justices are reimbursed for meals at a rate $16 to $39 higher than other employees. Reimbursement of Kentucky Bar Association dues must be made within sixty days by all employees according to policy, or the request will be denied. However, proof of these same expenses incurred by Justices and judges must be submitted within ninety days, and the policy does not provide for denial of late requests (Finding 10, page 44).

- One Justice reported personal mileage for a seventeen-month period in a single submission after auditor inquiry during this examination, which he reported down to the tenth of a mile for that period. The same Justice's personal mileage for a period of approximately four months was not reported and was unaccounted for (Finding 12, page 52).
- In March 2016, the AOC Director instructed a staff member to purchase personalized Mint Julep cups for State Justice Institute board members at the request of the Chief Justice's spouse (Finding 13, page 55).

Existing Controls Were Ignored or Not Understood in Many Instances

For internal controls to be effective, the personnel involved must be conscientious and understand the purpose of the control. Management can ensure both aspects are present—by holding employees accountable to follow through with policies, and by educating employees regarding why policies are in place and how they contribute to effective operations.

- AOC was significantly noncompliant with its own policies when procuring private sector leases. There was no documentation to justify AOC's decision to procure a lease with a Justice's family members that was three times as expensive as the other available space. There was conflicting documentation regarding the terms of a former Justice's office lease. According to a current manager, the former Executive Officer of Administrative Services instructed staff to bypass Budget Department review of leases and altered the form to remove the signature line for the Budget Department (Finding 14, page 57).
- Two new laptops were unaccounted for due to multiple failures in processing and receiving the order, including an employee who confirmed receipt of these items without actually counting the laptops (Finding 7, page 34).
- Personal mileage reporting was miscalculated repeatedly due to failure to understand the formula for which IRS guidance is available (Finding 12, page 52).
- AOC acknowledged it does not follow its Vehicle Use Policy requiring monthly reporting of personal mileage, but it also did not follow the less stringent stated practice of quarterly reporting (Finding 12, page 52).
- Estimated payments to local governments for court facilities were reviewed by AOC's internal audit division for adjustments to actual figures, but no process was in place to follow up and confirm that the correct adjustments were made after these audits. Lack of communication and follow-up resulted in over $333,000 in errors in these local facility payments over a two-year period (Finding 15, page 65).
- Individuals who left employment maintained access to AOC's case management system for an unreasonable amount of time, in one case well over a year after termination of employment (Finding 17, page 74).
- Template accounts named "Auditors" and "Inquiry" had the ability to create, update, and delete cases in the case management system. The passwords for these template accounts had never been changed, meaning anyone granted access at any time continued to have access and change rights (Finding 18, page 76).

Recommendations

We recommend AOC require all levels of management and elected officials to comply with administrative rules consistently. Failure to adhere to policies should result in loss of privileges that are provided subject to compliance with internal controls, such as adequate and timely documentation.

We recommend AOC upper management be particularly conscientious about following policies and, to the extent possible, hold elected officials to that same level of accountability. Employees should understand the policies and procedures they are following and how they contribute to the effective operation of the agency. This understanding also allows employees to make meaningful suggestions for improvement in policies.

Cross-training and shared leadership are essential for effective monitoring, adequate segregation of duties, and succession planning.

Staff development, training, and assignment should be sufficient to ensure that no one person has entire control or sole knowledge in any particular area. Without shared knowledge and responsibility, employees cannot be sufficiently monitored and duties cannot be adequately segregated. Cross-training also allows operations to continue in the absence of key personnel, on a short-term or long-term basis.

Finding 2: The Policymaking Process is Fractured

Authority for AOC policymaking is not well-defined and there is no standard or official process for creating policy. Management at AOC have different impressions of who is able to create policies, the process for implementing those policies, and what policies are in effect. The AOC Director called the policy process "fractured" and said that policies had been "all over the place." The Director acknowledged that there was no central place to find policies and that some policies conflict with others. The Director noted policies as an area that needed improvement and was not sure that all employees understood AOC policies. Our examination confirmed these statements. As a result of the lack of a policymaking process, AOC policies are scattered, conflicting, not communicated or enforced, and confusion abounds.

Judicial Branch Governance

On January 1, 1976, the Judicial Article went into effect, creating the modern Kentucky judicial branch, known as the "Court of Justice." Kentucky Constitution § 109 states:

> **The judicial power of the Commonwealth shall be vested exclusively in one Court of Justice** which shall be divided into a Supreme Court, a Court of Appeals, a trial court of general jurisdiction known as the Circuit Court and a trial court of limited jurisdiction known as the District Court. **The court shall constitute a unified judicial system for operation and administration.** The impeachment powers of the General Assembly shall remain inviolate.

(emphases added). Under this unified system, the judiciary in all districts, circuits, and counties in Kentucky is administered within a single judicial branch, the Kentucky Court of Justice. The current Chief Justice stated to auditors that Kentucky is still learning what it means to operate as a unified judicial system and that Kentucky's judiciary is an evolving branch of state government.

The Supreme Court, the highest division of the Court of Justice in the Kentucky Constitution, elects a Chief Justice, who serves for four years. Kentucky Constitution section 110(5)(b) states that the Chief Justice "shall be the executive head of the Court of Justice and shall appoint such administrative assistants as he deems necessary." The current Chief Justice stated in 2017 that the Judicial Article "made the chief justice the administrative head of the state court system." This role is further confirmed by KRS 27A.010.

The Administrative Office of the Courts comprises the staff used by the Chief Justice to carry out his role as executive head of the Kentucky Court of Justice. The Chief Justice may appoint a director of AOC and such other assistants and staff as he chooses. All of these serve at the pleasure of the Chief Justice, with the director of AOC appointed every four years and subject to confirmation by the Kentucky Senate. KRS 27A.020 and KRS 27A.050 describe the role of AOC and authorize the Chief Justice to make these delegations of his authority.

The Chief Justice has authority over all AOC policies as the executive head of the Court of Justice.

Constitutionally and statutorily, policy or procedure at any level of AOC must derive from the Chief Justice as the executive head of the Court of Justice. However, the Chief Justice may choose to delegate some or all of his policymaking authority to the director of AOC, or to any combination of AOC staff, pursuant to KRS 27A.020.

Policy Creation by the Supreme Court

The Supreme Court meets on Monday of every "Court Week" to discuss administrative matters. "Court Week" typically occurs once per month. These meetings on policy or administrative matters for an entire branch of state government are not open to the public and there is no open meetings policy adopted by AOC. An open records policy was approved unanimously by the Supreme Court during one of these closed meetings in the summer of 2017.

The current Chief Justice has decided to share authority with the other members of the Supreme Court, which meets as a body not only on matters under its judicial jurisdiction, but also on at least some administrative matters for the Court of Justice. The Justices vote on changes to policy and it seems that a majority must agree before a policy is changed or adopted. The current Chief Justice told auditors that the other members of the Supreme Court were interested in participating and he wanted to encourage that participation. According to former Manager of the Division of Accounting and Purchasing, this has resulted in the Chief Justice being outvoted with respect to changing lodging reimbursements that affect the Justices, even though the Chief Justice has the sole power to enact or change that policy. This proposed policy is discussed in Finding 10 (page 44). The current Chief Justice cited Kentucky Constitution § 116 in support of the practice

of voting on administrative policies. However, that section appears to deal with judicial matters and rules of practice and procedure before the courts, not administrative matters.

The deliberation of policies at the Supreme Court level among the Justices has led to a slow policymaking process. Creating personnel policies was a two-year process. It is not the auditor's role to determine whether it is appropriate for the judicial branch to be governed by the Supreme Court as a whole rather than the Chief Justice. However, every indication is that ultimate authority on administrative matters resides with the Chief Justice.

Administrative Procedures and Administrative Orders

The highest level of policy and most formal for the Kentucky Court of Justice are Administrative Procedures (AP). These are adopted by the Supreme Court as a body as described above, although only the Chief Justice signs the resulting AP. These are used as higher-level, long-term policies for the Court of Justice. Shorter-term rules are adopted as Administrative Orders (AO), such as pilot programs or appointments.

AOC Policies and Procedures

The Chief of Staff for the current Chief Justice anticipated that other policies for AOC should be developed by the relevant department, reviewed by legal counsel, and ultimately adopted by the AOC Director, but acknowledged that might not be the practice. In fact, each department creates its own policies, which some understand to be applicable to that single department rather than AOC as a whole. AOC's legal counsel stated there is no requirement that AOC departmental policies be reviewed by legal counsel, but that legal counsel would do so if review was requested by a department. AOC legal counsel stated that, although KRS Chapter 45A dealing with procurement and the associated Finance and Administration Policies (FAP) do not apply to AOC, each department could choose to follow a particular FAP or set of FAPs. This could result in each department following or not following different procurement rules at AOC, and doing so without advice from AOC's legal counsel.

What is a "Policy?"

At the outset of the examination, auditors requested AOC policies for various areas. During the examination, some policies provided in response to this request were diminished by AOC management, such as saying that something was not a true "policy," but more of a guideline or practice. The fractured policy process has led to lack of understanding about what is policy and who has authority to create it. It also permits managers and employees to engage in semantics to avoid accountability, rather than following rules set down for consistency and assistance with job duties. No matter what they are called (orders, policies, guidelines, etc.), rules and procedures should be in writing, applicable to all employees, and enforced uniformly. Employees should not be given written directives that they are not expected to actually follow.

Recommendations

The Chief Justice should create written delegation of his policymaking authority if he intends to delegate that authority. He should describe in detail who has authority to create policies by type, subject matter, and applicability, and may wish to specifically indicate what policymaking authority is retained by him. He should also create written guidance regarding the process for policy approval, or delegate the creation of this guidance to a member of AOC staff and confirm that it is accomplished promptly.

AOC should conduct a comprehensive review of all internal policies from the ground up.

All existing AOC policies, including those created by departments, other than APs and AOs, should be inventoried, assessed, and re-enacted pursuant to the new process created in response to these recommendations.

AOC should create and maintain a central location for policies that is accessible to its employees and other applicable parties. Established policies should routinely be reviewed to ensure the policies reflect current operations. In addition, new policies or modifications of existing policies should be communicated to relevant staff as they are adopted. Major changes to policy may require training.

The Chief Justice should consider whether the practice of the Supreme Court as a whole deliberating and voting on administrative matters is an impediment to efficient and appropriate policy implementation. Furthermore, if the Supreme Court meets regarding administrative matters, it should do so consistent with the open meetings laws in place for similar decision-making bodies, and the Court of Justice should adopt similar policies as it has done recently for open records.

Finding 3: Insufficient Internal and External Auditing

AOC has a Division of Auditing Services (the Division) that does not provide a true internal audit function. It is essential that an internal audit division be independent, have an internal audit plan, and be competent to carry out this plan. An independent internal audit division should have a charter setting forth its authority. An internal audit plan should deliberately address issues based on risk. A well-developed internal audit division would include a reporting mechanism to investigate and address concerns at AOC. For an organization like AOC, that has minimal external oversight, internal audit functions are crucial to provide feedback that improves operations and identifies problems. Audits and attestation engagements performed by internal auditors could provide an independent and objective assessment of AOC's internal controls to ensure taxpayer dollars are accounted for appropriately and in compliance with state and federal laws and regulations.

Internal auditing is an important mechanism for feedback to improve operations and identify problems.

The Division of Auditing Services includes a manager, twelve field auditors across the state, one auditor based in Frankfort, one investigator, and three project specialists, plus support staff. The functions of the division include:

- Annual audit of 120 Master Commissioners throughout the state.
- "Transfer Packages" to transition between outgoing/incoming circuit clerks or master commissioners as needed.
- Periodic audits of Circuit Court Clerks, along with monthly reviews of financial summaries for each Circuit Clerk's office.
- Annual facility audits of each county's court facilities for the purpose of determining if payments made by AOC were received and in the proper amount. Prior payment amounts may be adjusted in the current year as a result of these audits.
- Special investigations and audits, usually initiated by complaints.

Audits of Circuit Court Clerks are required by KRS 431.531. Audits of Master Commissioners are required by Administrative Procedures of the Court of Justice (AP) IV § 11.

During the period examined, three members of AOC's audit staff were on reassignment to a special project unrelated to auditing. Requests for special audits are initiated from executive officers or the AOC Director. According to AOC, the following special internal audits were conducted during the past five years, reflecting a lack of recent internal audit activity directed to central management and finances:

- Analysis of Technology Services Purchases in 2013.
- Drug Court audits in 2013, 2014, and 2016.
- Money handling procedures at the Records Division in 2014.
- Accounting/travel voucher processes for June 2015.

Scope and Nature of Work by the Division

AOC's Division of Auditing Services had planned to conduct an accounting/budget audit, but due in part to workload, the audit has not truly begun and is still delayed or in the planning stages. The Division did not believe that they were independent, and were frustrated about the lack of true internal audits they were able to perform due to other workload. The Division was not able to clearly define any requirements at AOC to report waste, fraud, or abuse to their division. The only process identified was an e-mail from the AOC Director in 2017 regarding the Finance and Administration Cabinet's Red Flag Reporting system. During the examination, AOC adopted a hotline and process for reporting waste, fraud, and abuse in the spring of 2018.

AOC has no internal audit plan. The Division had some concerns regarding areas they were asked to investigate and issues they were not asked to investigate. One staff member identified lax inventory procedures and missing laptops that were confirmed in this examination in Finding 7 (page 34).

Internal audit staff were aware of some issues that resulted in findings contained in this report, but these concerns were not addressed.

Another staff member identified the log-in template password issue discussed in Finding 18 (page 76). However, no internal audit planning was put in place to audit or address these concerns.

AOC Had a Problematic Organizational Structure in Place until July 13, 2017

Prior to July 13, 2017, the Division of Auditing Services was organized under the Department of Administrative Services, and the Auditing Services Manager reported to the Executive Officer of Administrative Services. The Department of Administrative Services included several other areas that could be subject to audit, most notably facilities (real property, maintenance, capital construction). Additional areas of responsibility were assigned to the Executive Officer of Administrative Services as well.

This reporting structure could have hindered internal auditing independence. According to the Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing (IPPF) 1110 "The chief audit executive must report to a level within the organization that allows the internal audit activity to fulfill its responsibilities." International Standards for the Professional Practice of Internal Auditing (IPPF) 1110. This can be achieved by having the chief audit executive report "functionally" to the highest management level of the organization. IPPF 1110 (Interpretation). In fact, internal audits of facility payments were modified by the former Executive Officer, as detailed in Finding 15 (page 65).

AOC Should Implement a True Internal Audit Function Using Accepted Principles and Practices

An internal audit function should be structured to have a level of independence. This independence is accomplished in a couple of ways. First, "[t]he purpose, authority, and responsibility of the internal audit activity must be formally defined in an internal audit charter," according to IPPF 1000. Senior management approves and updates the internal audit charter, which establishes the authority of internal auditors, the structure of internal auditors within the organization, and who oversees the internal audit function. Second, the chief audit executive should interact with the governing body of the organization, and must report to a sufficiently high level within the organization. IPPF 1110 and 1111. Having the Auditing Services Manager report to the Executive Officer of Administrative Services, who was also responsible for several areas subject to audit, is not appropriate without sufficient safeguards. The current organizational chart has the Auditing Services Manager reporting to the AOC Deputy Director, see Figure 2 (page 8).

Internal audit activity should be focused on identifying, monitoring, and communicating risks. This is accomplished through an internal audit plan. Rather than being entirely reactionary based on complaints and ad hoc directives from management, internal audit activity should "evaluate and contribute to the improvement of the organization's governance, risk management, and control processes using a systematic, disciplined, and risk-based approach." IPPF 2100. This plan is developed and prioritized by the chief audit executive "consistent with the organization's goals." IPPF 2010.

Most of the Division of Auditing Services' work is either focused on local county offices (circuit clerks and master commissioners) or accounting/bookkeeping services. AOC programs and departments are not the focus of audits. Annual audits of circuit clerks and master commissioners address important risk areas and provide oversight. However, these audits do not provide central oversight or address the core management or processes involved in AOC operations. Internal auditors at AOC are not required to have special licenses or certifications at any level, including the manager.

Reporting Waste, Fraud, and Abuse

APA Auditors requested the point of contact or procedures AOC shared with its staff regarding how to report waste, fraud, and abuse. AOC did not identify a process other than those related to personnel grievances, such as working conditions or employment decisions. The only other guidance staff identified was an e-mail forwarded by the AOC Director, which appeared to reference the Red Flag Reporting web site maintained by the executive branch's Finance and Administration Cabinet. Otherwise, most employees interviewed indicated AOC has no mechanism in place for reporting waste, fraud, and abuse.

The AOC Director stated that complaints are typically addressed by the Legal Department or Human Resources, depending on the type of complaint. Most complaints received by AOC involve local or county issues as opposed to issues relating to AOC central management. Complaints in the past have been sent to the public information officer. No central log of complaints is maintained, although there may be records for those complaints received by e-mail. There does not appear to be a uniform process for receiving and handling complaints.

On April 15, 2018, AOC updated the Kentucky Court of Justice Personnel Policies to include procedures for reporting waste, fraud, and abuse. The new policy provides a toll free number and web site for reporting. It states that complaints "will be forwarded to the appropriate entity for investigation," that violations will be addressed by disciplinary authority, and that employees may not be retaliated against for reporting or corroborating reports in good faith. The judiciary "or any member or employee of the judiciary" is a reporting entity under the Kentucky Whistleblower Act, KRS 61.102.

AOC Is Not Required to Have Routine External Audits

Until this examination by the Auditor of Public Accounts, there has not been a substantial audit or examination of the judicial branch. This examination is the only external or independent review of management and financial activities of which AOC or the Auditor of Public Accounts is aware in the history of AOC. The only audit activity identified includes previous federal audits related to grants or AOC's inclusion in statewide inventory testing as part of the audit of the Commonwealth's financial statements.

This examination of Kentucky's judicial branch is the first of its kind, but should not be the last.

Although its budget may not be material in the context of the state's financial operations, AOC is significant as a separate branch of state government that is self-governing and insulated from outside review. External audits not only provide valuable feedback to management on operations, they also act as a deterrent to potential waste, fraud, and abuse because financial activities are reviewed by individuals that do not report to management.

Recommendations

We recommend AOC develop a division with a true internal audit function. The division should have a charter or at minimum an internal audit plan, report to the Director or above, have interaction with the Chief Justice as chief administrator of AOC, and be given the independence necessary to investigate and audit areas of risk without interference or waiting on specific directives. The division should also have quality control through internal and external assessments.

For greater independence and to create a reporting function, we recommend AOC consider creating an audit committee that separates management from the internal audit activities that provide oversight of management.

We recommend AOC also evaluate and consider, as part of an internal audit function, the competencies, education, and experience required for staff assigned to this function. This evaluation is consistent with the IPPF Standards cited throughout this Finding.

If an internal audit function is more fully developed, we recommend AOC designate its internal audit division or internal audit committee as a reporting entity for allegations of waste, fraud, and abuse. Internal auditors should be aware of any such allegations for their risk assessment and audit planning.

We recommend the General Assembly require an annual external audit of AOC, permitting the Auditor of Public Accounts a right of first refusal to audit or examine AOC each year. Regardless of whether the General Assembly enacts such a requirement, we recommend AOC obtain an annual external audit. To provide further transparency, the results of any audits or examinations of AOC should be open records and posted to a public website.

Finding 4: Employee Ethics Policies Are Poorly Developed

AOC's ethics rules are scattered, not well developed, and lack an independent enforcement mechanism. Most of the policies are contained in the Kentucky Court of Justice Personnel Policies, but some guidelines are found in procurement policies discussed separately in Finding 5 (page 25).

The Kentucky Court of Justice Personnel Policies contain the following sections related to employee ethics:

- Confidential Information (Section 2.02). Prohibits disclosure and use of confidential information.

- Abuse of Position (Section 2.04). Addresses conduct that creates the "appearance of impropriety" and secures "unwarranted privileges or exemptions."
- Conflict of Interest (Section 2.05). Requires employees to disclose conflicts of interest to their appointing authority.
- KCOJ Property and Resources (Section 3.08). Restricts use of public resources to official business only.

Violation of the Code of Conduct (Section 2 of the KCOJ Personnel Policies), "may result in disciplinary action, up to, and including dismissal." Violation of section 3.08 regarding business use of public resources has similar consequences. While AOC has policies addressing some areas of ethical conduct, the rules are not robust in several areas. Furthermore, there is little to no guidance provided to those designated to handle ethical issues.

This finding addresses administrative and personnel policies at AOC. It does not address codes specifically applicable to judges or clerks, each of which have their own codes that govern their conduct in those roles.

Conflict of Interest Policy is Vague, Subjective, and Open-Ended

AOC policy requires disclosure of conflicts of interest, but does not prohibit conflicts or state how employees are to resolve them.

Conflicts of interest are not specifically prohibited or subject to mandatory consequences under AOC policy. The policy merely states that an employee "must disclose any actual or potential conflicts of interest to his or her appointing authority for resolution." The policy goes on to explain that "[a] conflict of interest may exist when an employee participates in a decision that may directly or indirectly impact that employee or a member of his or her family." The use of the word "may" leaves the parameters of a conflict of interest open-ended.

There is some discrepancy regarding the understanding of who is an "appointing authority" at AOC. The AOC Director indicated that her position and the Executive Officers over each Department were appointing authorities; District Judges, Circuit Judges, Family Court Judges, and Circuit Clerks were also appointing authorities. The Personnel Policies for the Kentucky Court of Justice state that "[t]he AOC Director is the appointing authority for personnel at the AOC." Appointing authority is defined in the same policy as "an individual who is authorized to act on behalf of an agency or office of the KCOJ" with respect to various personnel matters. An elected official is the appointing authority "for the personnel in his or her office." The Director of Human Resources provided auditors a list of appointing authorities at AOC's main office, which included Executive Officers, Directors, and Managers.

> A bright-line rule is "a legal rule of decision that tends to resolve issues, especially ambiguities, simply and straightforwardly, sometimes sacrificing equity for certainty." –Black's Law Dictionary

In the event an employee believes they have a conflict of interest, there is no further guidance to the appointing authority detailing how the conflict of interest should be resolved. A similar situation exists for conflict of interest disclosures related to procurement of private sector leases, discussed in Finding 14 (page 57). Bright-line rules increase the likelihood such rules are enforced consistently. Vesting discretion in supervisors regarding conflicts of interest where there is no clear rule is not a sufficient policy. This approach can lead to fragmented practices regarding conflicts of interest. The AOC policy places the responsibility on the supervisor to resolve the conflict of interest after the employee has reported it. Therefore, from the employee's perspective, there is no consequence to proceeding despite a conflict unless instructed otherwise. Furthermore, the policy may conflict with the Purchasing Guidelines for Judicial Buyers, which states that conflicts of interest are to be reported to the Manager of the Division of Accounting and Purchasing or the Budget Director, as detailed in Finding 5 (page 25).

Ethics Policies are a Known Area of Weakness

The former Manager of the Division of Accounting and Purchasing notes in training materials from December 2017 that KRS 11A.020 (part of the Executive Branch Ethics Code) is not applicable to the judicial branch, "but it is a guideline so we should have something in our AP's [Administrative Procedures] that mimic it." She also noted there seemed to be a "misunderstanding among departments" regarding conflict of interest provisions in the KCOJ Personnel Policies. Finally, the former manager states that "[i]t would not be a bad idea to have an ethics panel for judicial branch employees like executive branch." The former Manager of the Division of Accounting and Purchasing created the Purchasing Guidelines for Judicial Buyers. This may have been done in the absence of more specific rules relating to procurement, but created a situation with varying guidance, in different locations, applicable to different groups of employees, that included inconsistent reporting requirements. The fragmented policymaking process is addressed in Finding 2 (page 14).

Comparison with Executive Branch Code of Ethics

There are no bright-line rules or thresholds at which employees are prohibited from transacting business with AOC or benefiting from those transactions. For example, the Executive Branch Code of Ethics prohibits employees from contracting with their employing agency either personally or through any business that the employee controls more than a 5% interest (KRS 11A.040(4)). The AOC policy does not indicate that a conflict of interest is created by merely holding an interest in a contract with AOC, because the employee must "participate" in the decision. There is no guidance in the policy regarding whether the conflict can be resolved by having the employee abstain from the decision. If they do abstain, there is no requirement that the abstention be documented. By contrast, KRS 11A.020(3) specifically directs employees of the executive branch to disclose personal interests in writing to their superior, "who shall cause the decision on these matters to be made by an impartial third party."

Documenting an abstention from a decision or process is an important step for several reasons. If the individual with a conflict continues to be involved, they must do so knowing there is a record of their decision or requirement to abstain. This record can be a significant disincentive to continued involvement. An individual who needs to abstain has some interest in the outcome of the matter that naturally makes them want to participate. Documenting the abstention communicates to others involved in the process the role of the abstaining individual and that the individual should not be included. This is particularly important when the abstaining individual is a superior, because subordinates may feel pressure to keep the superior involved.

Documenting an abstention is an important step that helps to "lock in" the removal from decision-making.

Similarly, while gifts appear to be prohibited, only those gifts that "give the appearance of impropriety" are prohibited in AOC's policy. This is a subjective standard. The policy does not identify what sources of gifts are problematic. For example, KRS 11A.045(1) prohibits executive branch employees, their spouses, and dependent children, from accepting gifts from those that do business with, are regulated by, are involved in litigation against, or attempt to influence the employee's agency. Identifying the sources of prohibited gifts and a threshold ($25 per year total from any of these sources) is one example of how to define gifts that "may give the appearance of impropriety."

Consistency and clarity contribute to an ethical atmosphere where all employees know the bounds of ethical conduct.

Based on the language of the existing AOC ethical rules, it may be difficult to hold employees accountable and impose discipline because of the vague and subjective standards. If an appointing authority is notified of a conflict of interest and chooses to ignore it, the policy above seems to have been satisfied from the perspective of the employee's responsibilities. Vagueness works in both directions. It may fail to hold employees accountable, or may work as a pretext for employee discipline on other grounds. Consistency and clarity are important to create an ethical atmosphere where all employees know the boundaries of ethical conduct and consequences of unethical conduct.

Recommendations

We recommend AOC conduct a comprehensive review of its ethics policies for all employees, including those applicable to appointed and elected officials on administrative matters, to consider whether all necessary areas and concerns are adequately addressed.

We recommend AOC also consider and revise the wording of existing ethics rules. Although written in terms of general application, policies should be precise enough so that each employee understands what specific conduct is prohibited and what is expected of them. While terms like "may" and "should" have their places, the policies should avoid open-ended descriptions of possible bad conduct and attempt to draw bright-line rules and thresholds to be as clear and as uniformly enforceable as possible.

We recommend AOC specifically address lines of authority for reporting and enforcement for its ethics policies and communicate these matters to employees so that staff understand the correct place to take concerns, who has authority to address those concerns, the process for addressing concerns, and the consequences of violating a policy. Reporting authorities can also serve as an important resource for employees seeking guidance on compliance with ethics rules.

Once new policies are in place, we recommend AOC conduct ethics training for all employees, including appointed and elected officials. AOC should also consider periodic training, at a minimum for new hires. AOC should continue its practice of obtaining written acknowledgment by staff of these policies, as well as any revisions. Documenting acknowledgment of policies is helpful for when disciplinary action is required, and also communicates to employees the seriousness with which management takes ethics policies.

AOC should consider organizing an independent body specifically to address, investigate, and enforce ethical matters related to AOC employees. An independent body can serve as an important reporting authority so employees can have confidence that ethical concerns will be handled impartially and without reprisal.

Finding 5: Procurement Policies are Weak

AOC's procurement policies are less demanding than other state or local policies applicable in Kentucky due to a higher bidding threshold, an abundance of built-in discretion, and less thorough ethical rules. Strong procurement policies are essential to provide good value to taxpayers, avoid favoritism, and maintain an ethical operating environment. According to AOC's own guidelines, competitive bidding allows AOC to "secure goods and services at fair and reasonable prices" that are "of the best value."

Strong procurement policies promote fair prices for taxpayers and an ethical process that avoids favoritism.

AOC's procurement policies are scattered among memoranda from its General Counsel, departmental guidelines, a Court of Justice policy, and discretion vested in AOC officials. Some policies may be limited to particular departments, and some policies are given different names to suggest that they are not binding on AOC employees. All guidance will be referred to as AOC policies in this Finding unless otherwise indicated. In response to a request for its procurement policies, AOC presented the following documents to auditors:

- Kentucky Court of Justice Policy – Purchasing Guidelines (January 2011). This document is a single page on Court of Justice stationary with short statements on a range of issues from small purchase procedures to use of state funds for greeting cards.
- Division of Accounting and Purchasing – Internal Procurement Guidelines for Judicial Buyers (revised March 23, 2015). This document is eight pages with more details regarding competitive bidding, procurement authority, and ethical conduct for procurement officials (judicial buyers).

- Memorandum from the former General Counsel to the former Manager of the Division of Accounting and Purchasing (June 5, 2017). This two-page document sets forth certain policies of the Finance and Administration Cabinet (FAPs) that AOC has purportedly adopted for accounting and handling of funds.
- Memorandum from the former General Counsel to the former Manager of the Division of Accounting and Purchasing (June 9, 2017). This three-page document sets forth certain FAPs that AOC has purportedly adopted for use by its Division of Accounting and Purchasing. It lists additional FAPs that are not followed "to the letter," but are used as guidance for contract terms and construction procurement.

AOC's Bidding Threshold is Comparatively High

According to the January 2011 Purchasing Guidelines, "[p]urchases $50,000 and over shall go through a competitive bidding process." The policy states that purchases between $10,000 and $50,000 generally require three quotes. By comparison, local public agencies throughout Kentucky are required to publicly advertise for bids for most contracts in excess of $20,000 per KRS 424.260 (or KRS 45A.385 if the locality has adopted Kentucky's Local Model Procurement Code). State agencies vary in their bidding threshold, from $1,000 to $40,000, per KRS 45A.100(1). Under that same statute, the legislative branch may follow small purchase procedures for transactions up to $40,000. The following table (Figure 4) gives an overview of the threshold for competitive bidding and some of the small purchase procedures below that threshold. Competitive bidding after advertisement is the general rule for public agencies. However, transactions below a certain amount are exempt from this requirement. An agency is said to have "small purchase authority" for transactions in that exempt range.

Figure 4: Non-Construction Small Purchase Limits Comparison

Government Type	One Quote	Three Quotes	Competitive Bidding
Local Agencies	$20,000 or less	N/A*	more than $20,000
State Agencies (statutory minimum)	$1,000 or less	N/A*	more than $1,000
State Agencies (actual 2017 range depending on agency)	less than $5,000	$5,000 to $10,000 $5,000 to $20,000	more than $10,000 more than $20,000
Finance and Administration Cabinet	$5,000 or less	$5,000 to $40,000	more than $40,000
Higher Education Institutions and Legislative Branch	$40,000 or less	N/A*	more than $40,000
Administrative Office of the Courts	$1,000 to $10,000	$10,000 to $50,000	more than $50,000

*Subject to internal policies
Sources: KRS 424.260; KRS 45A.385; KRS 45A.100(1); Finance and Administration Cabinet Small Purchase Authority Delegations and Quotation Limits effective 7/5/2017; Kentucky Court of Justice Purchasing Guidelines (Jan. 2011).

AOC's former Manager of the Division of Accounting and Purchasing noted in training materials that AOC's small purchase policy is "generous" compared to other state agencies. By a significant margin, AOC has the highest threshold for items that must be competitively bid—even higher than the chief procurement official for the executive branch of state government. This makes procurement of public goods and services by AOC one of the least competitive and transparent processes for any state or local government agency in Kentucky.

Too Much Discretion for Sole Source Procurement

AOC's Internal Procurement Guidelines state that there are "some situations in which a sole source process is in the best interest of the AOC." In these situations, the guidelines direct the Manager of the Division of Accounting and Purchasing to "work with the Office of Legal Services to determine that a sole source situation exists." In the guidelines for judicial buyers, there are no criteria other than the claim of a "requesting department" for when to identify that sole source is appropriate, and no criteria to use when deciding if sole source procurement is appropriate. There is no requirement that the request, or the justification for that request, be documented.

After a request is sent to the Manager of the Division of Accounting and Purchasing and the Office of Legal Services, the memorandum dated June 9, 2017, during the examination period, states that AOC follows FAP 111-10-00, which does address sole source exceptions to bid requirements. Documentation of AOC's adoption of these policies would ideally pre-date the APA's examination into these policies. Even with the adoption of the FAP, the guidelines do not place the decision squarely on one person or department's shoulders. The AOC policy does not identify who has the authority to make the decision that sole source is appropriate—the Manager of the Division of Accounting and Purchasing or the Office of Legal Services. The former Manager of the Division of Accounting and Purchasing noted in training materials that "Departments are currently making their own determination" regarding exceptions to competitive bidding and that there "[n]eeds to be a single procurement point of contact to make decision." The absence of clear lines of authority creates ambiguity in decision-making, lack of accountability, and can lead to unnecessary disputes.

Absence of clear lines of authority leads to ambiguity, lack of accountability, and unnecessary dispute.

Subjective Language Governs Conflicts of Interest Rather Than Bright-Line Rules

The ethical guidelines portion of AOC's procurement policies fails to establish bright-line rules regarding what is prohibited conduct, fails to define key terms, and lacks any reference to consequences of violating ethical rules. The entirety of the section on Ethical Conduct in the Internal Purchasing Guidelines reads as follows:

> Care must be taken to avoid the intent and appearance of unethical practice in relationships, actions and communications. All procurement activities conducted must be in compliance with the standards outlined in federal, state and local laws. The Judicial Buyer should make every effort to ensure that the AOC does not

> knowingly enter into any purchase commitment that could result in a conflict of interest. An example of a conflict of interest or unethical behavior is an employee in a decision making position using their position or influence to do business with any vendor affiliated with the employee, a relative of than [sic] AOC employee or any other individual who would be perceived as a potential conflict. Suspected conflict of interests [sic] or suspected unethical behavior should contact either the Manager of Accounting and Purchasing or the Budget Director.

The intent of the above statement is well-meaning, but employees cannot be held accountable to imprecise policies. The guidelines come close to identifying particular conduct that is to be avoided in the example given. However, that example fails to define key terms such as what it means for a vendor to be "affiliated" with an employee, or who is a "relative." It is not clear that the guidelines set forth prohibited conduct as opposed to general advice. Another example is the section regarding "Gifts from Vendors," which states in its entirety: "Judicial Buyers should avoid soliciting favors, services or gifts from current or prospective vendors. Such gratuities, even if of seemingly low value, can give rise to a conflict of interest or the appearance of a conflict of interest." The guidelines do not directly state that this conduct is prohibited—a problem compounded by the absence of any statement regarding enforcement or penalty. Furthermore, it does not address what, if anything, the Manager of the Division of Accounting and Purchasing or the Budget Director is authorized to do in response to a disclosure of a conflict of interest. The former Manager of the Division of Accounting and Purchasing noted in training materials "TS [Technical Services] goes to HR [Human Resources] for advice on vendor gifts when they do not like our answer. And HR answers." The ambiguity in the ethics policies and the ambiguity in reporting contribute to this type of "answer-shopping."

The former Manager of the Division of Accounting and Purchasing told auditors that she created the internal procurement guidelines and does not consider them to be a policy, but more of an informational sheet as an "overview of rules" and "for the buyers to use in the course of accomplishing their daily duties." She could not recall any judicial buyer bringing her a suspected conflict of interest as directed in the guidelines. If a conflict of interest were reported to the former Manager of the Division of Accounting and Purchasing, she stated that she would research the issue and discuss how to proceed with the Budget Director. As noted in Finding 4 (page 21), this reporting structure is different than that contained in the Personnel Policies.

There are no defined consequences for violation of these guidelines. Because they are not viewed as "policy," it is not clear whether they can be enforced. The absence of consequences makes enforcement more difficult, and also implicitly communicates to employees the importance of the policy to management. Definitive ethical policies, along with penalties, reporting, and enforcement mechanisms, are essential to govern procurement conduct. This is particularly true at AOC, which has determined that the provisions of KRS Chapter 45A do not apply to it. That chapter carries with it certain ethical rules, the violation of which may lead to criminal penalties.

Defined consequences for violating policies permits enforcement and communicates the importance of those policies.

The Competitive Bidding Process

When a potential purchase is above the established threshold, the Purchasing Guidelines state that the purchase "shall go through a competitive bidding process." AOC's Internal Procurement Guidelines state that "[t]he Office of Legal Services is authorized to conduct the competitive bid process." According to the memoranda produced by AOC, both dated during the examination, AOC follows FAP 111-35-00, which details procedures for competitive sealed bidding. If AOC has adopted these outside policies as its own by reference, ideally that should have been memorialized and formalized prior to 2017. Even with adoption of FAP 111-35-00, there was no evidence of formal bid evaluation or justification for the decisions made in procuring several private leases, most notably a lease procured for which there was an apparent conflict of interest as detailed in Finding 14 (page 57).

Recommendations

We recommend AOC review and reduce its small purchase authority, considering the level of authority granted to similar agencies in Kentucky.

We recommend all procurement policies be formalized, documented, and distributed to staff. Adoption of outside policies, such as incorporating FAPs by reference, should be similarly formalized, documented, and communicated.

We recommend AOC review and adopt clear lines of authority for origination of policies. Any delegation of policymaking powers should be formalized and documented.

We recommend AOC adopt definite criteria and require written justification for sole source purchasing or other bidding exceptions. Furthermore, clear lines of authority for making the decision regarding sole source purchases should be adopted.

We recommend, consistent with Finding 2 (page 14), AOC conduct a comprehensive review of all ethics policies, including its procurement guidelines, to address the concerns identified in this and other findings.

CHAPTER III: INVENTORY CONTROLS

These findings address AOC's practices concerning asset management, including past practices to dispose of surplus property. Common weaknesses contributing to each of these findings include lack of segregation of duties, lack of management oversight, poor communication, and mistrust among departments and employees.

Finding 6: AOC Did Not Follow Advice of Legal Counsel Regarding Surplus Property Sales and Provided Little to No Oversight for These Sales

A Surplus Property Memorandum from the Legal Department in 2010 described how AOC surplus sales should be conducted. The entire memo is attached as Appendix C: February 26, 2010 Memorandum re: AOC Surplus Sales. It recommends AOC dispose of surplus property by following the Kentucky Model Procurement Code (KMPC), 200 KAR 5:302, and FAP 220-19-00. Additionally, the memo recommends that a list be prepared detailing the items to be disposed of prior to the disposal of surplus property, surplus items be deleted from inventory listings, and records of the disposals should be maintained. AOC did not follow this guidance and permitted the former Executive Officer of Administrative Services to conduct sales with little to no oversight.

The 2010 memo states that KRS Chapter 45A, which governs procurement for the executive and legislative branches of state government, does not apply to the judicial branch. AOC Legal Counsel states that "[w]hile the KMPC may not technically be applicable to the Court of Justice, the AOC has endeavored to apply the principles of the KMPC to its transactions out of a spirit of comity." The memo also recommends that AOC apply FAP 220-19-00 "as a matter of comity," and that "[a] sale to the general public using either a sealed bid or auction is permitted provided that adequate notice is provided to the public." AOC provided auditors with a list of procurement policies it followed, which is discussed in Finding 5 (page 25). That list did not include FAP 220-19-00, which indicates surplus property sales should be made to the general public with adequate notice. Rather than follow these rules, for years AOC conducted employee-only sales and private transactions to dispose of surplus property. Furthermore, AOC permitted purchases by the employee responsible for designating assets as surplus, establishing sales prices, and coordinating the asset sales—all without oversight, creating a serious conflict of interest.

> AOC permitted purchases by the employee who was responsible for selecting items to be sold, setting the prices, and coordinating the sales, all without oversight.

Lack of Documentation for Surplus Sales

AOC failed to maintain surplus sale documentation, resulting in insufficient evidence for testing. The Manager of the Division of Property Accountability and Inventory Control (DPAIC Manager) acknowledged a significant portion of the inventory in the Archibus Inventory System does not have up-to-date information, and the former Executive Officer of Administrative Services had "absolutely no procedures, policies, forms, or expectations regarding surplus." Also, the former Executive Officer, to the DPAIC Manager's knowledge, had not tasked any employee with

tracking the movement of assets between offices or when sold. As a result, auditors were limited in testing due to poor surplus sales documentation.

Surplus Property Was Sold in Employee-Only Sales and Private Transactions

Betweeen 2010 and 2016, AOC sold 24 surplus vehicles and other equipment in addition to other surplus property. Sales occurred during employee-only sales, as well as separate private transactions that occurred outside of the employee-only sale events. Between October 2012 and March 2017, AOC held four organized surplus sales. Buyers included AOC employees as well as nonemployees and outside organizations. Transactions other than employee-only sales consisted of private sales to individual employees, to elected officials, and to outside organizations. Records from the Division of Auditing Services indicated 34 individual transactions selling surplus property occurred during the period examined. Examples of items sold individually from 2010 to 2017 include firearms, furniture sold to a Supreme Court Justice, a vehicle sold to another Justice, and other vehicles. AOC has no documentation of advertising these private sales. According to the DPAIC Manager, the former Executive Officer made all determinations on fleet values and when they should be deemed surplus. Additionally, the former Executive Officer never asked staff to prepare any paperwork for the surplus fleet; instead he notified staff of the vehicles that he wanted to surplus, and staff provided the current mileage of those vehicles on a sticky note placed on the keys to the vehicle.

Deficiencies in Inventory Records Related to Surplus Sales

Twenty-eight surplus vehicles and other equipment sold between 2010 and 2016 should have been recorded when purchased and removed from eMARS following the sales; however, two were not recorded in eMARS when purchased, and four were not removed. Additionally, three vehicles were removed from eMARS in advance of the sales. Furthermore, in five instances the auditor was unable to specifically identify which vehicle in eMARS was sold to whom because AOC did not record the vehicle indentification number or license plate in eMARS. If AOC followed a policy similar to the Finance Cabinet Process for Vehicles in eMARS and FAP 120-20-01, these steps would have been required. FAP 120-20-01(5) states:

> A fixed asset record of all licensed vehicles and licensed trailers assigned to an agency shall be maintained regardless of cost or other equipment mounted on the vehicle. Vehicles not owned by the agency shall be so noted on the fixed asset report. This report shall include: vehicle license number, agency name, property or commodity code, serial number, make, style, manufacturer's model number, year, date registered during the first year only and orignial purhcase price.

The lack of detail recorded in the system makes it difficult to track AOC inventory, as noted in Finding 7 (page 34). These weaknesses, coupled with the broad authority of the former Executive Officer, lack of segregations of duties, and lack of oversight, significantly increase the risk of misappropriation and led to significant errors.

Discrepancies in Records Related to Vehicles Sold

AOC did not maintain adequate documentation to support the base values of the surplused fleet. As outlined in the Division of Surplus Property Guidebook, AOC is responsible for retaining certain records related to surplus property for eight years. In June 2017, the former Executive Officer filed a whistleblower lawsuit in Franklin Circuit Court against AOC following his termination. In the former Executive Officer's deposition, it is indicated the NADA values for rough trade-ins were used as the reserve amounts and they tried to get as close to the reserve amounts as possible; if the amounts were 75 to 80% of the reserve, then they would be sold. The only documentation related to the base price of the surplus fleet was obtained from the former Executive Officer's deposition and included only the NADA Guides of surplus fleet sold in October 2016. Based on the mileage reported to the Kentucky Transportation Cabinet (KYTC), the mileage was entered incorrectly in the NADA Guide for all five vehicles sold in the October 11, 2016 surplus sale. Furthermore, the incorrect model was entered for one vehicle and the incorrect year entered for another. As a result, this information was invalid and could not be used in testing.

Advertisements did not properly present the mileage of vehicles being sold. Although AOC only provided announcement emails from the 2014 and 2016 employee sales that included vehicles. Other documentation provided listed the information from the 2012 announcement. Additionally, seven vehicles surplused during the period examined were sold in private transactions, separate from organized and announced sales. Of the 15 vehicles sold at the 2012, 2014, and 2016 organized surplus sales, the mileage of ten vehicles was not properly presented in the sale advertisements. Additional errors were identified in the 2014 vehicle sale announcement email, in which the year for one vehicle was presented incorrectly, one VIN was not presented, and another VIN was incorrectly presented. A list of the ten vehicles in which the mileage was not properly presented in the sale advertisement is listed below in Figure 5:

Figure 5: Mileage Discrepancies Identified in Surplus Sale Advertisements

Year of Sale	Vehicle Year, Make, & Model	Mileage Advertised	Mileage Reported to KYTC	Difference in Mileage Advertised & Reported to KYTC
2012	1994 Ford Aerostar	121,610	121,820	-210
2012	1999 Dodge Stratus	165,890	165,265	625
2014	2002 Chevrolet Express Van	218,025	243,685	-25,660
2014	2007 Chevrolet Impala	118,025	116,181	1,844
2014	2003 Chevrolet Impala	207,579	208,286	-707
2014	2006 Chevrolet Impala	156,213	108,920	47,293
2016	2001 Chevrolet Silverado	200,000	216,000	-16,000
2016	2007 Chevrolet Impala	181,115	101,822	79,293
2016	2007 Chevrolet Impala	137,350	137,750	-400
2016	2006 Chevrolet Impala	258,997	253,000	5,997

Source: Auditor of Public Accounts based on records created by the Administrative Office of the Courts.

There were multiple discrepancies in surplus vehicle transactions with the former Executive Officer, all of which were in his favor.

The two vehicles with the most overstated mileage (by 47,293 miles and 79,293 miles) were both purchased by the former Executive Officer. Additionally, another vehicle purchased by the former Executive Officer at the 2012 surplus sale was not listed on the sale advertisement or bid sheet with the other vehicles sold. An additional vehicle was purchased by the former Executive Officer during the 2016 surplus sale for $967.00, but the purchase price reported to KYTC was $1,500.00. At the 2016 surplus sale, an AOC employee was the winning bidder of two vehicles that were not transferred to the winning bidder, but to an individual not employed by AOC.

Auditors could not determine how or where the mileage for some vehicles used in the email advertisements was determined. Auditors reviewed fleet records provided by AOC that were reported to be used to track vehicle mileage and when maintenance is needed. As noted in Finding 12 (page 52), AOC does not maintain adequate vehicle maintenance records. Eight of the 27 surplus vehicles advertised were not identified in the fleet records, and records found for the remaining 19 surplused vehicles had not been updated for some time, ranging from one to seven years. As such, the mileage of six surplus vehicles in the fleet records was significantly different from the mileage presented in the employee sale advertisements. Listed below are the six surplus vehicles in which the mileage in the Motor Pool Log records differed from the sale advertisement.

Figure 6: Discrepancies between AOC Fleet Records and Surplus Sale Advertisements

Year of Sale	Vehicle Year, Make, & Model	Mileage Advertised	Mileage in Records (Motor Pool Log)	Difference in Mileage Advertised & in Records (Motor Pool Log)
2014	2008 Chevrolet Impala	118,025	116,025	2,000
2016	2001 Chevrolet 2500HD	200,000	191,685	8,315
2016	2007 Chevrolet Impala	136,832	136,829	3
2016	2007 Chevrolet Impala	181,115	92,467	88,648
2016	2006 Chevrolet Impala	258,997	216,405	42,592
2016	2003 Chevrolet Box Truck	198,232	182,300	15,932

Source: Auditor of Public Accounts based on Administrative Office of the Courts fleet and surplus sales records.

Again, the vehicle with the most overstated mileage (by 88,648 miles) was purchased by the former Executive Officer.

A 2003 Chevrolet box truck was advertised and bid on during the October 2016 surplus sale; however, it was pulled from the sale and not sold to the highest bidder. According to the DPAIC Manager, the former Executive Officer of Administrative Services said the bids were considerably lower than the appraisal and decided they should not sell to the highest bidder and withdraw the vehicle from the sale. Although fleet records and staff indicate the vehicle was not used since October 2013 and its only use since pulled from the 2016 surplus sale was for storage purposes, AOC incurred a $2,794.64 repair expense two months after the vehicle was pulled from the surplus sale and maintained required liability insurance coverage on the vehicle. The DPAIC Manager authorized the use of the truck as storage when the warehouse space began to run out and

was not aware the former Executive Officer authorized such a significant repair on the vehicle after the surplus sale until staff presented the paperwork following auditor inquiry. The DPAIC Manager was not involved with fleet management when the repairs occurred.

Revised Surplus Sales Policy as of March 2017

AOC last sold surplus property in March of 2017. On April 19, 2017, following media reports of AOC private surplus sales, the Chief Justice issued Supreme Court (SC) Order 2017-5 establishing official policy to address judicial branch surplus property. This order continues to allow for AOC to conduct its own surplus sales, but requires declaration of surplus property to be documented, outlines acceptable surplus disposal methods, and prohibits AOC personnel "directly involved in conducting, managing, or overseeing the sale or disposition of surplus property…to purchase or otherwise receive personal property of the Judicial Branch." In December 2017, AOC entered into a memorandum of agreement with the executive branch Finance Cabinet's Division of Surplus to conduct sales. Photographs showing the condition of surplus property can be seen in Appendix D: Surplus in Warehouse as of August 2017.

Recommendations

We recommend AOC discontinue the practice of internal-only sales and instead follow its own legal counsel's guidance from the 2010 memo and subsequent SC Order 2017-5. No exceptions from prescribed procedures should occur. We recommend AOC conduct and advertise any surplus property sales consistently with other state law regarding surplus property.

We recommend AOC accurately record all vehicle information in eMARS as outlined in the Finance Cabinet Process for Vehicles in eMARS and FAP-120-20-01 or a substantially similar AOC policy. Furthermore, fixed assets should be removed from eMARS following each surplus sale to avoid errors in inventory and financial statements.

We recommend AOC retain certain records related to surplus property for eight years as outlined in the Surplus Property Guidebook.

We recommend AOC properly segregate duties for identifying items as surplus, document asset records (mileage etc.), and conduct surplus sales to safeguard assets and reduce the risk of error or fraud.

This finding will be referred to the Kentucky Attorney General.

Finding 7: AOC Failed to Properly Maintain Inventory Records and Did Not Establish Procedures to Ensure Assets are Accurately Valued and Accounted For

AOC failed to properly add asset purchases in both of the inventory systems utilized by the agency: Archibus and eMARS. Of the records tested, 321 asset line items were not entered in Archibus. Also, 47 of 103 asset line items identified as being valued at $5,000 and above, requiring

Auditors identified over $2 million in inventory reporting errors, revealing a serious weakness in asset accounting.

the asset be recorded in eMARS, were not recorded in eMARS. This sample alone revealed a total of over $2 million in reporting errors. Additionally, AOC maintained three separate inventory databases, creating redundancy and a fragmented inventory process. Furthermore, AOC had no established policies, procedures, or controls related to inventory management to ensure assets were monitored, and additions and deletions were included or removed from inventory listings. As a result, AOC's asset listings in both inventory systems, Archibus and eMARS, failed to recognize all asset purchases during the two years examined. This is a serious weakness in asset accounting and reporting, and indicates the agency is ineffective at properly safeguarding its assets.

AOC Maintains Three Separate Inventory Databases

AOC uses two primary systems for recording and tracking inventory: the Commonwealth's Accounting System, eMARS, to record assets valued at $5,000 or above, and Archibus. AOC indicated Archibus has more functionality specific to the agency not offered by eMARS. Additionally, AOC has two internal databases for recording inventory, one for all inventory valued at $300 and above and another created later, in 2012, to record only computer and technology equipment. The second Archibus database was developed by AOC's Department of Information and Technology Services because of distrust in the accuracy of data entry by personnel in AOC's Department of Administrative Services. This arrangement was put in place against the advice of the vendor, Archibus. This fragmentation of inventory systems complicates the tasks and management involved. Furthermore, creating a redundant Archibus database for computer and technology equipment does not address the issue of data entry accuracy affecting AOC's inventory. See Finding 1 (page 10) discussing the issue of accountability and need for a stronger internal control environment.

The key to any inventory management system is correct data input, regardless of functionality. Even with more functionality, incorrect information will result in failures. Errors identified in testing result from having multiple systems, in addition to lack of controls.

Figure 7: Summary of Errors Identified In AOC Inventory Records by Error Type

	eMARS		Archibus	
	Asset Items	**Value**	**Asset Items**	**Value**
Total Items in System	104,692		145,000*	
Total Items Tested	103	$1,247,565.53	943	$2,275,724.14
Errors:				
Missing	47	$ 651,418.92	321	$ 747,276.44
Wrong Value	56	$ 602,018.85	12	$ 1,993.30
Duplicates	6	-	1	$ 792.96

*Total Asset Items in the Archibus System is based on an estimate by the Administrative Office of the Courts.
Source: Auditor of Public Accounts based on testing of Administrative Office of the Courts' Inventory Records.

EMARS Inventory Discrepancies

Auditors reviewed 103 asset line items valued at $5,000 and above (the threshold at which items should be recorded in eMARS). AOC failed to record 47 asset line items, or 45.6% of the assets tested, totaling $651,418.92. In addition, 56 asset additions identified in eMARS, or 54.37% of assets tested, were recorded at an incorrect value, resulting in an overstatement of recorded assets by a total of $602,018.85. As of September 1, 2017, when auditors ran a report, there were 104,692 asset items in eMARS. In addition to missing entries and incorrect prices, other errors included incorrect item descriptions and duplicate entries.

Archibus Inventory Discrepancies

In the redundant inventory system, Archibus, 45 out of the 80 transactions sampled contained assets which were not identified. As a result of not fully recording assets purchased through the 45 transactions, 321 assets totaling $747,276.44 in inventory were not included in the Archibus Inventory Database. AOC generates asset tags after entering asset items into Archibus. The 321 asset line items, or 34.04% of the assets tested, do not appear to have been tagged. Additionally, Archibus was not actively managed for items valued at $5,000 or less during the exam period. AOC was unable to produce the number of asset items in Archibus because they do not have the capability of running a report internally to generate this information. However, staff indicated there were 145,000 entries in Archibus and 34,000 do not have a location identified.

Due to maintaining redundant systems (eMARS and Archibus) with overlapping parameters, there are some items that are entered into each system. But the systems do not interface with each other, and are not otherwise reconciled to detect errors. As with eMARS, there were numerous other errors in Archibus including duplicate entries, incorrect asset descriptions, and missing or incorrect serial numbers.

According to AOC personnel, a physical inventory has not been conducted of assets valued below $5,000 in at least a decade. The Finance and Administration Cabinet's *Physical Inventory Procedures* state that departments are encouraged to expand the personal property inventory effort to include all items $500.00 and more, in compliance with FAP 120-20-01, to maintain a comprehensive inventory of fixed assets. To the knowledge of the DPAIC Manager , the former Executive Officer of Administrative Services had not tasked any employee with updating or removing items from Archibus valued at less than $5,000. Additionally, the DPAIC Manager has reiterated surplus documentation does not exist. Therefore, auditors were unable to determine if the inventory surplused during the period examined was properly removed from Archibus and eMARS, with the exception of surplus vehicles which are noted in Finding 6 (page 30). In February 2018, the DPAIC Manager stated that AOC has an 18-month plan in place to "address how inventory information is initially captured in the system to ensure it is correct" and "to also eventually conduct a physical inventory to ensure we update all property in Archibus."

A physical inventory of AOC assets valued below $5,000 has not been performed for a decade or longer.

Missing Laptops

AOC staff was notified in April 2017 of two Dell laptops potentially missing from an order. The Department of Information and Technology Services (ITS) assumed all 100 Dell laptops from a February 28, 2017 order arrived in the warehouse; however, upon completing the imaging process, staff discovered the missing inventory. Court security staff reviewed surveillance footage of the warehouse in an effort to identify any suspicious activity but determined no laptops were taken from the pallet of computers in question. According to ITS, the former Executive Officer of Administrative Services indicated it could not be determined what happened to the laptops based on camera footage, and because the cost of the laptops was not much more than the deductible, no insurance claim would be filed to replace the laptops. Based on AOC staff email correspondence, it is unclear if the order was shorted or if the two laptops were stolen.

AOC ITS procedures for receiving equipment require personnel to verify and confirm the purchase order matches what is received. Furthermore, AOC purchasing guidelines require the requestor to signify receipt of goods ordered to AOC accounting personnel by signing a receiver form or emailing the judicial buyer so that payment may be processed. An email confirming receipt of the associated order was submitted to the Division of Accounting and Purchasing personnel on May 9, 2017, weeks after the issue arose; however, the employee who submitted this confirmation acknowledged to auditors that he had not counted the laptops to confirm the full order was received.

Internal control procedures are not effective if they are short-cut or bypassed.

Also, all 100 Dell laptops were entered in Archibus without serial numbers, and the two identified as missing were not removed after not being located. As a result, cages were installed in the warehouse to protect certain TS equipment while in storage.

Lack of Segregation of Duties and Oversight

Strong internal controls over assets are essential to ensure accurate financial reporting, as well as to protect from asset misappropriation. AOC failed to maintain adequate internal controls over the recording of assets and instead relied on one employee during the period examined. The employee, who reported to the former Executive Officer of Administrative Services between 2010 and 2017, was responsible for entering information in the two inventory systems with no management review or oversight to determine if asset records were properly maintained. The employee received no eMARS training and limited Archibus training. Weak internal controls over assets led to improper recording of assets and could lead to unneeded purchases, improperly insured assets, or asset misappropriation.

Maintaining accurate asset listings in inventory systems is an important control that ensures all assets are accounted for. Accurate listings also allow for assets to be tracked and determining if they are being used for the intended purposes. Inaccurate recording could result in undetected misappropriation of assets and

The rate of inventory errors puts AOC at high risk of misappropriation of assets.

in this case, inaccurate financial reporting to agencies such as the Finance and Administration Cabinet. The rate of errors identified from this sample puts AOC at a high risk of misappropriation of assets.

Recommendations

In order to strengthen the internal controls over inventory assets, we recommend AOC maintain adequate asset listings. To streamline the process and integrate reporting among its departments, AOC should consider utilizing one detailed inventory system for all asset purchases. Strong oversight over DPAIC should occur and involve an employee who is not concurrently performing any other duties to reduce the chance of errors. Data entry should include some form of review to ensure accuracy and completeness.

We recommend AOC implement detailed inventory and disposal policies and procedures to ensure the agency's assets are monitored and accurate. The policies and procedures should address the staff involved and their responsibilities.

We also recommend AOC select a sample of assets valued at or above a threshold as established by policy and conduct a physical inventory at the end of each year to make comparisons to the assets in the inventory system.

We recommend AOC follow FAP 120-11-00, related to lost or stolen state-owned property. In addition, we recommend all AOC departments, including ITS, verify the contents of shipments upon receipt to the warehouse.

We recommend AOC follow internal guidance already developed to match shipping documents with purchase orders and develop a system to have a receiving clerk conduct a blind count of incoming shipments before accepting delivery.

Finding 8: AOC Did Not Ensure Surplus Sales Receipts Were Deposited Appropriately and Did Not Consistently Apply or Remit Sales Tax from Surplus Sales

AOC did not accurately deposit surplus sales receipts. Customer sales receipts totaling $646.78 were unaccounted for in the deposits designated as "surplus" during Fiscal Years 2016 and 2017. Deposits were also not made to the State Treasury in a timely manner following sales; four instances were identified in which over a month passed between the date the deposit information was created and the date of the Cash Receipt (CR) in eMARS. Additionally, sales tax was inconsistently collected on sales associated with the surplus property in calendar years 2016 and 2017, and sales tax was sometimes collected but not remitted to the Department of Revenue following the sales. Thirteen transactions were identified in which it appears a total of $240.30 in sales tax was not collected.

Surplus sales receipts were not accurately deposited. The deposits designated as "surplus" during fiscal years 2016 and 2017 do not agree to surplus sales receipts. According to the surplus

CR documents, deposits designated as "surplus" in fiscal years 2016 and 2017 totaled $12,428.32 and included a refund of $26.50; however, the customer sales receipts totaled $13,075.10.

AOC did not deposit all surplus sales receipts into the State Treasury on the same day of receipt as required by FAP 120-24-00, which is one of the policies that AOC stated it had adopted internally. Staff indicated deposits are made each week, usually on Friday; however, as indicated in Figure 8 below, surplus sales receipts were deposited to the State Treasury any time from the same day to 82 days after the dates on AOC 503.1 Daily Cash Settlement Sheet forms. In one instance, the deposit at the State Treasury predated the Daily Cash Settlement Sheet by 14 days, indicating either the sheet was created after the deposit was made or the sheet was misdated.

Figure 8: Turnaround Time for Deposit of Surplus Sales Receipts

Date of Daily Cash Settlement Sheet	Date Deposited at State Treasury	Number of Days Between Receipt & Deposit	Amount of Deposits
7/30/2015	8/14/2015	15	$ 40.83
7/30/2015	8/17/2015	18	$ 5.12
No Sheet	10/31/2015	-	$ 5.31
11/13/2015	12/17/2015	34	$ 40.83
4/12/2016	4/22/2016	10	$ 29.68
3/30/2016	6/20/2016	82	$ 3.00
10/25/2016	11/23/2016	29	$ 75.72
10/18/2016	11/23/2016	36	$4,718.66
No Sheet	11/23/2016	-	$ 267.12
10/18/2016	12/8/2016	51	$1,721.80
No Sheet	12/8/2016	-	$1,586.59
No Sheet	12/8/2016	-	$ 30.90
11/30/2016	12/8/2016	8	$3,339.29
12/21/2016	1/18/2017	28	$ 262.00
1/12/2017	1/27/2017	15	$ 262.00
1/9/2017	1/27/2017	18	$2,124.00
2/24/2017	3/10/2017	14	$ 31.80
3/10/2017	3/10/2017	0	$ 904.96
3/24/2017	3/10/2017	-14	$ 132.50
3/10/2017	3/10/2017	0	$ 212.00

Source: Auditor of Public Accounts based on AOC Surplus and Deposit Records

Additionally, AOC did not maintain adequate records of surplus sale funds to be deposited to the State Treasury to report adequately the amounts received, sources of receipts, or dates of receipts as directed in KRS 41.070. The responsibility for collecting surplus sales revenue, as well as creating and maintaining records of surplus property sales receipts, was assigned to the Division of Auditing Services, which was directed by the former Executive Officer of Administrative Services. Initially, auditors were told by Division of Accounting and Purchasing personnel that copies of all checks and money orders are maintained; however, there was not adequate documentation to support all deposits. Checks and money orders were not provided in the supporting documentation, AOC 503.1 Daily Cash Settlement Sheet forms were missing, and some were completed incorrectly, indicating no reconciliation process was performed between collections and deposits despite internal guidance. According to the former Manager of the

Division of Accounting and Purchasing, her division operates "more in the capacity of a bank when it comes to deposits," noting that detailed reports are maintained at the department level.

The *Office of Budget and Policy Division of Accounting AOC Deposit Instructions* states: "the following processes should be followed when submitting deposits to the Administrative Office of the Courts (AOC) Division of Accounting:

1. Individual departments are responsible for ensuring that all monies are counted and reconciled to their department payment records.
   Any department which receives money should keep monies in a secure location. Any effort should be made to deliver deposits to the Division of Accounting within twenty four (24) hours of receipt.
2. AOC Division of Accounting will accept deposits between the hours of 8:00 – 10:00 a.m. and 2:00 – 4:00 p.m. If the primary AOC Division of Accounting contact is not available, instructions will be posted identifying an alternative contact.
3. Deposits given to the AOC Division of Accounting should be secured in an envelope and include:
   a. AOC 503.1 Daily Cash Settlement Sheet and copy of closeout report, if applicable;
   b. Calculator tapes as referenced on AOC 503.1; and
   c. Cash, checks, money orders and credit card slips.
      Note: Checks must be made payable to the Kentucky State Treasurer. Checks without "Kentucky" or "KY" on the pay to the order line will be returned to the department.
      Note: Money orders should be included in check totals.
4. Preparer must be present while cash is being verified by the Division of Accounting. Both the Preparer and the Division of Accounting must sign the verification of cash deposit located on the bottom of the Daily Cash Settlement Sheet Form (AOC 503.1)."

Of the 16 Daily Cash Settlement Sheets provided and reviewed, four included cash deposits. Although AOC Deposit Procedures state the verification of cash deposit located at the bottom of the Daily Cash Settlement Sheet should be signed by the preparer from the department and the Division of Accounting and Purchasing, none of the sheets were signed.

Sales Tax Inconsistently Collected

Sales tax was inconsistently collected on sales associated with the surplus property in calendar years 2016 and 2017; only $205.86 was collected in sales tax while $461.88 should have been collected. According to AOC, sales tax was collected on sales but not submitted to the Department of Revenue; however, 13 transactions were identified in which it appears a total of $256.02 in sales tax was not collected. A review of 19 transactions paid by check or money order during the October 2016 sale indicates sales tax was collected on the items sold varying from furniture to electronics. However, $156.48 in sales tax was not collected from ten transactions occurring in December 2016 and January 2017, which included weapons and surplus furniture. Sales tax should have been collected on all sales associated with surplus property with the exception of vehicles. For vehicles sold, the customer sales receipts for vehicles indicate, "The customer will pay sales tax at the county clerk's office."

The Division of Surplus Property Guidebook states, "The 6% sales tax must be charged to any buyer not tax exempt from paying sales tax. Agency is responsible for reporting and paying the tax collected to the Department of Revenue."

The sales tax inconsistently collected was not remitted to the Department of Revenue following the October 2016 and March 2017 surplus sales. The former manager of the Division of Accounting and Purchasing noted on March 6, 2018 that she did not have any sales tax report given to her during FY 2016 and FY 2017. KRS 139.550(2) requires "[f]or purposes of the sales tax, a return shall be filed by every retailer or seller" and establishes expectations for timely sales tax reporting. The Division of Auditing Services completed the deposits for surplus sales but noted that the Division of Accounting and Purchasing did not realize deposits included sales tax. As a result, the Division of Auditing Services submitted to the Division of Accounting and Purchasing the dollar amount of sales tax charged for 2016 and 2017 calendar years on March 16, 2018. The former Manager of the Division of Accounting and Purchasing indicated she had not been involved in discussions regarding sales tax since 2013.

Recommendations

We recommend AOC comply with FAP 120-24-00 by depositing cash, checks, and other negotiable instruments in the State Treasury on the same day of receipt. Additionally, we recommend AOC comply with KRS 41.070 by adequately recording each amount received, the source of receipt, and the date received. Furthermore, we recommend AOC update and comply with the AOC Deposit Instructions, which were most recently revised in August 2013. The updated AOC Deposit Instructions should then be communicated to the Division of Accounting and Purchasing staff as well as individual departments which receive money.

We recommend AOC collect sales tax on all sales associated with surplus property as well as remit the tax collected to the Department of Revenue as specified in the Division of Surplus Property Guidebook. Furthermore, we recommend AOC comply with KRS 139.550 by filing a sales tax return.

Finding 9: AOC Does Not Follow Its Information Technology Sanitization Policy, Which Has Been in "Draft" Form Since 2009

AOC did not maintain the required records for all surplused equipment and did not perform the required sanitization of information technology (IT) equipment before surplus of leased equipment. The Department of Information and Technology Services (ITS) submits the "Record of IT Equipment Sanitization" form with sanitized equipment to the AOC warehouse for surplus, but does not maintain a copy for their records. Also, the internal hard drives of leased Lexmark Multi-Function Printers (MFPs) and copiers have not been sanitized properly before being returned to the supplier since November 2014.

Surplused Equipment

The "Record of IT Equipment Sanitization" form is submitted with the sanitized equipment to the warehouse for surplus, but neither ITS nor the warehouse maintain a copy for their records. Decommissioned IT equipment is sanitized in the field by ITS staff (Field Service Technicians). Then, the equipment and a list of all surplused items are returned to the AOC warehouse. For each sanitized item, a "Record of IT Equipment Sanitization" form is completed and provided to warehouse staff. In addition, an "ITS Surplus Inventory Sign-In/Out Sheet" is used to log the activity of surplus IT equipment sent to the warehouse. A list of surplus ITS equipment from July 1, 2015 to date was provided, but when a log of the sanitized equipment was requested, auditors were informed ITS does not maintain a log.

IT sanitization refers to permanently deleting data from memory storage devices, such as hard drives.

According to ITS staff, the *Kentucky Court of Justice Draft Sanitization & Electronic Data Disposal Policy* is used and considered AOC's procedural policy for sanitizing surplus equipment. Although the policy was last updated December 29, 2009 and is in draft form, the policy recommends that a record be kept for all sanitization procedures when equipment is surplused. "Prior to submitting surplus forms (B217-1: Declared Surplus) to the agency's appropriate organizational unit, the sanitizing process must be documented on an additional form that explicitly outlines the method(s) used to expunge the data from the storage media, the type of equipment/media being sanitized, the name of the individual requesting sanitization, and the name of the person responsible for the sanitization."

In addition, the *Kentucky Court of Justice Draft Sanitization & Electronic Data Disposal Policy* states, "a complete record must be maintained in a central location designated by the agency. This information must be maintained as outlined by the records retention schedule." State Agency Records Retention Schedule Series 20057 Asset/Equipment Inventory File, states the Retention and Disposition of contents are to be destroyed eight years after an internal audit. The "Record of IT Equipment Sanitization" forms requested fall within the eight-year retention period, but the files were still not available upon request.

Leased MFP s and Copiers

According to AOC, leased MFPs and copiers are the only items not sanitized and brought to the warehouse to be stored as surplus by ITS staff (Field Service Technicians). Initially, auditors were informed that an outside vendor picks up the equipment and sanitizes the hard drive of all leased MFP and copier returns as part of the existing contract. However, when asked for documentation regarding the vendor's sanitizing, ITS indicated the vendor does not sanitize the equipment but has provided an "end of life" disk wipe process for all copiers instead. On November 13, 2017, AOC began conducting an end of life disk wipe process. Hard drives are wiped or pulled upon the end of life of all models of MFPs based on a process provided by Lexmark. As a result, the internal hard drives of surplused Lexmark MFPs and copiers leased from the contractor were not properly sanitized between November 2014 and November 2017.

Recommendations

We recommend AOC update and finalize the *Kentucky Court of Justice Draft Sanitization & Electronic Data Disposal Policy*. ITS staff with authority to assess whether decommissioned IT equipment should return to stock or be surplused, and those staff who sanitize equipment, should receive formal training and be provided a copy of the policy. In addition, we recommend AOC maintain records for all sanitization procedures including surplused equipment in a central location such as the ITS Department, and be maintained as outlined by the records retention schedule.

CHAPTER IV: EMPLOYEE TRANSACTION CONTROLS

This chapter identifies problems with employee expenses, reimbursements, mileage, and fringe benefits. Many of these administrative expenses and benefits are incurred by senior management and elected officials. While elected officials cannot always be disciplined or terminated in the same manner as other personnel, AOC may impose administrative consequences for failure to abide by policy, including loss of privileges such as take-home vehicles or agency credit cards. These consequences are necessary tools to ensure public assets are used properly.

Finding 10: Numerous Weaknesses in Travel and Expense Reimbursement Policies Have Led to Confusion and Inconsistent Application

Kentucky Court of Justice (KCOJ) policies governing the travel and expense reimbursement process are vague and confusing, allowing for significant interpretation. Furthermore, the policies applicable to an individual vary based on the role of the individual at KCOJ. These weak and inconsistent policies, along with inconsistent application of the policies, led to a variety of testing exceptions when auditors examined a sample of 350 travel and expense reimbursements, totaling approximately $154,550, processed between July 1, 2015 and June 30, 2017. In that period of time, primarily two AOC personnel processed over $6 million in travel and expense reimbursement vouchers submitted by AOC personnel, Supreme Court Justices, and other elected and appointed KCOJ officials from across the Commonwealth, with rules differing depending on the position of the individual traveler. Given the magnitude of reimbursements processed by AOC, it is imperative for policies and controls to be strengthened to provide better guidance to personnel and accountability to the public for the use of these funds.

Four separate documents provide guidance for the AOC travel and expense reimbursement process: (1) Supreme Court (SC) Order 2011-10, which establishes the KCOJ administrative procedures for travel reimbursements; (2) KCOJ Policy for Reimbursement for Justices' & Judges' Administrative Expenses; (3) KCOJ Policy for Reimbursement for Kentucky Bar Association Annual Membership Dues; and (4) KCOJ Policy for Cellular Technology. While separate and distinct documents, each provides parameters within which different expenses may be reimbursed. Regardless of the type of expense, all expense reimbursements are to be processed through an "AOC-T" travel voucher form, and those requesting a reimbursement are required to sign the form certifying that the charges are business related, proper expenses, and that the information provided is true to the best of their knowledge.

Travel and expense reimbursement policies are dispersed among four different documents, are ambiguous, and appear to be inconsistent.

Travel voucher forms examined often contained both travel and non-travel related expenses concurrently. Because various expenses may be included on a single voucher, and the rules to be applied to each voucher may vary depending on the position of the individual submitting the request or the item for which reimbursement is being requested, the process of examining travel and expense reimbursement requests was difficult. Furthermore, language contained in the guidance was not always clear and on occasion appeared to be

inconsistent, even in the same document, creating further ambiguity as to what was allowed as a reimbursable expense.

Ambiguous and Conflicting Policy Language

Examples of ambiguous language were identified in SC Order 2011-10 and the KCOJ Policy for Reimbursement for Justices' & Judges' Administrative Expense. For example, SC Order 2011-10 Section III.3.c details the following hours during which meals may be reimbursed to persons receiving reimbursement from KCOJ:

Breakfast:	authorized travel 6:30 a.m. through 9:00 a.m. - $6.00
Lunch:	authorized travel 11:00 a.m. through 2:00 p.m. - $9.00
Dinner:	authorized travel 5:00 p.m. through 9:00 p.m. - $15.00

While the per diem rates for in-state travel are currently less than those received by executive branch employees, the hours identified for each meal period are the same as those identified for executive branch employees in 200 KAR 2:006. Testing identified 21 reimbursement vouchers that contained one or more meal per diems reimbursed to individuals who were not in travel status the entire meal period, meaning, for example, that an employee recording a travel end time of 5:30 PM or 6:00 PM would receive $15 for dinner. By comparison, executive branch employees and officials are required by 200 KAR 2:006 to be in travel status during the entire duration of the meal period to receive the per diem for that meal.

Another example identified relates to local lodging for Supreme Court Justices. While SC Order 2011-10 Section V provides guidance regarding the reimbursement of meal expenses to Supreme Court Justices, the Order does not address lodging for Supreme Court Justices. As such, it would be assumed that in-state lodging provided to the Supreme Court Justices would follow the procedures established under Section III of the same Order, which states "[l]odging expense incurred during official travel shall be reimbursable within the limits provided in these regulations." However, in practice, AOC allows Justices to alternatively request reimbursement for in-state travel at the federal lodging per diem rate applicable to the location stayed. During the periods reviewed for this examination, the federal lodging per diem rates applicable to the state of Kentucky varied from a minimum of $83 to a maximum of $136 per night. While testing found no Justice receiving more than the federal per diem for lodging, a question exists as to how the daily rate for those Justices renting or leasing space in Frankfort on a long-term basis should be calculated. Depending on the total lodging costs, the calculation may impact the amount reimbursed to the individual.

Proposed Revisions to Lodging Reimbursement Policy

Federal regulations allow the daily rate for long-term rentals to be calculated by dividing the total rental cost for the period by the days in which individuals are eligible for per diem, not to exceed the daily maximum per diem for lodging. In 2017, the former Manager of the Division of Accounting and Purchasing made recommendations to the Supreme Court to revise travel guidance language. The proposed calculation would divide the total rental cost by the number of days in

the rental period, not to exceed the maximum daily federal lodging per diem rate. If this formula were applied, it could reduce the amount reimbursed to Justices for long-term rentals or leases. According to the former Manager of the Division of Accounting and Purchasing, a majority of the Justices have voted not to adopt the proposed change, even though the Chief Justice has voted in favor of the new policy. For discussion of policymaking issues, see Finding 2 (page 14).

Analysis of Lease Costs for Supreme Court Justice

AOC is not aware of the actual lodging costs for each Justice, so auditors were unable to determine potential cost savings in all cases. However, AOC did provide a lease agreement related to one Supreme Court Justice, which allowed for an analysis of that particular lease. Auditors compared this Justice's rental costs to the per diem reimbursement. At $800 per month, the actual cost of occupancy would be approximately $26.30 per day, while the per diem rates paid for lodging in Frankfort during the period examined varied from $83-91. This Justice's lease agreement states that the landlord is responsible "for all utilities and services required on the Premises." Figure 9 below compares the actual amount paid using the federal per diem reimbursement rate to the actual cost based on the lease amount for this Justice.

Figure 9: Comparison of Lease Cost to Reimbursed Amounts

FY16				
Month	Number of Travel Days	Lease Cost*	Amount Reimbursed by AOC **	Justice's Letter***
July	2	$ 52.60	$ 166.00	$ 207.80
August	7	$ 184.10	$ 581.00	$ 727.30
September	12	$ 315.60	$ 996.00	$ 1,246.80
October	8	$ 210.40	$ 712.00	$ 831.20
November	4	$ 105.20	$ 356.00	$ 415.60
December	8	$ 210.40	$ 712.00	$ 831.20
January	8	$ 210.40	$ 712.00	$ 831.20
February	11	$ 289.30	$ 979.00	$ 1,142.90
March	8	$ 210.40	$ 712.00	$ 831.20
April	6	$ 157.80	$ 534.00	$ 623.40
May	8	$ 210.40	$ 712.00	$ 831.20
June	9	$ 236.70	$ 801.00	$ 935.10
Total	**91**	**$ 2,393.30**	**$ 7,973.00**	**$ 9,454.90**

FY17				
Month	Number of Travel Days	Lease Cost*	Amount Reimbursed by AOC **	Justice's Letter***
July	8	$ 210.40	$ 712.00	$ 831.20
August	9	$ 236.70	$ 801.00	$ 935.10
September	8	$ 210.40	$ 712.00	$ 831.20
October	12	$ 315.60	$ 1,068.00	$ 1,246.80
November	9	$ 236.70	$ 801.00	$ 935.10
December	8	$ 210.40	$ 712.00	$ 831.20
January	2	$ 52.60	$ 178.00	$ 207.80
February	13	$ 341.90	$ 1,157.00	$ 1,350.70
March	8	$ 210.40	$ 712.00	$ 831.20
April	8	$ 210.40	$ 712.00	$ 831.20
May	2	$ 52.60	$ 182.00	$ 207.80
June	7	$ 184.10	$ 637.00	$ 727.30
Total	**94**	**$ 2,472.20**	**$ 8,384.00**	**$ 9,766.60**

*Lease cost analysis is consistent with the proposed policy. It is based on the number of days in Frankfort multiplied by $26.30/day (which is based on $800/month rent for 12 months, divided by 365 days).
**Actual amount paid is based on the federal per diem rates claimed on travel vouchers for days stayed.
***Justice's letter amounts are based on his calculation at Appendix E: Justice Letter Regarding Local Lease.
Source: Auditor of Public Accounts based on Administrative Office of the Courts Reimbursement Records, Justice's Lease Agreement, and Justice's letter to Accounting Manager.

As shown in Figure 9, if the calculation were paid based on the lease cost for this Justice, the savings to AOC in fiscal year 2016 would have been $5,578.70 and in fiscal year 2017 $5,911.80. The policy proposed by the former Manager of the Division of Accounting and Purchasing would have resulted in these savings. However, as shown at Appendix E: Justice Letter Regarding Local Lease, the Justice stated in his letter to the former Manager of the Division of Accounting and Purchasing that his current reimbursement fell "short of [his] monthly expenses for lodging." The Justice's calculations would have resulted in a reimbursement of $9,454.90 in

fiscal year 2016 and $9,766.60 in fiscal year 2017. See Finding 2 (page 14) for comments regarding policymaking issues with the Supreme Court acting as a whole.

Cell Phone Reimbursement Policies are Incomplete for Employees

Another example of unclear guidance relates to reimbursements made by AOC for cell phone plans. KCOJ permits Justices, judges, and eligible employees to receive reimbursement for cell phone plans. For Justices and judges, the reimbursement amount may be up to $50 per month; other eligible employees may receive $15 per month. KCOJ Policy for Reimbursement for Justices' & Judges' Administrative Expenses states "[i]nvoice summary sheet must be submitted" for cell phone reimbursements. The policy later states, "[a] receipt of payment or invoice issued by the supplier or service provider must be submitted." KCOJ Policy for Cellular Technology provides no guidance to employees on the documentation required to be submitted by eligible employees to receive reimbursement. In the absence of any other policy guidance, AOC's practice appears to follow the same policy for employees that it established specifically for Justices and judges.

Expense reimbursements for all Justices are shown in Appendix F: Reimbursements Received by Justices in Fiscal Years 2016 and 2017. This appendix does not reflect any direct payments made by AOC, such as for actual lodging costs at a hotel.

Policy Dependent on Individual's Role

SC Order 2011-10, applies "to all persons receiving travel reimbursement from the Kentucky Court of Justice." However in this guidance, there are occasions when a distinction is made to indicate that a section of the policy may only apply to a particular group or groups of individuals. While it may be appropriate at times for a distinction to be made in policy, other distinctions do not appear reasonable.

One example is in SC Order 2011-10 Section VII.2, which sets forth the requirements for preparation of travel expense vouchers. Section VII.2.e requires employee reimbursement requests "be signed and dated by the employee and approved by the employee's authorized supervisor." However, Section VII.2.f states, "[e]lected or appointed official's travel reimbursement request shall be approved in accordance with procedures established by the Director of the AOC." While not identified in writing, it is AOC practice to allow elected or appointed officials, as well as the AOC Director, to submit reimbursement requests directly to the Division of Accounting and Purchasing with no additional level of authorization prior to processing. The responsibility to allow or disallow expenditures based on policy falls solely on staff processing the voucher for payment. However, those staff have not been given that authority in the policy. Given the volume of vouchers processed each year, this greatly increases the risk that expenses that would otherwise be questioned are processed and paid.

As mentioned previously, SC Order 2011-10 also provides for a distinction when claiming meal per diems. Section III.3.c provides meal reimbursement rates by which employees or elected/appointed officials are eligible to be reimbursed. The "[m]aximum allowable per diem is thirty dollars ($30.00) per twenty-four (24) hour day, inclusive of sales tax and gratuity." For Supreme Court justices, Section V allows each Justice to claim federal per diem "not to exceed the federal per diem allowed for the locality where the overnight stay occurs." During the periods reviewed for this examination, the daily federal meal per diem rates applicable to the state of Kentucky varied from a minimum of $46 to a maximum of $69, compared with a maximum daily rate of $30 for all other elected and appointed officials and employees. It is unclear why a higher in-state meal per diem is justified for Justices. Despite this more generous policy, testing identified 5 vouchers submitted by two Supreme Court justices in which they requested and received reimbursement for meal per diem at the lower rates presented in Section III.3.c for employees and other elected/appointed officials.

The daily meal per diem for Supreme Court Justices is $46 to $69, depending on location, while the per diem for all other AOC employees is $30.

SC Order 2011-10 Section III.3.a requires "[a]n employee or elected/appointed official" to be in overnight travel status to be eligible to receive a meal per diem and does not identify any exceptions. However, Section V.2 then states, "[s]taff of each justice may claim meals during court week without an overnight stay" and stipulates that meals without an overnight stay should be reported in accordance with IRS regulations. While guidance clearly indicates the exemption in policy was made for staff of Supreme Court Justices, testing found two Justices on more than one occasion claimed, and were awarded, a meal during court week without overnight stay.

Another distinction in policy that appeared confusing relates to membership dues which KCOJ will cover for Justices and judges but not for circuit court clerks or non-elected employees. KCOJ Policy for Reimbursement for Justices' & Judges' Administrative Expenses allows for reimbursement of "Kentucky Bar Association membership or section dues" and states that reimbursement requests must be submitted "no later than 90 days after payment of administrative expenses" and provides no consequence for late submission. KCOJ Policy for Reimbursement for Kentucky Bar Association Annual Membership Dues applies to circuit court clerks and non-elected employees of KCOJ and allows reimbursement of KBA dues but precludes reimbursement of section dues and requires that requests be submitted "no later than 60 days after payment of dues to the KBA." If a request is submitted after November 15 of each year, the policy states that the request will be denied.

Particular Testing Exceptions

Auditors tested a sample of 350 vouchers totaling approximately $154,550 from the vouchers processed by AOC between July 1, 2015 and June 30, 2017. In addition to the exceptions previously mentioned in this finding, testing identified a variety of different issues including, but not limited to:

- Sixty-six (66), or 18.8%, of reimbursement requests examined lacked key information required to determine traveler's eligibility for reimbursement, such as a stated purpose for the travel, destination, and arrival times when meals or lodging are requested.
- Eighteen (18) requests having either no documentation or inadequate documentation to support a portion of the reimbursement.
- Federal rates used for first and last day of travel were not always calculated at 75% as recommended by federal per diem rules.
- Three instances where the individual did not use the closest of work or home to destination to calculate mileage as required by policy.
- Two requests submitted by the AOC Director in which a portion of the reimbursement request included expenses previously paid by AOC directly through the use of an AOC credit card.

It is evident that AOC policies governing allowable reimbursable expenses are not definitive enough to ensure appropriate use of public funds in a manner that is equitable to all individuals covered.

Recommendations

We recommend KCOJ revise its travel and expense policies to address vague or inconsistent policy language. Once revised, the new policies should be distributed to all KCOJ staff and officials. Mandatory training should also be provided on the revised policies to ensure those submitting requests and those processing requests receive the same level of explanation and detail. AOC should then develop clear procedures to ensure consistent application of the policy.

We recommend AOC staff consistently apply all enacted policies and that all deviations from those policies be documented in writing and maintained. We recommend AOC staff not process for payment any request containing an insufficient level of detail such as: a valid and clear business purpose, travel departure and arrival times, destination addresses, or description of the item for which reimbursement is being requested. Additionally, AOC should not process for payment any requests that do not have adequate supporting documentation.

Furthermore, it is in the best interest of AOC to ensure all requests submitted have been reviewed by a second party. Review is an important control to prevent abuse of public funds. For elected officials, AOC should designate a reviewer for administrative matters. For example, Chief Regional Circuit Judges, an AOC Director or Deputy Director, could be assigned as reviewers for various elected officials.

We recommend AOC policies and expense reimbursements such as per diems be set at the same level for all employees and elected officials, unless there is a legitimate business reason for variation.

Finding 11: AOC Failed to Provide Guidance or Establish Sufficient Controls to Properly Monitor the Use of Agency-Issued Credit Cards

AOC has not instituted internal policies specific to the use of American Express credit cards and does not require cardholders to sign an agreement when being issued a card. AOC has failed to outline the expectations of the agency regarding the use of these cards. Typically, cardholder agreements provide purchasing limits and guidelines, such as stating cards are for business-related purchases only, merchant receipts or other documentation are required to be submitted as support for all charges, and items must be approved prior to purchase. These common requirements were not met for the 132 credit card transactions that auditors examined.

During the period examined, there were three cardholders – the Chief Justice, Chief of Staff for the Chief Justice, and the AOC Director. No monthly, daily, or transaction dollar limitations were placed on any of the three credit cards. From a total population of 382 transactions, auditors reviewed 50 transactions of the Chief Justice, 15 transactions of the Chief of Staff, and 67 transactions of the AOC Director. All transactions were coded to either in-state or out-of-state travel. The AOC Division of Accounting & Purchasing Manager stated that while pre-approval for use of the American Express card is not required, an out-of-state authorization request (AOC-T-3) form must be on file prior to the card being used for out-of-state travel. Our review showed all 132 transactions lacked pre-approvals in any form (Purchase Orders, emails, Commodity/Service Request (AOC-3) forms, etc.), and all but three lacked approval after the purchase from someone other than the cardholder or the cardholder's assistant.

Lack of Documentation for Majority of Purchases

> Most of the credit card transactions by key officials that auditors examined lacked supporting documentation.

The lack of pre-approval or review by another individual to confirm necessity is amplified by the fact that 123 of the 132 transactions lacked sufficient documentation to explain the purpose of the transaction, who was in attendance for meals purchased, or what was purchased. All but one of those 123 transactions failed to have any supporting documentation on file. Expenses should not be approved without receipts or adequate justification; however, all transactions were paid for, at least initially, by AOC. Twenty-three of the transactions were noted as having been reimbursed to AOC by personal check from the cardholder or another organization. This included 14 charges for airfare or baggage service attributable to the spouse of the Chief Justice. See Appendix G: Credit Card Holder Reimbursements made to AOC in Fiscal Years 2016 and 2017 for additional detail.

While the Chief Justice did reimburse AOC for each of these transactions, reimbursements were not always made to AOC within the same or following monthly credit cycle. For example, in August 1, 2017, during our examination, the Chief Justice reimbursed AOC just over $1,000 for expenses from February 2015 through July 2017. Although the Chief Justice had made other reimbursements periodically throughout that period of time, Chief of Staff for the Chief Justice stated this additional reimbursement was made after media inquiry "out of an abundance of caution given the absence of any specific policies or guidance on the use of the AOC-issued American

Express cards." The Chief Justice and his Chief of Staff stated that no guidance, policy, or cardholder agreement had been given to them when they were provided a credit card. While the Chief of Staff believes the original charges which the Chief Justice reimbursed on August 1, 2017 were KCOJ-related, she stated that the Chief Justice "nonetheless wanted to avoid any potential for the appearance of impropriety."

Local Meals Purchased with Public Funds

Additionally, there were twenty-one instances of transactions occurring at local restaurants using the AOC Director's card. Supreme Court Order 2011-10, Section III requires employees to be traveling to receive meal reimbursements, at a rate not to exceed the per diem established in the policy. By comparison, executive branch employees and officials are also required by 200 KAR 2:006 to be in travel status to receive per diem for meals. AOC employees did not reimburse AOC for any of these purchases, and only four of them had an explanation or purpose noted. A complete list of these transactions follows in Figure 10.

Figure 10: Charges to the Director's Card at Local Restaurants (Frankfort, KY)

Date	Vendor	Amount	Purpose
8/15/2015	Panera Bread	$ 34.28	None stated.
8/22/2015	Panera Bread	$ 33.25	None stated.
8/22/2015	Panera Bread	$ 3.17	None stated.
10/21/2015	Panera Bread	$ 17.66	None stated.
1/15/2016	Panera Bread	$ 47.18	None stated.
1/27/2016	Panera Bread	$ 15.02	None stated.
2/5/2016	Longhorn Steakhouse	$ 37.33	None stated.
3/21/2016	Johnny Carino's	$ 69.07	None stated.
4/29/2016	Sage Garden Café	$ 54.00	None stated.
6/23/2016	Panera Bread	$ 49.80	None stated.
9/21/2016	Thai Smile	$ 41.29	None stated.
11/5/2016	Starbucks Store	$ 6.25	None stated.
1/4/2017	Capital Annex Cafeteria	$ 13.99	None stated.
2/8/2017	Gibby's	$ 18.18	None stated.
2/9/2017	Panera Bread	$ 29.10	None stated.
2/16/2017	Ginza Japanese Cuisine	$ 87.00	None stated.
3/23/2017	Panera Bread	$ 185.68	15 boxed lunches for meeting on 3/22
5/2/2017	Panera Bread	$ 44.22	None stated.
5/26/2017	Longhorn Steakhouse	$ 38.08	Meeting with Justices
6/17/2017	Domino's	$ 206.31	Food for pretrial meeting
6/17/2017	McDonalds	$ 12.68	Gallon tea - drinks for pretrial meeting
	TOTAL CHARGED	**$ 1,043.54**	

Source: Auditor of Public Accounts based on documentation provided by the Administrative Office of the Courts.

Retirement Celebration Provided with Public Funds

The Chief Justice used his American Express credit card to pay $1,316.19 for a reception catered by a local bakery for an outgoing Supreme Court Justice. KCOJ Policy entitled Purchasing Guidelines limits retirement awards to $25 each, but does not specifically address retirement parties. Although not guidance AOC specifically indicated that it follows, FAP 120-23-00 issued by the Kentucky Finance and Administration Cabinet for executive branch agencies identifies employee parties, including retirement receptions, as an example of unallowable uses of public funds.

Recommendations

We recommend AOC develop, at a minimum, a cardholder agreement to be signed by all individuals issued a credit card. Cardholders should not use their cards to make personal purchases, even when cardholders intend to repay personal charges at a later date. Cardholders should submit supporting documentation for all purchases made using their card. Supporting documentation should include detailed merchant receipts or invoices, clearly identifying the name of the vendor, the date of the charge and the items purchased. Purchases of food when not in travel status should be prohibited. All transactions deemed necessary should include a written description of purpose and list of all recipients of food. AOC should provide cardholders with a list of unallowable items such as entertainment, gifts, alcohol. Elected officials should be required to follow AOC administrative policies.

Finding 12: AOC Did Not Ensure Accurate and Timely Reporting of Taxable Personal Benefits from Take-Home Vehicles Assigned to Justices and Other AOC Personnel

AOC did not consistently or correctly report $15,744.72 in additional personal benefit income of officials and employees to the IRS. AOC owns 59 fleet vehicles, with 21 assigned to officials and employees as take-home vehicles. The 21 officials and employees assigned take-home vehicles did not submit vehicle personal use information quarterly as required by AOC. Improper reporting of taxable benefits prevents AOC from fully complying with IRS reporting requirements and could result in incorrect reporting of taxable benefits by individual employees. Additionally, adequate records of vehicles are not maintained, and vehicle maintenance logs are not kept up to date.

AOC elects to calculate personal use by annual lease value. IRS Publication 15-B states the annual lease value of an automobile is figured as follows:

1. Determine the FMV [fair market value] of the automobile on the first date it is available to any employee for personal use.
2. Using the IRS Annual Lease Value Table, read down column (1) until you come to the dollar range within which the FMV of the automobile falls. Then read across to column (2) to find the annual lease value.
3. Multiply the annual lease value by the percentage of personal miles out of total miles driven by the employee.

Auditors requested all available taxable benefit forms submitted and processed by AOC for the period July 1, 2015 through June 30, 2017. Auditors were provided with records for mileage reported primarily through October 2017. As will be discussed later in this finding, one form was submitted and provided to auditors with mileage reported through December 2017. A total of 44 completed Taxable Benefit forms were provided by AOC.

Taxable Benefits Were Calculated Incorrectly

AOC staff responsible for calculating the taxable benefit of take home vehicles did not have sufficient guidance to ensure the calculations were performed correctly. The responsibility for calculating taxable benefits transitioned from the Department of Administrative Services to the Division of Accounting and Purchasing sometime in late summer or fall of 2016. Of the 44 forms submitted for review, 43 had incorrectly calculated benefits. Almost all of the total taxable calculation errors were due to AOC staff dividing the annual lease value by the number of months in the period instead of the fraction of the year the period comprised. For example, if the period was six months, per AOC calculations it would be divided by six, but it should have been divided by two because the period comprised one half of the year. These calculation errors resulted in a total amount of $10,395.51 not accounted for in AOC's taxable benefit calculations.

Taxable Benefits Were Underreported

Additionally, not all taxable benefits examined were recorded in the Kentucky Human Resource Information System (KHRIS) in order to be reflected in the individual's gross wages. After calculations are performed, Division of Accounting and Purchasing staff send the data to the Department of Human Resources to be entered in KHRIS. Based on the records provided, a total amount of $11,639.81 was calculated in taxable benefits for officials and employees by AOC for the period July 1, 2015 through June 30, 2017; however, the total taxable benefits reported in KHRIS for the same period were $6,290.60. As a result, $5,349.21 of total taxable benefits were not reported in KHRIS based on AOC calculations. Factoring in the errors identified in AOC calculations during the period, the actual amount by which AOC has underreported these taxable benefits on W-2 statements is $15,744.72.

AOC underreported $15,744.72 in employee personal mileage and did not collect or maintain adequate records.

Records Were Not Maintained per IRS Requirements

According to AOC, since 1987 the annual lease valuation rule has been used to determine the personal use value of state-provided vehicles to court officials or employees. The IRS requires adequate records be kept to substantiate the business and personal use of the vehicle. The official or employee must keep other records, which include, at a minimum, time and place of each business use, mileage, and the business purpose. AOC did not require these records to be submitted or maintained, and they were not. If such records are not kept, then the IRS can consider the entire use of the vehicle as personal rather than business use, unless proven otherwise by the taxpayer/employee.

Lapses in Reporting of Personal Mileage for Fleet Vehicles

Seventeen instances were identified in which the information needed to determine the personal use of the state-owned vehicle was not provided or submitted. One official, a Supreme Court Justice, did not submit any required information during the examination period and has been assigned a state-owned vehicle since March 8, 2016. After auditors confirmed documentation of vehicle usage had not been submitted, the required information was submitted on January 12, 2018, for the period of July 25, 2016, to December 31, 2017. The period of March 8, 2016, to July 24, 2016, was not accounted for; therefore, any mileage during that period of time could be considered as taxable under IRS rules. Even though the information that was submitted was for a seventeen-month period, the report of personal usage was reported down to the tenth of a mile.

One Justice reported personal mileage for a seventeen-month period after auditor inquiry.

AOC's Vehicle Use Policy requires all personal mileage be accounted for and submitted monthly; however, staff indicated this was changed to quarterly. There is no evidence the policy was updated to reflect the change, and in fact, none were submitted on a monthly or even quarterly basis. Staff acknowledged there is no consistency in the taxable benefit reporting periods; sometimes as little as a month was reported while other times an entire year was reported.

Staff responsible for the taxable benefit process rely on Fleet Management to provide information as to who is assigned state-owned vehicles and do not have the dates which individuals are initially assigned vehicles. This information is critical in determining when the individual should be reporting taxable vehicle benefits. Without this information, errors will occur. Additionally, Department of Human Resources staff responsible for entering vehicle use in KHRIS to be reflected in gross wages are not provided a list of the individuals assigned take-home vehicles to ensure the taxable vehicle use benefit for all individuals is entered in KHRIS.

AOC does not maintain adequate records of vehicles, and maintenance logs are not kept up to date. The Vehicle Use Policy also requires drivers of assigned vehicles, with assistance from Department of Administrative Services staff, to ensure the vehicle receives timely required and approved service and maintenance. The supporting documentation for some maintenance expenses was maintained and provided, but ten expenses identified were not entered in the maintenance logs used to track maintenance on each vehicle.

Recommendations

We recommend AOC update its vehicle use policy to reflect current operations and expectations of individuals assigned a take-home vehicle. In this policy, we recommend AOC establish penalties for failure to complete and submit, in a timely manner, the required reporting of personal usage to AOC. Appropriate penalties could include all mileage being reported as taxable or loss of take-home vehicle privileges. These consequences should apply equally to elected officials at all levels as well as staff. Once policies are finalized, they should be distributed to those responsible for processing the personal benefit forms and those assigned a take-home

vehicle. Finally, these individuals should be trained on the new policies and AOC should provide sufficient oversight to ensure the policies are followed.

We further recommend AOC revise its procedures to ensure a review of taxable benefit calculations is performed by a second employee before adding the benefit to the individual's tax statement. Also, procedures should ensure that Human Resources staff are informed of individuals who are assigned take-home vehicles so that any taxable benefit is reported appropriately on the employee's W-2 tax documents.

This finding will be referred to the Kentucky Department of Revenue and the Internal Revenue Service. We recommend AOC work with the Kentucky Department of Revenue and Internal Revenue Service to determine how to properly address any potential tax reporting issues resulting from the miscalculations and inconsistent reporting of benefits.

Finding 13: ProCard Policies Are Applied Inconsistently and Transactions Lack Adequate Controls

Twelve out of 100 procurement card (ProCard) transactions examined lacked adequate supporting documentation, many lacked pre-approval, and one transaction resulted in misuse of public funds. ProCard holders did not consistently follow AOC policy and that policy was not consistently applied to all departments. Between July 1, 2015 and June 30, 2017, AOC management assigned ProCards to 31 employees. Nineteen ProCards were still active at the time of our examination. The ProCards had monthly limits associated with them ranging from $500 to $65,000. Three of the 19 ProCard holders were restricted to travel-related purchases only.

ProCards are the agency-issued equivalent of credit cards. These cards are typically issued based on an employee's need to purchase agency-related goods and services. Although the card is issued in the name of the employee, it is considered state property and should only be used for agency purchases. Auditors reviewed 100 ProCard purchases. Twelve of these transactions lacked adequate supporting documentation to show the date, location, and items purchased. Seven of the twelve purchases had no documented support for the purchase, and five had inadequate support that did not fully explain the date and location of the transaction or what was purchased. AOC's ProCard Cardholder Usage Agreement indicates that "(m)erchant receipts and documentation to support charges will be sent to my agency's program administrator." ProCard holders are also required to submit expenditure logs, with purpose and description noted, to the program administrator.

Gifts to Outside Parties Were Purchased With Public Funds

One purchase appeared to have no business purpose and was an inappropriate use of public funds. In March 2016, the AOC Director instructed an Accounting and Purchasing staff member to purchase 13 personalized 11-ounce Mint Julep cups to be presented to State Justice Institute board members at their next meeting. This purchase, which totaled $410.20, was a request made by the Chief Justice's spouse to the AOC Director. In 2016, the Chief Justice was nominated by the President and confirmed by the U.S. Senate to serve on the Board of Directors for the State

Justice Institute. The AOC Director noted that Kentucky was hosting the Board's meeting in April 2016 and it is customary for the host to provide a gift to the Board. Regardless, gifts to outside parties are not a legitimate business purpose for use of public funds.

Pre-Approval Policies Are Not Consistently Applied

The Cardholder Usage Agreement form signed by all ProCard holders states that "[e]ach item will be approved prior to purchase." However, the Manager of the Division of Accounting and Purchasing stated that ProCard purchases do not require purchase orders or documented approval prior to use, except for cardholders in the Division of Accounting & Purchasing, the Division of State Law Library, and the Department of Information and Technology Services. A review of 100 ProCard transactions showed that 58 lacked some form of pre-approval as required by the Cardholder Usage Agreement. Thirty-six of those 58 lacking pre-approval were from staff in the departments identified as requiring pre-approval by the Manager of the Division of Accounting and Purchasing. Therefore, there is a significant failure to follow written policy, as well as a significant failure to follow the stated practice that is less stringent than the policy.

ProCard users are not following written policy or practices regarding pre-approvals.

Because there are no pre-approvals for some purchases, it is unknown if users or their supervisors considered the impact on the budget prior to making a purchase. Lack of purchase orders could lead to purchased items not being included in the purchase order database and therefore often not included in AOC's electronic inventory system. See Finding 7 (page 34) for further details regarding the impact on inventory listings.

Recommendations

We recommend AOC not use AOC funds to purchase gifts. Either purchase orders or AOC-3 Commodity/Service Request Forms should be required for all purchases using a ProCard, except when the purchase is considered an emergency and cannot be delayed to seek approval. Furthermore, we recommend AOC amend purchasing policy and practices to apply consistently to all departments, specifically address these matters, and include consequences for noncompliance regarding unsupported purchases.

CHAPTER V: FACILITY CONTROLS

AOC assists in administering the judicial branch of state government in all 120 counties in Kentucky. This effort requires use and management of local facilities along with county governments and private lessors. These findings identify weaknesses in AOC's coordination of these facilities. Finding 14 primarily reflects a failure to follow existing policies, while Finding 15 primarily reflects a lack of formal policies. Both types of failure resulted in poor outcomes, inefficiencies, and the appearance of conflicts of interest.

Finding 14: AOC Did Not Comply with Its Own Policies for Procuring Leases, Resulting in Potential Bias and Conflicts of Interest in the Process

AOC did not consistently follow its own procurement policies and procedures to obtain private sector leases. Private sector leases (private leases) are used to house Court of Justice programs such as drug courts, pre-trial services, and Supreme Court offices, when government-owned facilities are not available or suitable. The process for evaluating and recommending private lease property for selection was the responsibility of the former Executive Officer of the Department of Administrative Services for the period of time examined. Auditors reviewed a sample of 16 lease agreements involving private owners that were active during fiscal years 2016 or 2017. The procurement of these leases consistently lacked documentation to support the requirements of the policies, evidence that competitive bidding was properly conducted, or the reason the selection was in the best interest of the Commonwealth. Several of these compliance exceptions occurred when AOC leased office space for a Supreme Court Justice from a company that was owned by the Justice's sons. Disclosure of this relationship was documented in the file, but AOC did not follow its established processes for entering into the lease. AOC policies and procedures require competitive bidding. While some relationships with AOC must be disclosed, the policies contain no provision prohibiting or addressing how conflicts of interest should be handled.

> Procurement files for private sector leases lacked evidence that competitive bidding was conducted in accordance with AOC policy.

From a population of 70 private leases in effect in FY 2016, and 66 in FY 2017, a sample of 16 were judgmentally selected to determine if AOC is obtaining private leases in compliance with adopted policies and procedures and whether these policies and procedures are adequate to ensure a competitive process. According to the AOC Facilities Manager, Supreme Court of Kentucky Order 2006-08, Order Amending Administrative Procedures of the Court of Justice (AP) Part V: Real Property Leases, contains the current AOC policies and procedures for procuring private leases.

Non-Compliance with Private Lease Policies

AOC is significantly noncompliant with its own policies and procedures, as summarized in Figure 11 below. The following table documents the compliance issues found for significant

requirements. There were instances for which these requirements were identified as not applicable (N/A), such as emergencies or when there was only one offer to consider.

Figure 11: Compliance with AOC Policy Requirements for Selected Requirements

Policy Requirement	Yes	No	Insufficient Evidence of Compliance	N/A
Space Request Form on File	1	13	-	2
Site Evaluation Report on File	-	14	-	2
Initial Proposals Received Within Specified Time	-	-	14	2
Final Offers Received Within Specified Time	-	-	15	1
Assessment of Final Proposals Documented	10	3	-	3
Reasons for Decision Documented	1	6	-	9
Files Document Budget's Concurrence	10	5	-	1
Involved Parties' Certification of No Policy Violations	-	16	-	-

Source: Policy requirements are based on Supreme Court of Kentucky Order 2006-08, Order Amending Administrative Procedures of the Court of Justice (AP) Part V: Real Property Leases.

Space Request Forms Not on File

Only one instance of a space request form was found in our review of 14 applicable private lease files. This form was completed in November 2003. While some email communications were on file, these did not specifically state the information provided in this form, and there was no documentation to support the Department of Budget's involvement. AOC Policy AP Part V, Section 3 states that when a "Court of Justice official or AOC Manager determines the need for new or additional space, a request for acquisition of space shall be submitted to the Director or General Manager. The request shall be in writing on a form prescribed by the Department. The form shall be submitted to the AOC Office of Budget and Policy for completion of funding information." This rarely occurred.

The response provided by AOC Facilities employees acknowledged that a request for space form had not been used for some time. Auditors were also informed that the Division of Facilities is in the process of developing an updated form that will be used in lieu of email requests for space. Staff provided a draft of a proposed space request form to document that a new form has been developed but not adopted.

Proposals and Final Offers Not Time or Date Stamped

As seen in Figure 11, there was insufficient evidence to determine whether the 14 applicable proposals and 15 final offers were received by the stated deadline. AOC advertisements for requests for proposals and communications requesting final offers specify a deadline for responding, but the proposals and offers were not time and date stamped to document compliance.

AP Part V requires a property owner to respond on or before the time and date designated by the AOC notice. Furthermore, the policy states that AOC will "deal only with individuals that have submitted written responses on or before the time and date designated in the notice unless no response has been submitted by that deadline."

AOC staff acknowledged that time and date stamping had not been used because all responses are opened publicly at the time and date designated. According to AOC staff, the responses received are logged at that time as required by policy and no responses received after that time are logged or considered. However, without date and time stamping, our review could not determine compliance with the deadline requirement.

Site Evaluation Report Not Documented

None of the 14 applicable files had a site evaluation report for the properties inspected either initially or for a final offer. AP Part V requires a "site evaluation report of the findings for each property inspected shall be kept on file by the Department." While there were notes as to when a site evaluation was performed and some files contained photos as evidence that someone had visited a site, there was no report to clearly document the facts found on the site visit so that these factors could be compared to other sites.

AOC staff stated that each offered site is evaluated and the recommendation memo lists the offer. However, there does not appear to be a practice of completing an actual site visit report to document the location and any common factors that are being considered in the selection process.

Assessment of Final Offers Not Documented

For 10 of the 13 applicable leases, the files contained a memo, referred to by AOC staff as the recommendation memo, which provided a brief summary of the process and properties offered, along with a recommendation. This memo was addressed to and signed by the AOC facilities manager at the time of lease. According to AOC policy, this memo is to be exclusively relied upon by the Director or designee in making the decision as to whether a proposal is in the best interest of the Commonwealth. The information in the memos did not facilitate a complete review of all the factors discussed in the file. AOC staff stated that, while this information was not included in the memo, the files contained the information that was being assessed.

Although an assessment is required by AOC policy, these memos are not discussed. AP Part V, Section 3(14) requires the following related to an assessment of final offers:

> (14) The General Manager shall assess the proposals, taking into account factors including, but not limited to: consultation with the Court of Justice official or Manager for whom the space is sought; the location and accessibility of the property; its condition and state of repair; its conformity with the requirements of occupational health and safety regulations; its conformity with applicable state fire, health, safety and sanitation requirements; the proposed rental rates; utility and janitorial costs; agency moving costs; and, whether the property proposed is in substantial conformity with the general and specific requirement specifications, including the proximity of the space to other Court of Justice space.

In addition to recommendation memos, some lease files had bidding sheets that appeared designed to assess multiple properties. However, the bidding sheets were typically incomplete and there was no indication that this sheet was shared with the facilities manager to assist in the selection process.

Reasons for Decision Not Documented

For six of the leases that had more than one final offer, there was no documented reason as to why the selection was in the best interest of the Commonwealth. While a recommendation may have been made to the current AOC Facilities Manager, the reason the Director or its designee selected the offer was not documented. By comparison, KRS 56.803(17) requires the Commissioner of the Department for Facilities Management to "put in writing the justifications for his decisions" when procuring lease space for the executive branch.

AP Part V, Section 3 requires the following related to this decision:

> (15) The Director, or his or her designee, relying exclusively on his or her assessment made pursuant to subsection (14) of this section, shall choose the best proposal in the interest of the Commonwealth; be permitted to negotiate with a potential lessor if he or she was the only responsive and responsible potential lessor who submitted a proposal; or except as provided in subsection (16) of this section, reject all proposals when none is in the Commonwealth's best interest to accept; and may, in his or her discretion, initiate the lease process again.
>
> (16) The lease shall be awarded to the person whose property, in the sound discretion of the Director, or his or her designee, most nearly satisfies the requirements. Upon the Director's, or his or her designee's, authority the General Manager shall award or decline to award a lease to the potential lessor who submitted the best proposal in accordance with this Rule. His or her recommendation shall be submitted to the AOC Office of Budget and Policy for concurrence. If after negotiations the potential lessor's proposal is not in the Commonwealth's best interest, the General Manager may make a recommendation to the Director and shall not award the lease if so authorized by the Director.

> Reasons for the decision made pursuant to subsections (14) and (15) of this Rule shall be in writing and kept on file by the Department.

Because the recommendation memos reviewed did not contain information on all of the factors involved for each offer, the Director or designee could not rely exclusively on this assessment to choose the best proposal. In addition, the recommendation memo did not provide the reason to support why the selection was the proposal that was in the best interest of the Commonwealth.

Budget Concurrence Not Documented and Review Process Altered

Of the sixteen active private leases reviewed, five did not indicate Budget Department review/concurrence during the procurement process, as required by AOC policy. The recommendation memo contained a line designated for Budget to sign, but this memo was altered to remove the signature line. According to the current AOC Facilities Manager, the former Executive Officer of Administrative Services "removed the signature line for Budget from the Memorandum and directed staff not to get Budget Department approval on the memo."

> There was not sufficient oversight to prevent removal of a signature approval line on a form used to procure public sector leases.

This review is an additional control and another set of eyes on a process that involves spending budgeted funds. It is very concerning that a control put in place by written policy was able to be overridden by management so overtly as to change the approval form removing this step. There was not sufficient management oversight at AOC to address this change when it occurred.

Certifications of No Policy Violations Not Completed

None of the lease files contained a certification by the parties involved in the process that they were not aware of any policy violations, as required by AOC policy. AP Part V, Section 3(17) requires the "General Manager, any Department employee who performed a site evaluation or negotiated a lease agreement, the Court of Justice official or AOC department that will occupy the leased space, and any Court of Justice employee who was directly involved with a site evaluation or lease negotiations" to certify, to the best of his or her knowledge, his or her awareness of a policy violation.

These certifications are typically a control designed to ensure that the parties involved follow the required process. AOC staff responded that they "are not aware of any certifications that have been filled out in the past. We are in the process of developing a form for certification to be filled out by the Facilities Coordinator that is processing the lease."

Discrepancies in Procuring Supreme Court Justice Private Leases

AOC obtained its most recent private lease in FY 2017 to obtain office space for a Supreme Court Justice. This lease procurement lacked date and time stamping on the proposals received,

site visit reports, documentation of the reason for the decision, and certification that no policies were violated. These lapses are more concerning given this was a transaction with a related party—a company owned by two sons of the Justice who required office space.

The lease file for the Supreme Court office space contained a Disclosure of Ownership that stated the owners of the proposed office space were the Justice's two sons. This disclosure statement is required by AOC policy if the potential lessor is an organization or corporation. However, the assessment/recommendation memo, which is the sole document relied upon in making a selection decision according to the policy, did not provide this ownership information.

The selected proposal's annual cost to AOC was almost three times as much as the alternative proposal for office space. The memo did not provide a complete assessment of the offers, did not provide a reason for the decision, or mention the fact that the potential lessor was owned by the Supreme Court Justice's sons. The memo, in its entirety, stated the following:

> In November 2015 the AOC advertised for space for Supreme Court Office space. Two offers were received. The first offer was for 2989 sq. ft. located at 110 Book Drive, Whitesburg, Ky. This office space would need some renovations to meet ADA compliance. The cost is $18.84 per square foot with $59,912.76 per year this includes adequate parking and janitorial cleaning. Second offer was for 3000+ sq. ft. on first floor and same in basement area this space is located at 229 Main Street, Whitesburg, Ky. This space used to be the old post office. The cost is $7.00 per square foot with $21,000.00 per year. This space also comes with 15 parking spaces. Janitorial is not included.
>
> I am recommending the first offer of 2989 sq. ft. cost $18.84 per square foot.

This memo is to be exclusively relied upon by the Director or designee in making the decision. Based on the limited information in the above memo, there is no justification for accepting the higher-cost space. The criteria mentioned in the above memo does not provide sufficient information to compare the spaces for the criteria mentioned (e.g., renovations, parking, and janitorial services).

The recommendation memo for a Justice's office space did not provide sufficient information or disclose the Justice's family relationship to the lessor.

The memo was dated January 14, 2016, but this lease was not finalized until October 2016 due to the extensive renovations needed for the selected, more expensive offer. Photographs of the Justice's rental property were maintained in AOC property files and show the condition of the property before renovations were made by the property owner. See photographs at Appendix H: File Photos of Justice Office Space. Because of this delay, AOC incurred staff expenses to relocate the Supreme Court Justice to a temporary home office and then to the leased office space. AOC paid a private moving company $3,158 to move the Justice from the home office to the leased office because AOC movers could not meet the deadline schedule. For example, a requested ergonomic chair had to be delivered to AOC, delivered to the home office, and then to the new lease space. According to AOC Facility staff, there was no rent payment for the home office.

Related to office space for another Supreme Court Justice (now retired), the file contained documentation that office space was pursued with a best and final offer price of $18 per sq. ft. for the year. An e-mail from the Justice requiring this space indicated this bid was her preferred location, and that it came in at a "an extremely reasonable $18/sq. ft., which includes fit-up." However, a second best and final offer from this same bidder was submitted with a sq. ft. price of $22.54, increasing the cost of the office space by $12,349 per year. The second "best and final" offer appears to be a copy of the first one, with the price per sq. ft. whited out and written over, and the addition of a $45 per sq. ft. build out allowance added at the end. The file does not contain any information as to the other offers, but it does indicate that there were other responses to the solicitation for space. Because this information was not maintained, auditors cannot determine how the selected location compares in price to other offers.

According to AOC Facilities staff, this increased bid was due to "build out" costs that were higher than expected. Although neither offer was dated, the increase due to "build out" seems to contradict the e-mail from the Justice indicating the $18/sq. ft. original offer included "fit-up." The letter accepting the owner's bid and the final lease document did state that the higher cost of $22.54 would be used, but there was conflicting information about when the renovation costs would be paid back. In addition, the best and final offers contained a rent increase after the first five years that was not addressed in the letter or lease. Both offers also included two reserve parking spaces, but the lease addendum states that reserved parking is $80 per month, and $55 per month for unreserved parking. The following table, Figure 12, summarizes the conflicting terms that were found in this lease file. This summary shows that the process was broken and possible reasons for changes in terms were not documented in the file.

Figure 12: Conflicting Terms on File for Former Justice's Office Lease

Lease Terms	**Email from Justice**	**1st Offer from Selected Vendor**	**2nd Offer from Selected Vendor**	**Offer Acceptance Letter**	**Lease and Addendum**
Price Per Square Foot	$18/sq. ft. which includes fit-up	$18/sq. ft. for $48,960/year for years 1-5; $19.80/sq. ft. for $53,856/yr. for years 6-10	$22.54/sq. ft. for $61,308.80/year for years 1-5; $24.79/sq. ft. for $67,428.80/yr. for years 6-10	$22.54 per sq. ft. for $61,208.80/year	$22.54 per sq. ft. for $61,208.80/year
Renovation Cost	Included	No Mention	$45/sq. ft. "build out" allowance	Renovation cost of $191,909 with $69,509 for AOC required renovation; AOC agrees to pay this back over the next 10 years; this cost is included	If lease is terminated prior to June 30, 2015 AOC shall pay the unamortized portion of required renovation costs of $69,509
Parking	N/A	2 reserved parking spaces	2 reserved parking spaces	N/A	Reserved parking space is an additional cost of $80/month and unreserved parking is an additional $55/month

Source: Auditor of Public Accounts based on information provided by the Administrative Office of the Courts.

Comparison with other Policies

AOC's policies and procedures are similar to the state statutes related to private leasing for executive branch agencies. Both policies state the agency head will choose the best proposal in the interest of the Commonwealth, relying exclusively on the assessment made. The state's policies then require the justifications be put in writing by the state's Commissioner of the Department for Facilities and Support and this writing shall be kept on file. AOC's policy simply states that reasons for the decision be in writing and kept on file by the Department. The AOC policies do not use the word justifications or name the responsible party for documenting them.

Both the executive branch and AOC require a disclosure statement as to whether any potential lessor has a relationship with the agency, but AOC policy only requires this disclosure statement for corporations, partnerships, trusts, or organizations. Because individual names are not always known for these forms of entities, this discloses the names of owners with at least a 5% interest. Individual lessors are not required to complete this disclosure statement, so there is no inquiry as to whether there is any relationship that may be a conflict of interest.

In any event, AOC policies do not address the steps to take if a disclosure reveals a conflict. The AOC Director stated that policy prohibited AOC from leasing space from judges directly, but nothing in policy prevented AOC from entering into a lease with a judge's family members. According to AOC Legal staff, there is no policy that would prohibit AOC from entering a lease due to a related party transaction, but any related party transaction is brought to the attention of the AOC Director's office. Auditors found no written policy resolving the question of whether, or under what circumstances, AOC can lease from a judge or other related party. This is another example of the fractured policymaking process discussed in Finding 2 (page 14).

AOC management was inconsistent in describing the conflict of interest policy for judicial offices, when in fact there appears to be no written policy.

Recommendations

We recommend AOC comply with its own policies. To assist in this effort, AOC should develop standard forms that reflect the policy requirements for leases. This should include reinstating budget department concurrence.

We recommend AOC policies require individuals (not just corporate forms) with relationships to AOC or AOC staff disclose those relationships during procurement.

We recommend AOC policies address conflicts of interest during procurement to avoid the appearance of favoritism or providing financial benefits to related parties. Disclosing relationships and removing those individuals with conflicts of interest from the process engenders public trust and a more ethical culture among employees. Any known conflict should be properly documented as to the reason(s) this relationship was considered acceptable and allowed to continue. Any individuals who abstained from the process due to the conflict should also be documented.

We recommend AOC create a bid file and maintain all reports and evidence to support selection of winning bidders in the bid file. Reasons for the selection should also be created and maintained. Analysis should support the result based on the criteria identified in the bid solicitation.

Finding 15: AOC's Facility Reimbursements to Local Governments Used Inconsistent Criteria and Policies Were Not Clearly Communicated, Resulting in Multiple Errors

AOC's method of compensating local governments for court facility operating costs relies on facility audits. This process used subjective standards with inconsistent denials of expenses and a lack of review to ensure audit adjustments are entered accurately to determine payments. State law requires AOC to pay an operating allowance equivalent to the annual expenses borne by the local government for utilities, janitorial service, rent, insurance, and necessary maintenance, repair, and upkeep of the judicial facility that does not increase its permanent value. To compensate the local governments, AOC implemented a process in which annual costs are estimated and quarterly payments made.

After the close of the fiscal year, an audit is performed to determine actual costs so that the estimated payments can be adjusted to actual. These audits have evolved to include subjective criteria that nonrecurring expenses must be pre-approved prior to reimbursement, yet these standards were not communicated to the local governments. Auditors also found instances in which the audit adjustment was not entered correctly in AOC's payment system, and there was no review process to detect these errors. Consistent, objective procedures should be developed and communicated to local governments to ensure AOC is able to efficiently and effectively pay local governments for operating expenses incurred for all Court of Justice programs.

KRS 26A.115(1) states that each unit of government providing space in a court facility to the Court of Justice "shall be paid an operating costs allowance plus a use allowance to be administered by the Administrative Office of the Courts." KRS 26A.090(1) defines operating costs allowance as "compensation equivalent to the annual expenses borne by the unit of government for utilities, janitorial service, rent, insurance, and necessary maintenance, repair, and upkeep of the court facility which do not increase the permanent value[.]"

AOC Budget staff distributes a *Court Facilities Local Government Reimbursement Form* to each local government to establish the estimated payments to the local government for operating costs, use allowance, and outside rental expenses that will be incurred for Court of Justice programs. Based on this information, AOC makes quarterly payments during the fiscal year to the local governments. This form is to be returned to AOC by June 15 so that Budget can enter this information in a Facilities program to begin generating these payments for the next fiscal year.

After the end of the fiscal year when actual costs are known, AOC's Division of Auditing Services conducts an audit of each facility in use by AOC to determine actual operating costs in the categories of utilities, janitorial, insurance, and maintenance/repairs. According to AOC Legal

staff, the purpose of the annual audit is to determine what portion of the local government's expenses were related to the operation of court facilities and should be reimbursed by AOC. Any expenditure for the purposes outlined in KRS 26A.090 would be approved. The actual costs determined by these audits are compared to the estimated costs paid by AOC, and this difference is applied to adjust the remaining quarterly payments so that local governments are only paid for costs actually incurred for the operation of court facilities.

According to AOC Legal staff, these audits have evolved over the years and the former Executive Officer of Administrative Services (that included the Facilities and Auditing Services Divisions) made determinations that prior approval was required for maintenance expenses related to nonrecurring projects. Having a facilities official also in charge of auditing is problematic, as discussed in Finding 3 (page 17). For the FY 2015 and FY 2016 audits, which were conducted in FY 2016 and 2017 respectively, the former Executive Officer instructed that any repairs with costs over $1,000 and all HVAC repairs not pre-approved by AOC be denied. However, no guidance was given to the local governments to inform them of this requirement.

> Local governments were not made aware of changes to approval policies for HVAC repair expenses.

As a result of this lack of guidance, expenses originally denied consistent with the former Executive Officer's instructions were ultimately approved if the local government contacted AOC and demonstrated that the expense was actually incurred by the court facility. The former Executive Officer approved many of these expenses, but did not approve them for all counties. As a result, some counties were approved for expenses and others were denied similar expenses. AOC did not provide records to justify the approvals for those expenses that were overridden by the former Executive Officer. FY15 was also the first year that the audit report listed the denied expenses, so the local government was aware of the exact expenses denied for FY15 and FY16.

AOC Facilities staff did distribute "Procedures for Operation and Maintenance of Judicial Facilities" that were updated in September 2016. While these procedures were distributed and used as audit criteria for the period of October 1, 2016 through June 30, 2017, AOC Legal staff stated that these were not official procedures. In February 2018, AOC adopted the "Administrative Office of the Courts Policies for the Operation and Maintenance of Court Facilities," to supersede the procedures developed in September 2016, and these will be used as the criteria for FY 2018 facility audits. These policies have been sent to all of the local governments and posted to the AOC website.

Nonrecurring Expenses

Both the "Procedures for Operation and Maintenance of Judicial Facilities" updated in September 2016 and the "Administrative Office of the Courts Policies for the Operation and Maintenance of Court Facilities" adopted in February 2018 use the term "nonrecurring" which is a subjective word that is not used or defined in state law or in the relevant AOC policies in relation to AOC's reimbursement to local governments. Auditors compared the actual non-recurring approval process to these procedures distributed to the local governments to determine compliance.

These expenses are not reviewed through the facility audits and they are not included in the quarterly payments.

Auditors reviewed a judgmental sample of 28 expenditures coded as "nonrecurring." At the time of this review, AOC had only provided the procedures updated in September 2016, but after auditors were informed that those procedures were not considered official by AOC, we also compared the actual process to the AOC policies dated February 2018.

Eighteen of the 28 expenditures did not have a written request on file, which was required by both versions of AOC's policy. The September 2016 policy required three quotes for expenses $1,000 or more and the February 2018 policy required three quotes for expenses $5,000 or more. Of the 16 expenses that did not have three quotes on file, eight were over $5,000. Both versions require the local government to sign and date the AOC approval letter prior to the work beginning. While all of these approval letters were signed, none of the letters were dated, so auditors were unable to determine if the local government had agreed to AOC's terms prior to work beginning.

Denied Expenses Due to the Lack of Pre-Approval

For FY 2015 facility audits, 82 local governments had their actual costs denied due to the lack of pre-approval, for a total of $1,526,233. In 36 of these 120 audits, previously denied expenses totaling $703,070 were approved by the former Executive Officer after the audit was issued. When auditors inquired why these expenses were approved after the audit, AOC staff stated that the former Executive Officer was contacted by the counties after the audits were issued and he approved the previously denied expenditures if they were actually incurred for the court facility.

For FY 2016 facility audits, 77 local governments had their actual costs denied due to the lack of pre-approval for a total of $1,701,476. However, none of these audits state that denied expenses were approved by the former Executive Officer. According to AOC Auditing staff, the former Executive Officer reviewed the denied expenses prior to the audits being issued and any reversals would not have been noted on these audits, but some could have been removed by the former Executive Officer before the audit was issued. Therefore, a significant amount of expenditures were denied in both years for a lack of pre-approval, which decreased the amount AOC reimbursed those local governments without clear criteria.

Incorrect Audit Adjustments

For all 120 facility audits conducted in FY 2015 and FY 2016, the audit adjustment calculated to be applied to estimated costs was compared to the facility program to determine if the correct adjustments were made. There were 17 incorrect adjustments in FY 2015 and seven incorrect adjustments in FY 2016. While some errors increased the reimbursement to a local government and other errors decreased the reimbursement, the total amount of errors was $314,859 related to the FY 2015 audits and $24,784 for the FY 2016 audits. The main reason for these errors was that denied expenditures were approved after the internal facility audits.

Some errors were due to failure to follow through with planned adjustments over multiple years. For example, Boyd County did not receive a $96,543.00 adjustment in its favor because the revision was not communicated to the Budget Department. The same type of error caused Calloway County to not receive a credit of $21,582.00. Other errors were made because of large audit adjustments that were to be split between fiscal years but not carried forward accurately, revisions due to other calculation errors not related to denied expenditures, or simple data entry errors. AOC did not have a process in place to confirm that adjustments determined by the audits were actually entered and applied correctly. This failure of a simple follow-up procedure and lack of communication made some of the work of the facility audits ineffective. Figure 13 below shows the overpayments and Figure 14 shows the underpayments for the affected counties. The subsequent graph, Figure 15, shows the errors by type as reported by AOC.

Figure 13: Overpayments Due to Difference in Audit and Actual Adjustments

Audit Fiscal Year	Facility	Recommended Adjustment	Actual Adjustment	Amount Overpaid
2015	Franklin	($157,531.00)	($112,696.00)	$44,835.00
2015	McCracken	$55,659.00	$75,632.52	$19,973.52
2015	Bullitt	($20,560.00)	($2,561.00)	$17,999.00
2015	Letcher	($31,978.00)	($20,221.50)	$11,756.50
2015	McLean	($3,500.00)	$3,500.00	$7,000.00
2015	Shelby Judicial Center	($13,405.00)	($6,464.00)	$6,941.00
2015	Trimble Courthouse	$14,164.00	$20,396.00	$6,232.00
2015	LaRue Annex	$7,217.00	$9,510.00	$2,293.00
2015	Whitley Judicial Center	$84,209.00	$85,964.00	$1,755.00
2015	Larue Courthouse	$4,398.00	$4,763.42	$365.42
2016	Clinton Courthouse	($7,337.22)	($2,230.94)	$5,106.28
2016	Boyle Courthouse	($6,702.97)	($3,193.57)	$3,509.40
2016	Spencer Annex	$526.38	$3,526.38	$3,000.00
2016	Hardin Justice Center	($93,099.04)	($92,799.04)	$300.00
	Totals	**($167,939.85)**	**($36,873.73)**	**$131,066.12**

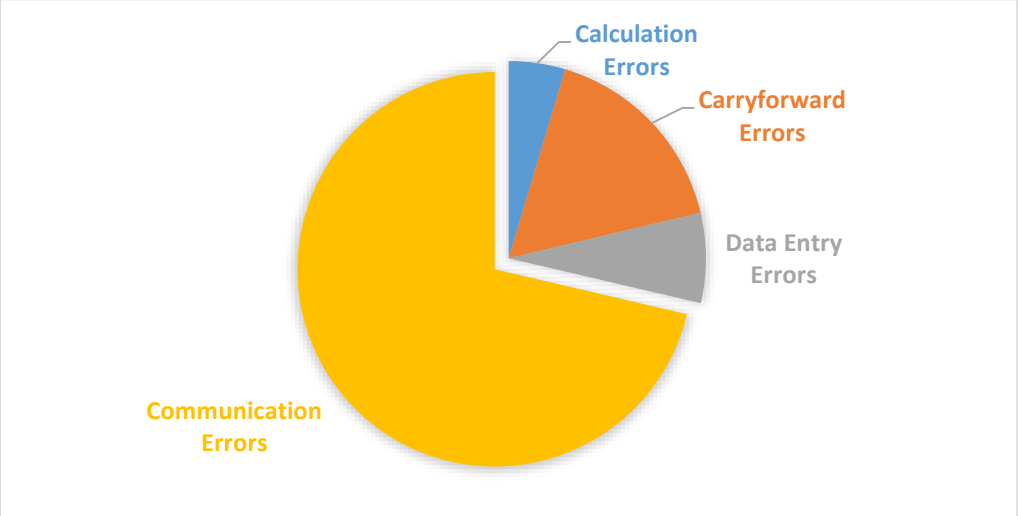
Source: Auditor of Public Accounts based on Administrative Office of the Courts Auditing Services Reports and Facility Payment Records.

Figure 14: Underpayments Due to Difference in Audit and Actual Adjustments

Audit Fiscal Year	Facility	Recommended Adjustment	Actual Adjustment	Amount Underpaid
2015	Clinton	($4,785.00)	($13,437.87)	$8,652.87
2015	Russell Judicial Center	$37,132.00	$25,074.00	$12,058.00
2015	Rockcastle Annex	$9,599.00	($3,683.00)	$13,282.00
2015	Wayne Justice Center	$4,189.00	($16,076.00)	$20,265.00
2015	Calloway	$2,719.00	($18,863.00)	$21,582.00
2015	Trigg Judicial Center	$6,551.00	($16,775.00)	$23,326.00
2015	Boyd	$89,831.00	($6,712.00)	$96,543.00
2016	Daviess Judicial Center	$1,353.61	$528.61	$825.00
2016	Spencer Courthouse	$363.76	($2,636.24)	$3,000.00
2016	Carter Justice Center	$18,800.72	$9,757.13	$9,043.59
	Totals	**$165,754.09**	**($42,823.37)**	**$208,577.46**

Source: Auditor of Public Accounts based on Administrative Office of the Courts Auditing Services Reports and Facility Payment Records.

Figure 15: 2015-2016 Facility Payment Errors by Type Reported



Source: Auditor of Public Accounts based on data provided by the Administrative Office of the Courts.

The reimbursements to local governments for costs incurred lacked objective criteria and requirements were not clearly communicated. The processes used created confusion that resulted in the denial of over $1,700,000 in FY 2015, with over $500,000 of similar expenses being approved after the audit. There was no known justification for this approval, and whatever justifications may have existed were not documented. Similar expenses denied for some local governments were approved after the fact for other local governments. The only difference appears to have been whether the local government contacted the former Executive Officer to discuss the denials. Although AOC was aware of this confusion caused by the former Executive Officer auditing to standards that had not been properly communicated to local governments, approved policies to address these issues were not distributed until February 2018.

In addition, facility audit procedures were not documented to ensure consistency and to verify that AOC was using audited data to calculate the payments to local governments. There is no process to verify that the appropriate audit adjustment was used by Budget to determine the local governments' quarterly payments. AOC officials had not considered taking this step until auditors conducting this examination inquired about it. With denied expenses being approved and audit adjustments being altered without supporting documentation, review procedures are needed to ensure these payments are accurate.

Recommendations

We recommend AOC develop and communicate consistent criteria for approval of a nonrecurring project. All counties should have a fair method to determine the expenditures that will be reimbursed. The information used to calculate quarterly payments should be verified to ensure accurate numbers are used and supported.

CHAPTER VI: KYCOURTS II LOGICAL SECURITY

KYCourts II is the internally-developed case management platform in use by AOC, judges, and circuit court clerks throughout the state. The Kentucky judiciary has made a concerted effort to move toward electronic filing and case management in recent years. These findings suggest AOC has significant work ahead of it to secure this system. Security of systems housing sensitive information in the court system is of paramount importance to litigants and the public. Unintended user access could result in unauthorized use or modification of personal information.

Finding 16: AOC Did Not Implement Adequate Controls for User Access to the KYCourts II System

AOC did not implement adequate controls governing user access to the KYCourts II system. KYCourts II contains case details including charges, dispositions, sentencing, warrants, summons, and bail. Access controls determine what an authenticated user can do in a system.

Access controls determine what users can do in KYCourts II case management system, including read, modify, add, and delete data.

How Access Control Requests are Processed

User access controls are decentralized. Both AOC technical staff (central level) and elected Circuit Court Clerks (local level) can create, update, and delete access if the user is granted the security permissions to perform this task. While the KYCourts II User's Manual explains how to perform basic security tasks within the system, there are no written procedures in place for staff to follow when granting, changing, and terminating user access. Informal procedures are used at the central level. Access requests are typically received via phone call or email. A support ticket is then entered into AOC's tracking system. Procedures to establish user accounts used at the local level are less sufficient than and inconsistent with procedures used at the central level.

AOC does not have a policy or criteria to determine who receives read-only access instead of create, update, or delete permissions in KYCourts II. They do not use a request form to capture who made the request for access to the system, the level of access needed, management's signature of approval, or the date the access was granted.

Per the KYCourts User's Manual Security Chapter, basic security tasks involve adding new users, cloning users, modifying user's security permissions, and removing users. Cloning user accounts/access means to create a new account and assign the same security permissions based on an existing user's account and assigned security permissions. It is not considered a good practice because it could allow a user to be given more rights to a system than actually needed to perform his/her job duties.

Access Levels and Roles

KYCourts II security is multi-level and role-based. It includes screen access, court/case access, and function access. There are 48 security levels in KYCourts II. Any particular user could have between 700-1,000 combinations of screen and security access. To limit the amount of data, the auditor reviewed only those users that had the ability to create, update, and delete cases within the following application screens/security levels. These screens were selected by the auditor since they appeared to allow access to sensitive and critical information that should be properly secured and accessible only by properly authorized staff.

- Amount Due Screen
- ARSecurity
- eReceipts Menu
- Money Balances Screen
- Money Line Items Screen
- Party Screen
- Security Screen
- Xlate Local Screen
- Xlate Statewide Screen

A total of 2,636 user IDs, which are associated with 3,409 user names, have access to one or more of these application screens. The auditor determined 38 individuals (1.4% of the population) had established more than one user ID with the ability to create, update, and delete cases in KYCourts II. Auditors believe this is a low number of exceptions based on experience. The majority of the individuals with more than one user ID were set up under the same user name (e.g. user name: John Doe, user IDs: JDOE and DOEJ). However, numerous accounts were established under two different names (e.g. user name: John Doe, user ID: JDOE and user name: Doe, John, user ID: DOEJ). Due to the inconsistencies in the way the user names were captured in the report, the auditor was unable to identify all accounts associated with each individual user.

KYCourts II prevents the same user ID from being created twice on the same server. However, the system does not prevent a different user ID from being created on the same server for the same user name. AOC staff confirmed that multiple accounts were likely created without searching for an existing account or the user was an AOC staff member with elevated, statewide access and required an additional account for testing purposes. If an individual transitions from a county position (e.g. Deputy Clerk) to an AOC position (e.g. Business Analyst), it is possible that the county access remains after statewide access is granted. AOC indicated several of these unnecessary accounts would be terminated prior to the completion of fieldwork.

Use of Unconventional Name IDs

While AOC central level uses a consistent naming convention for the user IDs they create, naming conventions used at the county level may vary. Thirty-nine of the 2,636 user IDs (1.5%) had an unconventionally named user ID or associated user name. Some user names and user IDs

were identical. Some user names were reported as only either the first or last name, not the full name.

One of the 39 accounts, the GOD9 account, was assigned to an individual who is both a Vice-Chief Regional Circuit Judge and Chief Circuit Judge. This individual was determined to have elevated and unnecessary access—the highest level of access that could be granted in KYCourts II. This allowed him to add, update, and delete records in the ARSecurity and XLATE Statewide Menus in KYCourts II. AOC stated that this individual required read-only access instead of change rights. The Circuit Judge's permissions were changed by AOC during fieldwork to reflect the necessary read-access consistent with his job duties, and this account is now inactive.

Jefferson County has three servers while all other counties have one server. As a result, auditors reviewed this access separately. Seventy-one of the 976 users (7.3%) that relate to Jefferson County had more than one user ID that could be used to access the same server. Again, AOC staff noted that accounts were more than likely created without searching for an existing account or the user was an AOC staff member with statewide access and required the additional account for testing purposes.

AOC does not maintain the KYCourts II user listing to show what roles or job titles are established for active users (e.g. judges, clerks, attorneys, etc.). The user listing provided did not distinguish between central level and local level staff. Auditors determined this by the naming of the user's ID.

AOC confirmed they had not performed a review prior to our examination of all user accounts with access to KYCourts II to ensure only authorized access had been granted. AOC is now reviewing existing KYCourts II user lists and verifying it against Active Directory. Starting in April 2018, AOC will begin quarterly quality assurance audit reviews of existing KYCourts II user lists.

Recommendations

According to the National Institute of Standards and Technology (NIST) Special Publication (SP) 800-53 Revision 4, Security and Privacy Controls for Federal Information Systems and Organizations, an organization should develop, document, and disseminate a defined access control policy to agency personnel. We recommend AOC develop and distribute an access control policy that standardizes access security controls related to KYCourts II. Policies and procedures should reflect applicable laws and standards. The policy should address the purpose, scope, roles, responsibilities, management commitment, coordination among organizational entities, and compliance. It should explain the process for staff to request access to KYCourts II, the need to limit privileges, or rights, within the application, the process to request access to be modified or removed, and the supporting documentation to be maintained to support the access being granted to staff.

AOC central level staff and Circuit Court Clerks responsible for creating, updating, and deleting access in KYCourts II should enter information into the system consistently. AOC should work with Circuit Court Clerks to develop a uniform naming convention for county level accounts.

The Control Objectives for Information and Related Technologies (COBIT) DSS 05.04 states organizations should "Maintain user access rights in accordance with business function and process requirements. Align the management of identities and access rights to the defined roles and responsibilities, based on least-privilege, need-to-have and need-to-know principles."

We recommend AOC no longer allow the cloning or copying of access rights from existing employees due to the potential for providing unnecessary access.

Reporting should be expanded to reflect a user's job title or role within the system.

AOC and Circuit Court Clerks should perform an annual review of the active user accounts in KYCourts II to ensure users are still employed by AOC and require access to support their job duties. Actions taken to change access levels should be thoroughly documented. All documentation supporting this annual review should be maintained for audit purposes.

NIST SP 800-53 Revision 4 also states that an organization should create, enable, modify, disable, and remove information system accounts in accordance with a defined policy or procedure. Credentials should be removed and access should be disabled when access is no longer required.

We recommend AOC review all active user accounts to ensure they reflect the user's entire legal name. AOC should identify all users that have more than one user ID and determine the necessity of the multiple accounts. If it is determined a user requires both accounts to perform his/her job duties, justification should be documented.

Finding 17: AOC Has No Policy for Account Termination Procedures and Did Not Terminate Accounts in a Timely Manner

While AOC has a network account policy regarding the creation and termination of Active Directory (AD) accounts, the policy does not address the termination of access to KYCourts II or any other internally developed applications. It also does not address employees on extended leave.

Processing of Account Termination Requests

When a user separates from employment with AOC, the Service Desk receives an incident request either via phone or email. The rights associated with the AD account should be disabled at that time. After 90 days, the AD account is terminated. KYCourts II access can be terminated by changing the user's access in the application to read-only or terminating the user's AD account. AOC began linking AD to KYCourts II in 2011; however, it was optional for counties at that time. It became required with the implementation of the Accounts Receivable (AR) system, which began in 2012 and ended in October 2016. Terminating the AD account does not automatically trigger

termination of the KYCourts II account. However, because the login to KYCourts II is linked to a user's AD account, termination of the AD account will prevent a user from being able to access KYCourts II.

Former Employees' Accounts Were Not Terminated Timely

To determine if an active user maintained unnecessary access to KYCourts II during the exam period, auditors generated a report from the Kentucky Human Resource Information System (KHRIS) reflecting AOC employees that had separated from employment between July 1, 2015 and June 30, 2017. Auditors compared this list to the active KYCourts II user list, which was generated by AOC on November 7, 2017. Testing revealed 124 of 127 separated AOC employees, or 97.6 percent of the population, appeared to maintain access to KYCourts II for an unreasonable amount of time.

One hundred twenty-four AOC employees may have kept access to KYCourts II after separation of employment.

For example, one employee that separated from employment at AOC on December 1, 2016, continued to have access to KYCourts II and Active Directory until auditors inquired about permissions during fieldwork. This account was confirmed as terminated on February 26, 2018, meaning the separated employee had unnecessary access for well over a year.

By comparison, the policy applicable to executive branch employees, Office of the Chief Information Officer Enterprise Policy (CIO) 072, states that "[w]here possible, Commonwealth systems will include an account management function that will automatically disable a user account after 90 consecutive days of inactivity and delete the account after an additional 30 consecutive days of inactivity. If a user is on extended leave then please notify your Human Resource contact for appropriate account maintenance." There is no guarantee that inactivity alone will disable the accounts of separated employees where an employee separates employment and maintains login credentials.

Auditors requested documentation from AOC showing that the AD accounts were terminated. While screen prints were provided showing their change in permissions, there were no dates to show when the action occurred. Also, AOC was unable to substantiate the users identified in KYCourts II were the same as those in KHRIS because there is not a unique identifier (Personnel Number or Employee ID) common between the two systems.

One of the employees was on military leave beginning March 17, 2017 and did not return until October 2, 2017. AOC confirmed users on military leave will maintain an active AD account during the period of extended leave. As a result, this individual maintained an active KYCourts II account during this seven-month period. This employee's access was inactivated prior to the end of the examination.

Recommendations

We recommend AOC expand its network account policy to ensure a user's KYCourts II access is inactivated at the time an AD account is terminated. The policy should also include the process to follow to disable or terminate an employee's AD and application access when on extended leave. AOC should put policies and processes in place to confirm that this occurs, not only for KYCourts II, but for any other IT systems, equipment, and for physical facilities as well. Termination of access should be documented and maintained.

AOC should review the current list of employees that have separated from employment and ensure their AD accounts have been terminated. Also, access to any other internally developed applications should be terminated.

We also recommend AOC consider adding a unique identifier that will link the KYCourts II users to KHRIS. This will help AOC ensure they terminate the correct user's accounts.

Finding 18: AOC Enabled the Use of Template and Group Accounts with Elevated Access to KYCourts II Resulting in an Unnecessary Level of Access for Some Individuals

Template accounts assist AOC staff, supervisors, and Circuit Court Clerks with granting access to KYCourts II. Testing revealed 40 of the 2,636 user IDs, or 1.5 percent of the population, are being used as templates. In addition, auditors determined there are 751 user IDs, which are associated with 926 user names that can access the templates established in this system.

"Auditors" and "Inquiry" Accounts Should Not Have Change Rights

Based on the names assigned to two of the template accounts, which have the words 'Inquiry' and 'Auditors' in the names, auditors did not anticipate these accounts needing the ability to create, update, and delete a case. However, these accounts have been configured with this access, specifically to the ARSecurity Menu in KYCourts II. This menu allows access to the Accounts Receivable application. AOC confirmed that the Inquiry template only needs read-only rights; however, AOC believes that the Auditor template requires elevated access to perform auditing tasks. Auditing staff should be independent from transaction processing; they should not have the ability to create, update, or delete transactions. Furthermore, template names can serve to mislead users and those granting permissions as to the level of access being conferred.

In addition, each template account has a password. Template passwords are only changed by AOC if a security breach occurs. AOC was not aware of any breach since KYCourts II went into production. Therefore, these passwords have never been changed and anyone granted access at any time maintains access despite separation of employment or change in position. Also, AOC has established 26 group accounts with the ability to add, update, and delete case information in KYCourts II. Use of group accounts should be prohibited since it is not easy to track who is actually using them.

Some Template Accounts Allowed Unnecessary Change Rights for Personally Identifiable Information

There are three template accounts that were set up to be restricted from accessing confidential and personally identifiable information (PII) via the ARSecurity Menu and Party Menu screens within KYCourts II. Templates are used to assist supervisors, Circuit County Clerks, and certain AOC staff with granting access to KYCourts II. PII includes information such as Name, Address, Sex, Race, Ethnic Origin, Height, Hair, Weight, Eyes, Date of Birth, Social Security Number, Driver's License Number, and Jail ID.

Review of these template accounts revealed although they appear to be restricted based on their naming convention, they have actually been configured with the ability to add, update, and delete PII information as well as the cases this information is associated with. There are 751 user IDs (associated with 926 user names) belonging to supervisors, Circuit County Clerks, and AOC staff that have the ability to access and use these three templates.

In the finding related to log management, auditors determined AOC does not maintain an audit log of user security. Therefore, there is no way for auditors to know historically who has had access to the template and group accounts.

Recommendations

We recommend AOC review the users that have enhanced access to the various KYCourts II template accounts to ensure this access is appropriate. AOC should ensure all template account passwords are changed periodically.

Furthermore, all group accounts should be disabled. The associated functionality, if still needed, should be transitioned to individual user accounts to allow for closer monitoring of the actions taken by these accounts. If required for business purposes and the transition to individual user accounts is not feasible, then justification for having the group accounts should be documented and approved by management. Management should consistently monitor use of any retained group accounts to ensure they are being used as intended.

We recommend AOC review the security controls established over the three template accounts and ensure they are properly restricted from accessing PII. These template accounts should not be allowed the ability to add, update, or delete a case or the associated PII in a case.

Finding 19: AOC Did Not Establish User Security Auditing for KYCourts II and Has No Policy or Procedures to Ensure Regular Monitoring

KYCourts II was implemented in each of the 120 Kentucky counties between November 13, 2001 and March 14, 2005. At the time of implementation, KYCourts II was not configured to capture events related to user security. As a result, auditors were unable to view changes made to user's account profiles.

Control Objectives for Information and Related Technologies (COBIT) DSS01.03 Monitor IT infrastructure states that organizations should "…monitor the IT infrastructure and related events. Store sufficient chronological information in operations logs to enable the reconstruction, review, and examination of the time sequences of operations and the other activities surrounding or supporting operations." For example, auditors requested documentation from the system to support the change in permissions for the GOD9 account mentioned in Finding 16 (page 71), and AOC acknowledged at that time that KYCourts II does not include the ability to report such activity.

As a result of our examination, AOC began reviewing existing KYCourts II user lists and verifying them against the Active Directory (AD) user listings. In April 2018, AOC began quarterly quality assurance audit reviews of existing KYCourts II user lists.

AOC confirmed transactional audit logging is enabled and all screens in KYCourts II have some form of auditable information. However, AOC does not have any policies or procedures in place to ensure this information is regularly monitored. A log is a record of events occurring within a system or network. Log entries contain information related to a specific event that occurred within the system or network. AOC confirmed that audit log records are used for troubleshooting or to review suspicious activities on an as-needed basis.

According to the National Institute of Standards and Technology (NIST) Special Publication (SP) 800-92, Guide to Computer Security Log Management, "Routine log analysis is beneficial for identifying security incidents, policy violations, fraudulent activity, and operational problems. Logs are also useful when performing auditing and forensic analysis, supporting internal investigations, establishing baselines, and identifying operational trends and long-term problems."

Recommendations

We recommend AOC develop a policy defining the rules that identify threshold breaches and security events. The policy should require AOC staff to log the defined security events and periodically review the captured information. These reviews can be performed on a periodic basis for a sample of accounts or days to make them more manageable. Actions taken by AOC to address issues identified as a result of the review should be thoroughly documented and maintained for audit purposes.

We also recommend AOC continue performing regular reviews of the KYCourts II user lists to ensure only authorized employees have appropriate access to the system. Reviews should continue to be completed until KYCourts III is fully implemented. During this implementation, AOC should follow the COBIT section titled BAI (Build, Acquire and Implement) 03.05 "Build solutions," which states organizations should "Implement audit trails during configuration and integration of hardware and infrastructural software to protect resources and ensure availability and integrity."

Finding 20: AOC Did Not Develop or Maintain Basic Technical Documentation for the KYCourts II System

AOC staff did not develop or maintain basic software documentation that describes system requirements, files and database design, interfaces, and critical processing logic performed by their internally-developed systems. System defects, stories, and business logic/code are logged and tracked in software allowing AOC staff to work collaboratively on software projects and manage source code. However, AOC does not have hard copy technical documentation for employees to use that explains specific business rules coded into the system or explains how the functionality works. Specific to the KYCourts II application, AOC provided a copy of the KYCourts II Manual; however, this document only describes basic security tasks performed by Supervisors. It does not explain how the system as a whole functions.

Types of software documentation include Requirements, Architecture/Design, Technical, and End-User. Requirements documentation includes a description of what the system should do. It is used throughout development to communicate how the system is intended to operate. Architectural design documentation lays out the general requirements of a system and would typically be used by application designers, developers, and administrators. Technical documentation explains the source code, which is also known as processing logic, or a collection of computer instructions. It would also explain internal and external interfaces established in the system, sources, and locations of files used by the system and the processing steps for main functions. User documentation describes the various features or functionality of the system. End-users would use this kind of documentation for troubleshooting assistance.

The documentation discussed could include a network diagram; user and operational manuals; and flowcharts, diagrams, or descriptive narratives of functional areas. This type of information will be useful during the development of KYCourts III and any other internally-developed application.

Recommendations

We recommend AOC develop documentation that provides an understanding of critical programs or jobs currently running in production. Proper documentation should be maintained for each critical program in production in order to, at a minimum, identify the purpose of the programs, the origin of data, the specific calculations or other procedures performed, and the output of data or reports. Once developed, AOC should provide this documentation to technical staff and end-users for reference, and ensure the documentation is updated as changes are made to systems.

APPENDICES

Appendix A: Summary Schedule of Judicial General Fund Budget to Actual Spending FY 2016

Budget Unit	Budget	Annual Expenditures	Remaining Budget Balance
Supreme Court	$ 4,912,700	$ 4,719,349	$ 193,351
Court Of Appeals	$ 8,594,200	$ 8,165,063	$ 429,137
Circuit Court	$ 25,536,800	$ 24,925,676	$ 611,124
Special Judges	$ 600,000	$ 330,479	$ 269,521
District Court	$ 20,733,000	$ 20,638,107	$ 94,893
Circuit Clerks	$ 84,300,400	$ 82,361,156	$ 1,939,244
Deputy Pool	$ 100,000	$ 212,732	$ (112,732)
Special Account	$ (25,828,500)	$ (18,470,396)	$ (7,358,104)
Master Comm FICA	$ 1,600,000	$ 1,922,025	$ (322,025)
AOC	$ 1,637,500	$ 1,411,580	$ 225,920
Directors Office	$ 444,900	$ 486,050	$ (41,150)
Budget	$ 1,268,300	$ 1,144,693	$ 123,607
Legal Services	$ 1,495,400	$ 1,306,769	$ 188,631
Human Resources	$ 1,108,800	$ 1,077,288	$ 31,512
Public Information	$ 348,500	$ 307,067	$ 41,433
Admin Services	$ 4,747,000	$ 4,079,378	$ 667,622
Office of Language Access	$ 2,354,100	$ 2,094,215	$ 259,885
Judicial Conduct Commission	$ 378,300	$ 427,546	$ (49,246)
Judicial Ethics	$ 36,600	$ 21,803	$ 14,797
Circuit Clerk Conduct Commission	$ -	$ 619	$ (619)
Pretrial	$ 12,890,800	$ 12,048,502	$ 842,298
Law Library	$ 986,300	$ 1,069,649	$ (83,349)
Specialty Courts	$ 16,981,200	$ 14,552,874	$ 2,428,326
Interpreting Services	$ -	$ 1,188	$ (1,188)
Education	$ -	$ 116	$ (116)
Family And Juvenile	$ 10,078,100	$ 9,268,720	$ 809,380
Dependent Children Services	$ 680,200	$ 858,963	$ (178,763)
Teen Court	$ 20,000	$ 19,000	$ 1,000
Capital Outlay	$ 100,000	$ 82,700	$ 17,300
Shared Services	$ 1,373,200	$ 949,060	$ 424,140
Judicial Branch Education	$ 677,000	$ 526,440	$ 150,560
Research and Statistics	$ 361,700	$ 229,087	$ 132,613
Technology Services	$ 15,257,900	$ 16,618,267	$ (1,360,367)
eCourts	$ -	$ 703,435	$ (703,435)
Family Court	$ 16,258,600	$ 15,927,454	$ 331,146
Facilities-Carry Forward	$ -	$ 119,800	$ (119,800)
Facilities-Existing	$ 108,800,000	$ 111,229,332	$ (2,499,332)
Facilities-Nonrecurring	$ 1,500,000	$ 640,277	$ 859,723
Facilities-AOC Vandalay	$ 200,000	$ 222,484	$ (22,484)
Facilities-New	$ -	$ 21,626	$ (21,626)
Grand Totals:	**$ 320,533,000**	**$ 322,250,173**	**$ (1,787,173)**

Source: Auditor of Public Accounts based on data provided by the Administrative Office of the Courts.

Appendix B: Summary Schedule of Judicial General Fund Budget to Actual Spending FY 2017

Budget Unit	Budget	Annual Expenditures	Remaining Budget Balance
Supreme Court	$ 5,131,800.00	$ 4,993,836.87	$ 137,963.13
Court Of Appeals	$ 8,707,300.00	$ 8,322,885.98	$ 384,414.02
Circuit Court	$ 26,401,500.00	$ 25,447,162.68	$ 954,337.32
Special Judges	$ 350,000.00	$ 465,025.47	$ (115,025.47)
District Court	$ 21,111,700.00	$ 20,943,147.20	$ 168,552.80
Circuit Clerks	$ 85,725,600.00	$ 82,416,602.93	$ 3,308,997.07
Deputy Pool	$ 200,000.00	$ 131,428.06	$ 68,571.94
Special Account	$ (8,462,700.00)	$ (643,690.94)	$ (7,819,009.06)
Master Comm FICA	$ 1,700,000.00	$ 1,793,151.01	$ (93,151.01)
AOC	$ 1,386,000.00	$ 1,263,154.05	$ 122,845.95
Directors Office	$ 471,900.00	$ 466,833.52	$ 5,066.48
Budget	$ 1,311,300.00	$ 1,166,592.60	$ 144,707.40
Legal Services	$ 1,588,500.00	$ 1,165,350.27	$ 423,149.73
Human Resources	$ 1,226,500.00	$ 1,104,126.44	$ 122,373.56
Public Information	$ 305,400.00	$ 328,267.91	$ (22,867.91)
Admin Services	$ 4,695,300.00	$ 4,554,638.17	$ 140,661.83
Office of Language Access	$ 2,443,500.00	$ 2,639,239.45	$ (195,739.45)
Judicial Conduct Commission	$ 388,100.00	$ 607,056.65	$ (218,956.65)
Judicial Ethics	$ 38,000.00	$ 33,944.90	$ 4,055.10
Circuit Clerk Conduct Commission	$ -	$ 240.80	$ (240.80)
Pretrial	$ 13,463,100.00	$ 12,662,524.43	$ 800,575.57
Law Library	$ 1,069,800.00	$ 1,250,564.28	$ (180,764.28)
Specialty Courts	$ 16,373,000.00	$ 14,491,738.36	$ 1,881,261.64
Records & Statistics	$ -	$ 122.00	$ (122.00)
Education	$ -	$ 58.86	$ (58.86)
Family And Juvenile	$ 10,950,400.00	$ 10,149,658.44	$ 800,741.56
Dependent Children Services	$ 755,400.00	$ 804,805.04	$ (49,405.04)
Teen Court	$ 20,000.00	$ 19,000.00	$ 1,000.00
Capital Outlay	$ 115,700.00	$ 114,914.22	$ 785.78
Shared Services	$ 1,246,300.00	$ 1,446,771.72	$ (200,471.72)
Judicial Branch Education	$ 743,900.00	$ 548,595.04	$ 195,304.96
Research and Statistics	$ 385,200.00	$ 280,661.91	$ 104,538.09
Technology Services	$ 17,815,700.00	$ 19,160,433.35	$ (1,344,733.35)
eCourts	$ -	$ 28.00	$ (28.00)
Family Court	$ 17,227,400.00	$ 16,756,317.83	$ 471,082.17
Alternative Dispute Resolution	$ -	$ 412.50	$ (412.50)
Facilities-Existing	$ 111,731,500.00	$ 106,061,240.20	$ 5,670,384.75
Facilities-Nonrecurring	$ 1,500,000.00	$ 1,185,989.85	$ 314,010.15
Facilities-AOC Vandalay	$ 1,300,000.00	$ 1,508,910.01	$ 208,910.01
Grand Totals:	**$ 349,417,100.00**	**$ 343,641,740.06**	**$ 6,193,304.91**

Source: Auditor of Public Accounts based on data provided by the Administrative Office of the Courts.

Appendix C: February 26, 2010 Memorandum re: AOC Surplus Sales

Administrative Office of the Courts
100 Millcreek Park
Frankfort, Kentucky 40601-9230
p 800-928-2350 f 502-573-0177
www.courts.ky.gov

John D. Minton, Jr.
Chief Justice

Laurie K. Dudgeon
Director

MEMORANDUM

TO: Lisa Broaddus, Senior Executive Officer

FROM: Cindra K. Walker, General Counsel
Jenny Dawson Lafferty, Staff Attorney, Office of General Counsel

DATE: 2/26/2010

RE: 2010-0048 - Surplus Property

THIS MEMORANDUM IS WORK PRODUCT ENTITLED TO ATTORNEY-CLIENT PRIVILEGE. DO NOT RELEASE THIS MEMORANDUM OR ALLOW IT TO BE VIEWED BY ANY NON-AOC MANAGER OR EMPLOYEE. ALLOWING A NON-AOC MANAGER OR EMPLOYEE TO REVIEW THIS DOCUMENT MAY DESTROY THE PRIVILEGE AND SUBJECT IT TO DISCOVERY IN LITIGATION.

Inquiry:

Can the AOC sell its surplus property?

Answer:

Yes. However, it is recommended that the AOC sell such surplus property consistent with the provisions set forth in the Kentucky Model Procurement Code and the Administrative Regulations promulgated thereunder. A sale to the general public using either a sealed bid or auction is permitted provided that adequate notice is provided to the public. Prior to the disposal of surplus property, a list should be prepared detailing the items to be disposed of. Surplus items should be deleted from inventory listings, records of the disposal should be maintained, and any federal interest in the property must be accounted for. Only property surplus to the needs of the COJ should be disposed of; no COJ employee should benefit personally from the disposal of surplus property; and the disposition of the property must be in compliance with any applicable federal and state laws and regulations, including the Personnel Policies of the COJ.

Analysis:

The Court of Justice is under the executive direction of the Chief Justice, who manages the administrative and financial affairs of the Court of Justice. [See KRS 27A.020 and Ky. Const. Sec. 110(5)(b).]

The Kentucky Model Procurement Code, as codified in KRS 45A, is applicable to the executive and legislative branches of state government. The judicial branch was specifically excluded from the definitions of "governmental body" (and thus "purchasing agency", "purchasing officer", and "using agency") in KRS 45A.030.

The statutes relating to surplus property of the Commonwealth are contained in KRS 45A. Thus, there is no authority that requires the Judicial branch to comply with those provisions. Nor could I find any authority that would require the COJ to remit any potential earnings from the sale of surplus property to the general fund.[1] To the contrary, it appears that executive branch agencies retain the proceeds from the sale of surplus property, rather than remitting those proceeds to the general fund.[2]

KRS 45A.045(5) provides:

> The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all personal property of the state that is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, or, with the approval of the secretary, may delegate the sale, trade, or other disposal of the personal property. In the event the authority is delegated, the method for disposal shall be determined by the agency head, in accordance with administrative regulations promulgated by the Finance and Administration Cabinet, and shall be set forth in a document describing the property and stating the method of disposal and the reasons why the agency believes the property should be disposed of. In the event the authority is not delegated, requests to the Finance and Administration Cabinet to sell, trade, or otherwise dispose of the property shall describe the property and state the reasons why the agency believes the property should be disposed of. The method for disposal shall be determined by the Division of Surplus Properties, and approved by the secretary of the Finance and Administration Cabinet or his or her designee.

The process for FAC's delegation of authority to dispose of personal property of the state is set forth in 200 KAR 5:302. It requires that a "government agency requesting a delegation from the [FAC]… shall submit to the secretary proof of competency in the proposed delegated area, demonstrated by staff experience and training and the resources available to the agency to perform the purchase delegation." Further, "an agency head requesting delegation of authority to declare and dispose of surplus personal property from the [FAC]… shall submit a request to the Secretary of the [FAC]. The request shall assure that: (a) only property surplus to the agency's need shall be declared surplus and disposed of; (b) no employee of the Commonwealth shall personally benefit from the disposal of surplus property; and (c) disposition shall be in

[1] It is not unprecedented for the AOC to retain funds generated by it, as opposed to remitting those funds to the general fund. For example, funds generated by the sale of a parcel of property in Graves County, settlements concerning the Bullitt County Judicial Center, and rent from the Dudley house on the Fleming County Judicial Center property are all being deposited into Facilities accounts held by the AOC.

[2] According to FAP 220-19-00, proceeds from the sale of surplus items are retained by the specific executive branch agency, rather than being deposited into a general fund.

accordance with applicable federal and state laws and regulations, including the executive branch code of ethics and the [FAP]."

The repeated use of defined terms such as "agency" and the reference to the executive branch code of ethics indicate that the process for disposing of surplus property in the Model Procurement Code and administrative regulations promulgated thereunder are intended only for executive branch agencies.

While the KMPC may not technically be applicable to the Court of Justice, the AOC has endeavored to apply the principles of the KMPC to its transactions out of a spirit of comity.

Thus, I would recommend that the AOC proceed to dispose of surplus property by following the outline provided by the Model Procurement Code, 200 KAR 5:302, and FAP 220-19-00. Under that model, only Administrative Services could dispose of personal property of the COJ, unless Administrative Services delegated that function to another department, as set forth in 200 KAR 5:302. Only property surplus to the needs of the COJ should be disposed of; no COJ employee should benefit personally from the disposal of surplus property; and the disposition of the property must be in compliance with any applicable federal and state laws and regulations, including the Personnel Policies of the COJ.

I have attached a copy of FAP 220-19-00, which sets forth the procedures by which the executive branch may dispose of surplus property, and which the COJ should, as a matter of comity, also apply to its disposal of its surplus property. A sale to the general public using either a sealed bid or auction is permitted provided that adequate notice is provided to the public.

Prior to the disposal of surplus property, a list should be prepared detailing the items to be disposed of. Surplus items should be deleted from inventory listings, records of the disposal should be maintained, and any federal interest in the property must be accounted for.

Appendix D: Surplus in Warehouse as of August 2017

Appendix E: Justice Letter Regarding Local Lease

STATE CAPITOL, ROOM 216
700 CAPITOL AVENUE
FRANKFORT, KENTUCKY 40601
PHONE 502-564-4163

SUPREME COURT OF KENTUCKY
BILL CUNNINGHAM
JUSTICE, FIRST SUPREME COURT DISTRICT

103 WEST COURT SQUARE, P.O. BOX 757
PRINCETON, KENTUCKY 42445-0757
PHONE 270-365-3533
FAX 270-365-3505

September 29, 2017

Leslie Brown
Accounting Manager
Administrative Office of the Courts
1001 Vandalay Drive
Frankfort, KY 40601

Dear Leslie:

Thank you very much for your very helpful presentation to our court last week on travel expenses. To assist you in dealing with my per diem, I've enclosed a copy of my lease agreement for my apartment at Redacted in Frankfort. The following computation might assist you in answering any questions either the media or an audit might have.

Fiscal year beginning July 1, 2015 to June 30, 2016 – total days 91
Fiscal year beginning July 1, 2016 to June 30, 2017 – total days 94
Monthly rent is $800 for apartment at Redacted in Frankfort

Over the past two fiscal years I've averaged staying in Frankfort 91 days in the 2015-16 fiscal year and 94 days in the 2016-2017 fiscal year. That averages out to 7.7 nights per month. At the $800 per month rent I pay, that averages out at a cost to me of $103.90 per day, or $12.90 more than the $91 a day per diem I receive. So, the per diem falls short of my monthly expenses for lodging.

Once again, thanks for all your good work. If you need anything else from me, please let me know.

Sincerely,

Justice Bill Cunningham
Kentucky Supreme Court

Appendix F: Reimbursements Received by Justices in Fiscal Years 2016 and 2017

Fiscal Year 2016

Supreme Court Justice	District Served (Home Office)	Reimbursements Received in FY16			
		Lodging Per Diems	Meal Per Diems	Other**	Total By Justice
William H. Cunningham	1st (Princeton)	$ 8,803.00	$ 4,996.00	$1,093.32	**$14,892.32**
John D. Minton	2nd (Bowling Green)	-	5,183.00	448.25	**5,631.25**
Daniel J. Venters	3rd (Somerset)	3,749.00	2,128.00	395.00	**6,272.00**
Lisabeth T. Hughes	4th (Louisville)	-	269.50	659.54	**929.04**
Mary C. Noble	5th (Lexington)	-	330.34	500.16	**830.50**
Michelle M. Keller	6th (Covington)	4,016.00	2,315.00	868.25	**7,199.25**
David A. Barber*	7th (Prestonsburg)	332.00	184.00	-	**516.00**
Samuel T. Wright*	7th (Whitesburg)	-	-	-	-
	TOTAL	**$16,900.00**	**$15,405.84**	**$3,964.52**	**$36,270.36**

Fiscal Year 2017

Supreme Court Justice	District Served (Home Office)	Reimbursements Received in FY17			
		Lodging Per Diems	Meal Per Diems	Other**	Total By Justice
William H. Cunningham	1st (Princeton)	$ 8,384.00	$ 4,827.82	$ 967.52	**$ 14,179.34**
John D. Minton	2nd (Bowling Green)	-	5,101.25	746.00	**5,847.25**
Daniel J. Venters	3rd (Somerset)	4,102.00	2,346.00	685.84	**7,133.84**
Lisabeth T. Hughes	4th (Louisville)	-	227.00	1,585.40	**1,812.40**
Mary C. Noble	5th (Lexington)	-	-	170.00	**170.00**
Laurance B. Vanmeter	5th (Lexington)	-	144.00	448.00	**592.00**
Michelle M. Keller	6th (Covington)	3,566.00	2,097.41	1,547.95	**7,211.36**
Samuel T. Wright	7th (Whitesburg)	178.00	2,049.00	1,195.18	**3,422.18**
	TOTAL	**$ 16,230.00**	**$ 16,792.48**	**$ 7,345.89**	**$ 40,368.37**

Source: Auditor of Public Accounts, based on information provided by the Administrative Office of the Courts.

*Justice Barber served as 7th District Supreme Court Justice for the first six months of FY16, while Justice Wright served in the same position during the last six months of FY16.

**Other reimbursements received were for expenses such as mileage, out-of-state lodging, parking, conference registrations, cell and data plans, home internet, home fax lines, Kentucky Bar Association membership and section dues, American Bar Association membership dues, local bar association dues.

Appendix G: Credit Card Holder Reimbursements made to AOC in Fiscal Years 2016 and 2017

Cardholder Title	Date of Charge	Date of Reimbursement	Days Between Charge and Reimbursement	Vendor	Amount	Reason if Noted
Chief Justice	8/5/2015	2/16/2016	195	Southwest Airlines (BNA - Laguardia)	$ 286.00	spouse's airfare
Chief Justice	8/5/2015	2/16/2016	195	Southwest Airlines (unavailable)	$ 12.50	spouse's airfare
Chief Justice	8/5/2015	2/16/2016	195	Southwest Airlines (unavailable)	$ 12.50	spouse's airfare
Chief Justice	9/23/2015	2/16/2016	146	Southwest Airlines (BNA - Laguardia)	$ 152.00	spouse's airfare
Chief Justice	9/30/2015	8/1/2017	671	The Bistro	$ 21.22	Not specified
Chief Justice	11/4/2015	6/15/2016	224	Southwest Airlines (unavailable)	$ 12.50	spouse's airfare
Chief Justice	11/4/2015	6/15/2016	224	Southwest Airlines (unavailable)	$ 12.50	spouse's airfare
Chief Justice	11/4/2015	6/15/2016	224	Soutwest Airlines (BNA - San Jose, CA)	$ 373.96	spouse's airfare
Chief Justice	11/14/2015	8/1/2017	626	Mussel & Burger Bar (Louisville, KY)	$ 32.53	Not specified
Chief Justice	2/5/2016	6/15/2016	131	Sixt Rent A Car (San Jose, CA)	$ 752.90	personal use of rental car during business trip ($376.45)
Chief Justice	2/12/2016	8/9/2016	179	National Center for State Courts	$ 700.00	spouse's registration ($200)
Chief Justice	4/6/2016	8/9/2016	125	American Airlines (Jackson, WY to Hare Field,	$ 479.60	spouse's airfare
Chief Justice	4/6/2016	8/9/2016	125	Delta Airlines (BNA to Jackson, WY)	$ 430.60	spouse's airfare
Chief Justice	9/8/2016	1/13/2017	127	Southwest Airlines (BNA - Washington, DC)	$ 203.96	spouse's airfare
Chief Justice	9/24/2016	8/1/2017	311	Serafini (Frankfort, KY)	$ 98.97	Not specified
Chief Justice	11/5/2016	1/19/2017	75	Delta Airlines (BNA to Newport News, VA)	$ 331.20	spouse's airfare
Chief Justice	12/9/2016	1/13/2017	35	Delta Airlines (excess baggage)	$ 60.00	spouse's airfare
Chief Justice	12/13/2016	1/13/2017	31	Delta Airlines (excess baggage)	$ 60.00	spouse's airfare
Chief Justice	12/22/2016	1/13/2017	22	Southwest Airlines (BNA - Phoenix)	$ 288.70	spouse's airfare
Chief Justice	1/21/2017	8/1/2017	192	Mariah's Restaurant	$ 45.28	Not specified
Chief Justice	4/7/2017	8/1/2017	116	Lockbox	$ 104.80	Not specified
Executive Director of AOC	6/15/2017	6/30/2017	15	Jalexanders (Louisville, KY)	$ 112.47	Not specified
Chief Justice	6/16/2017	8/1/2017	46	National Center for State Courts	$ 900.00	spouse's registration ($300)

Appendix H: File Photos of Justice Office Space

Appendix I: APA Training Topics for AOC

Introductory Remarks and Overview of Examination Findings

- APA staff will review key weaknesses identified during the examination, discuss areas requiring greater control and oversight, and offer additional comments on the control environment at AOC.

Policymaking Authority and Process Development

- In relation to Finding 2 in particular, and the APA's recommendation to overhaul internal AOC policies, APA staff will discuss options for organizing a policymaking process at AOC. The session will discuss delegations of authority, appropriate management levels at which to make policy, and staff training and compliance with policies.

Key Policies for Accountable and Transparent Fiscal Operations

- APA staff will discuss key areas and types of policies necessary at AOC in areas identified as weaknesses during the examination. The session may cover specific examples and policies for comparison, but AOC will be responsible for developing all of its own policies and procedures.

Ethics Advice and Recommendations

- The trainer will discuss key ethics policies necessary for government employees generally, and what policies are important to develop from the ground up.

Staff Development

- APA staff will discuss the importance of communication, cross-training, and knowledgeable oversight. These concepts overlap with effective segregation of duties, succession planning, and staff development. Formal and informal methods of planning for key employee succession and development will be discussed.

AOC'S MANAGEMENT RESPONSE

Administrative Office of the Courts
1001 Vandalay Drive
Frankfort, Kentucky 40601
502-573-2350 or 800-928-2350
www.courts.ky.gov

John D. Minton, Jr.
Chief Justice of Kentucky

Laurie K. Dudgeon
Director

July 6, 2018

Mike Harmon
Auditor of Public Accounts
209 St. Clair Street
Frankfort, KY 40601

Dear Auditor Harmon:

Official Response of the Administrative Office of the Courts
to the Special Examination by the Kentucky Auditor of Public Accounts

I want to express my sincere appreciation to you and your staff for conducting such a professional and comprehensive examination of the Administrative Office of the Courts (AOC). Completing a third-party review of our financial operations and internal processes has been one of the most valuable exercises the AOC has undertaken during my tenure as director and I am pleased with the results.

It is important to note that John D. Minton Jr.'s tenure as chief justice began in 2008, when Kentucky state government faced an economic crisis. Over the next few years, the Judicial Branch responded to deep, ongoing budget cuts by laying off nearly 300 employees, eliminating court programs, trimming operating costs, and furloughing court employees for the first time ever. For several years, the court system did not receive funding for a pay equity plan that would make the Judicial Branch's historically low salaries competitive with the other two branches of government. These cost-saving measures had detrimental and long-lasting effects.

When the AOC requested this audit in May 2017, it was an unprecedented step that reversed more than 40 years of tradition in how the state court system has handled external review. While we are careful to safeguard the Judicial Branch as a separate and co-equal branch of government, we also want to advance our efforts to be transparent and accountable to Kentucky taxpayers.

The timing of this audit is important for another reason. Thanks to the General Assembly providing nearly full funding for the Judicial Branch in our last two biennial budgets, the AOC is in a much stronger position than in recent years to hire staff with the specific areas of expertise needed to make policy changes that result from the APA's recommendations.
The APA has audited the AOC's financial statements annually since 1984 as part of the Kentucky Finance & Administration Cabinet's Kentucky Comprehensive Annual Financial Report (CAFR). However, in April 2017, we departed from this usual routine by requesting a

meeting with your staff to discuss how the AOC could improve its policies around the disposal of surplus property.

That conversation led to our inviting the APA to conduct an extended examination of policies and internal control procedures that would be much broader in scope than the annual CAFR audit.

In May 2017, the AOC engaged the APA to review specific areas for Fiscal Years 2015 and 2016, namely the following:

- Determine whether policies and internal controls governing financial activity of the then-Department of Administrative Services, including travel reimbursement policies for elected officials and non-elected personnel, are adequate, provide the appropriate level of access and authority, are consistently followed and provide for a transparent process.

- Determine whether policies and procedures governing the Budget and Accounting & Purchasing offices are adequate, consistently followed and provide for timely reporting.

- Determine whether an independent process to receive, analyze, investigate and resolve concerns relating to potential waste, fraud and abuse exists for the AOC and Kentucky Court of Justice employees and is adequate to ensure concerns are properly addressed.

The AOC sought the APA audit because we were aware of areas that needed improvement. We anticipated many of your findings and began taking steps to strengthen operations while the audit was being conducted.

Of the many changes we have already made, the most significant is the restructuring of the Department of Administrative Services. During FY 2015 and 2016, the period covered by the audit, the Division of Auditing Services, the Division of Facilities and the Division of Logistics (property accountability) were all located in the Department of Administrative Services under the supervision of a single executive officer. The department was abolished and the divisions now report to separate managers, who in turn report directly to the AOC director.

The AOC has also taken these actions:

- Developed inventory control processes.
- Implemented waste, fraud and abuse reporting mechanisms.
- Trained managers and staff on purchasing and procurement practices.
- Revised operational procedures regarding reimbursements to county governments for the operation and maintenance of court facilities.
- Hired a tax attorney to provide advice on proposed revisions to travel reimbursement policies being developed by the AOC for recommendation to the Supreme Court.
- Implemented a process to deactivate user accounts for separated/transferred employees on a weekly basis.

The Supreme Court has also taken significant steps to tighten controls:

- Adopted an Open Records Policy for the AOC.
- Adopted an order governing the handling of the Judicial Branch's surplus property.
- Adopted amendments to the Kentucky Court of Justice Personnel Policies.
- Adopted the Kentucky Court of Justice Language Access Plan and Procedures.

Set forth below is the response of the AOC to the special examination performed by your office. We have endeavored to respond as fully and accurately as is possible within the 3-day timeframe you have given us.

AOC'S RESPONSES TO AUDIT FINDINGS & RECOMMENDATIONS

Finding 1: AOC's Weak Control Environment Has Led to a Lack of Accountability

Recommendation: We recommend AOC require all levels of management and elected officials to comply with administrative rules consistently. Failure to adhere to policies should result in loss of privileges that are provided subject to compliance with internal controls, such as adequate and timely documentation.

Response:

The AOC agrees in principle with this recommendation. The Chief Justice and the AOC requested this examination as a springboard for change. At the time the examination was requested, the AOC understood that many areas identified by the Auditor in this examination required improvements. The Judicial Branch is comprised of 404 elected officials and approximately 3,400 nonelected employees, representing 10% of the state workforce, with a single budget representing 3% of the overall general fund. Ninety-two percent of the Judicial Branch workforce is located in the 119 counties outside of Franklin County.

Unlike the Finance and Administration Cabinet, which delegates purchasing authority to individual Executive Branch agencies that are authorized to make purchases at the local level, no delegation of purchasing authority has been made by the Judicial Branch's Division of Accounting and Purchasing and *all* expenditures flow through that Division located at AOC's central office in Frankfort, minimizing the opportunity for wasteful expenditures. Any audit of applicable policies should take into account the unique environment of the Judicial Branch and requires a unique approach in making recommendations. While the AOC has mimicked a significant number of Executive Branch policies, not every Executive Branch policy can or should be adopted in this environment.

Given the unique nature of the Judicial Branch, the AOC is relying on the Auditor's expertise in suggesting clear policies to strengthen internal controls.

The AOC will develop and submit comprehensive recommendations to the Supreme Court pursuant to KRS 27A.020(6) for the adoption of Rules of Administrative Procedure taking into account these findings and recommendations. The AOC also agrees that any policies developed by the Supreme Court should be enforced uniformly and consistently.

Clarification: Each of the bullet points listed in Finding 1 references other Findings in the Auditor's report. Because the AOC has comprehensively responded to every Finding and recommendation in the order presented in the report, the AOC is not summarizing and restating its responses to address each bullet point in Finding 1.

Recommendation: We recommend AOC upper management be particularly conscientious about following policies and, to the extent possible, hold elected officials to that same level of accountability. Employees should understand the policies and procedures they are following and how they contribute to the effective operation of the agency. This understanding also allows employees to make meaningful suggestions for improvement in policies.

Response:

The AOC respectfully disagrees that the role of the AOC is to "hold elected officials…[accountable]." Instead, the role of the AOC is to develop and recommend policy measures to the Supreme Court for adoption as Rules of Administrative Procedure and to execute Rules of Administrative Procedure and other policies and programs adopted by the Supreme Court. The AOC agrees that any policies developed by the Supreme Court should be enforced uniformly and consistently. Ultimately, elected officials are accountable to the voters and to the appropriate disciplinary bodies.

The AOC agrees that employees should be adequately trained on all policies and operational procedures, which should be stored in a centralized, accessible location.

Please see the above response and the response to Finding 2.

Recommendation: Staff development, training, and assignment should be sufficient to ensure that no one person has entire control or sole knowledge in any particular area. Without shared knowledge and responsibility, employees cannot be sufficiently monitored and duties cannot be adequately segregated. Cross-training also allows operations to continue in the absence of key personnel, on a short-term or long-term basis.

Response:

The AOC agrees with this recommendation. Since making budget reductions in 2008, the AOC has had to consolidate a number of central office positions. Concurrently, the Judicial Branch has invested heavily into statewide programs, such as Specialty Courts (Drug Court, Mental Health Court, Veterans Treatment Court), Pretrial Services and Family & Juvenile Services and technology projects to modernize its technology, bring e-Filing to all counties, and increase access to justice for the citizens in all 120 counties. All of these improvements have considerably increased duties for the remaining central office staff.

In order to implement the recommendations in this examination, the AOC will have to make a substantial investment to add qualified staff to perform the functions identified in the Auditor's report and offer training opportunities to existing staff.

Finding 2: The Policymaking Process is Fractured

Recommendation: The Chief Justice should create written delegation of his policymaking authority if he intends to delegate that authority. He should describe in detail who has authority to create policies by type, subject matter, and applicability, and may wish to specifically indicate what policymaking authority is retained by him. He should also create written guidance regarding the process for policy approval, or delegate the creation of this guidance to a member of AOC staff and confirm that it is accomplished promptly.

Response:

The process for creating policy for the Kentucky Court of Justice is outlined in the Kentucky Constitution, which authorizes more than one pathway for policy development for the Judicial Branch of government in Kentucky. As the executive head of the Court of Justice, the Chief Justice has the authority to make policies applicable to the efficient operation of the Judicial Branch. Ky. Const. Section 110(5)(b). The Supreme Court of Kentucky may also adopt rules of practice and procedure for the Court of Justice pursuant to Section 116 of the Kentucky Constitution.

In enacting the Supreme Court Rules, the Supreme Court has adopted an interpretation of the Kentucky Constitution that reflects the above principles. SCR 1.010, which was adopted in 1978 and has never been amended, provides: "the policymaking and administrative authority of the Court of Justice is vested in the Supreme Court ***and*** the Chief Justice." (Emphasis added.) SCR 1.020(1)(a) requires that matters of policy or administration shall be decided by a concurrence of at least four members of the Supreme Court.

The Chief Justice and the Supreme Court accomplish this policymaking by adopting Rules of Administrative Procedure (APs) for the Court of Justice, which are the policies that are applicable to the Judicial Branch. The APs are the rules of procedure and practice that apply to and control the programs and operational aspects of the Court of Justice. They apply equally to AOC employees and elected and appointed officials.

The Auditor's report characterizes the Supreme Court's practice of discussing administrative matters of the Court of Justice as the Chief Justice having "decided to share authority with the other members of the Supreme Court." As discussed above, however, the Supreme Court as a whole is authorized under Section 116 of the Kentucky Constitution and required by SCR 1.010 to adopt rules of practice and procedure for the Judicial Branch. To the extent that the Auditor's report contradicts the Chief Justice's interpretation and explanation of Section 116 of the Kentucky Constitution, the AOC believes the Auditor to be mistaken in his interpretation of Kentucky law.

Neither the Chief Justice nor the Supreme Court has delegated policy-making authority to the AOC; nor would it be appropriate to make such a delegation under the Kentucky Constitution. The Rules of Administrative Procedures adopted by the Chief Justice or the Supreme Court are the policies applicable to the Judicial Branch.

Section 110(5)(b) of the Kentucky Constitution authorizes the Chief Justice to "appoint such administrative assistants as he deems necessary." Pursuant to KRS 27A.050, the AOC is created to serve as the staff for the Chief Justice in executing the policies and programs of the Court of

Justice. In executing the policies and programs of the Court of Justice and performing administrative services for the Court of Justice, the AOC develops and promulgates operating procedures and guidelines similar in nature and scope to Standard Operating Procedures of the Executive Branch to guide its departments and internal AOC staff. KRS 27A.020(1).

The Kentucky Constitution and existing Supreme Court Rules provide adequate guidance regarding the policymaking authority of the Supreme Court and the Chief Justice. No additional written guidance is needed.

Recommendation: All existing AOC policies, including those created by departments, other than APs and AOs, should be inventoried, assessed, and re-enacted pursuant to the new process created in response to these recommendations.

Response:

As set forth above, the AOC does not create policy. Rather, the AOC executes and implements policies of the Chief Justice and the Supreme Court. In doing so, the AOC promulgates operational procedures and guidelines to provide direction to AOC staff.

Existing Administrative Procedures for the Court of Justice are available on the Supreme Court's website and are published by West and Thomson-Reuters. The AOC agrees that its existing operational procedures and guidelines should be inventoried, assessed, reviewed by the Office of General Counsel, and approved by the AOC Director.

The AOC also agrees that it should create and maintain a central location for operational procedures and guidelines that is accessible to its employees and other applicable parties, and that these operational procedures and guidelines should be subject to routine review. The AOC also agrees that its managers and staff need to be (1) educated on the differences between APs enacted by the Chief Justice or the Supreme Court and operational procedures and guidelines promulgated by the AOC; and (2) trained on operational procedures and guidelines promulgated by the AOC.

Specifically, the AOC is conducting a comprehensive review of all operational procedures and guidelines by taking the following steps:

- The Director's office and the Office of General Counsel will formalize into written procedures the AOC's existing process for the creation and maintenance of operational procedures and guidelines including the requirement that all operational procedures and guidelines proposed by a department or division be reviewed by the Office of General Counsel and approved by the AOC Director and establishing parameters for routine review;
- The Director's office will create an internal electronic database to house all operational procedures and guidelines for all AOC departments and divisions;
- The Director's office and the Office of General Counsel will review all existing operational procedures and guidelines and the Managers and Executive Officers of each department or division will update them as necessary;
- The Director's office and the Office of General Counsel will work with Managers and Executive Officers to identify gaps in existing operational procedures and guidelines and recommend that the Chief Justice or the Supreme Court adopt appropriate Administrative

Procedures, or that the department or division propose additional operational procedures and guidelines; and

- Appropriate Managers and Executive Officers will train all departments and divisions on existing operational procedures and guidelines.

The AOC anticipates that the written procedure regarding the process for operational procedures and guidelines will be completed by September 1, 2018. The internal electronic database will be operational by October 31, 2018. Review of existing operational procedures and training and development of additional operational procedures and training will be an ongoing task. A position will be created to be responsible for maintaining operational procedures, among other duties.

Recommendation: AOC should create and maintain a central location for policies that is accessible to its employees and other applicable parties. Established policies should routinely be reviewed to ensure the policies reflect current operations. In addition, new policies or modifications of existing policies should be communicated to relevant staff as they are adopted. Major changes to policy may require training.

Response:

Please see the response above.

Recommendation: The Chief Justice should consider whether the practice of the Supreme Court as a whole deliberating and voting on administrative matters is an impediment to efficient and appropriate policy implementation. Furthermore, if the Supreme Court meets regarding administrative matters, it should do so consistent with the open meetings laws in place for similar decision-making bodies, and the Court of Justice should adopt similar policies as it has done recently for open records.

Response:

As stated above, the Supreme Court's deliberation of and voting on administrative matters as a whole is not a "practice" but is specifically contemplated by the Kentucky Constitution and required by Supreme Court Rule.

With respect to the recommendation regarding open meetings, SCR 1.020(3) provides that "the Supreme Court will sit in open session for scheduled oral arguments and on such other occasions as it may determine." The Supreme Court's consideration of the administrative docket is part of its deliberative process and is not open to the public. There is no decision-making body in the Commonwealth similar to the Supreme Court, which must have discretion to conference confidentially about pending matters, administrative or otherwise.

Clarification: The report's statement that "the current Chief Justice has decided to share authority with the other members of the Supreme Court" demonstrates a fundamental misunderstanding of the Kentucky Constitution with respect to the policymaking process for the Court of Justice and the role the Supreme Court plays in it. Pursuant to SCR 1.010, policymaking and administrative authority for the Court of Justice is vested in both the Supreme Court and the Chief Justice. During the Auditor's examination, AOC staff attempted to explain this, as well as the distinction between policies adopted as Administrative Procedures by the

Chief Justice or the Supreme Court and operational procedures promulgated by the AOC, to the Auditor's staff. AOC managers, in explaining this distinction, were not intending to "diminish" the operational procedures promulgated by the AOC or to "suggest" that certain operational procedures are not binding on AOC employees, but rather to educate the examiners and help them develop an audit plan per the examiners' request.

Despite the confusion around the policymaking process at the Supreme Court level, the AOC agrees with the recommendations that AOC operational procedures and guidelines should be reduced to writing, compiled and centralized, applicable to all employees, applied uniformly, and subject to routine review.

Finding 3: Insufficient Internal and External Auditing

Recommendation: We recommend AOC develop a division with a true internal audit function. The division should have a charter or at minimum an internal audit plan, report to the Director or above, have interaction with the Chief Justice as chief administrator of AOC, and be given the independence necessary to investigate and audit areas of risk without interference or waiting on specific directives. The division should also have quality control through internal and external assessments.

Response:

The existing auditing division was initially created for the purpose of fulfilling a legislative mandate to conduct circuit clerk audits and eventually master commissioner audits. The AOC agrees that there is significant value in the existing auditing division, which has never been charged with conducting routine internal audits, taking on an internal auditing function with a defined charter. However, creation of this function is dependent on a significant budget outlay to appropriately staff this division.

Recommendation: For greater independence and to create a reporting function, we recommend AOC consider creating an audit committee that separates management from the internal audit activities that provide oversight of management.

Response:

The AOC agrees that the auditing division, particularly as it takes on an internal audit function, requires independence. Last year, the AOC took an initial step of abolishing the Department of Administrative Services, reorganizing all the units and divisions therein, making the Division of Auditing Services a stand-alone division which currently reports directly to the Director's Office. The AOC intends to explore opportunities to contract with an outside consultant to advise and assist us in ensuring the continuing independence of the auditing division.

Recommendation: We recommend AOC also evaluate and consider, as part of an internal audit function, the competencies, education, and experience required for staff assigned to this function. This evaluation is consistent with the IPPF Standards cited throughout this Finding.

Response:

The AOC agrees that an evaluation of the competencies, education and experience required for staff assigned to the new internal audit function is required. The AOC intends to explore opportunities to contract with an outside consultant to advise and assist us in implementing this recommendation. The AOC will make every effort to provide training and additional education opportunities to existing Auditing staff.

Recommendation: If an internal audit function is more fully developed, we recommend AOC designate its internal audit division or internal audit committee as a reporting entity for allegations of waste, fraud, and abuse. Internal auditors should be aware of any such allegations for their risk assessment and audit planning.

Response:

The AOC agrees that a function of the internal auditing group would be to investigate and respond to allegations of waste, fraud and abuse, which is currently being handled by the Human Resources Department. However, as noted above, inclusion of the internal auditing function in the auditing division is dependent on a significant budget outlay to appropriately staff the division.

Clarification: On page 10, the Auditor's report reflects that the AOC does not maintain a log of complaints unless the complaint was made by e-mail. The AOC's current process is to maintain a log of all complaints in SharePoint as well as hard copy.

Recommendation: We recommend the General Assembly require an annual external audit of AOC, permitting the Auditor of Public Accounts a right of first refusal to audit or examine AOC each year. Regardless of whether the General Assembly enacts such a requirement, we recommend AOC obtain an annual external audit. To provide further transparency, the results of any audits or examinations of AOC should be open records and posted to a public website.

Response:

The AOC agrees that there is value in obtaining external audits of the AOC and making those results public. However, the determination of whether to require an external audit and the frequency of such must remain at the direction of the Supreme Court so as not to violate the principle of separation of powers.

Finding 4: Employee Ethics Policies Are Poorly Developed

Recommendation: We recommend AOC conduct a comprehensive review of its ethics policies for all employees, including those applicable to appointed and elected officials on administrative matters, to consider whether all necessary areas and concerns are adequately addressed.

Response:

Ethics policies for employees are located in AP Part III, "Personnel Policies for the Kentucky Court of Justice." Ethics policies for elected officials are located in the applicable Code of

Conduct, which is the Code of Judicial Conduct for judges (SCR 4.300, Supreme Court Order 2018-04) and the Code of Conduct for Circuit Court Clerks (Supreme Court Order 2014-12).

In light of these recommendations and findings, the AOC will review the Personnel Policies for the Kentucky Court of Justice and, pursuant to KRS 27A.020(6), make appropriate recommendations to the Supreme Court. As discussed in our response to recommendations in Finding 2, ultimate authority to make changes to the Personnel Policies for the Kentucky Court of Justice is vested in the Supreme Court.

Recommendation: We recommend AOC also consider and revise the wording of existing ethics rules. Although written in terms of general application, policies should be precise enough so that each employee understands what specific conduct is prohibited and what is expected of them. While terms like "may" and "should" have their places, the policies should avoid open-ended descriptions of possible bad conduct and attempt to draw bright-line rules and thresholds to be as clear and as uniformly enforceable as possible.

Response:

In light of these recommendations and findings, the AOC will review the Personnel Policies for the Kentucky Court of Justice and, pursuant to KRS 27A.020(6), make appropriate recommendations to the Supreme Court. As discussed in our response to recommendations in Finding 2, ultimate authority to make changes to the Personnel Policies for the Kentucky Court of Justice is vested in the Supreme Court.

Recommendation: We recommend AOC specifically address lines of authority for reporting and enforcement for its ethics policies and communicate these matters to employees so that staff understand the correct place to take concerns, who has authority to address those concerns, the process for addressing concerns, and the consequences of violating a policy. Reporting authorities can also serve as an important resource for employees seeking guidance on compliance with ethics rules.

Response:

It is clearly understood at the AOC and within the Court of Justice who the appointing authorities are. The AOC Director is the ultimate appointing authority for all AOC personnel, but in practice designates every Executive Officer and Manager as the appointing authority of employees within the department or division. The AOC has recently revised all job descriptions for Executive Officers and Managers and has included this designation in those job descriptions.

In light of these recommendations and findings, the AOC will review the Personnel Policies for the Kentucky Court of Justice and, pursuant to KRS 27A.020(6), make the recommendation to the Supreme Court that the definition of appointing authority be clarified consistent with these recommendations. As discussed in our response to recommendations in Finding 2, ultimate authority to make changes to the Personnel Policies for the Kentucky Court of Justice is vested in the Supreme Court.

With respect to concerns about the conduct of elected officials, the Judicial Conduct Commission, Kentucky Bar Association, and the Circuit Court Clerks Conduct Commission, and **not** the AOC, have the authority to review the conduct in question.

Recommendation: Once new policies are in place, we recommend AOC conduct ethics training for all employees, including appointed and elected officials. AOC should also consider periodic training, at a minimum for new hires. AOC should continue its practice of obtaining written acknowledgment by staff of these policies, as well as any revisions. Documenting acknowledgment of policies is helpful for when disciplinary action is required, and also communicates to employees the seriousness with which management takes ethics policies.

Response:

The AOC agrees that ethics training for all employees and appointed and elected officials is of paramount importance. The AOC currently trains new employees on the ethics rules contained in the Personnel Policies for the KCOJ. The AOC will draft a summary sheet describing any new ethics rules adopted by the Supreme Court or the Chief Justice and will require every employee to review them and acknowledge receipt of them when accessing the Timesheet Portal.

Recommendation: AOC should consider organizing an independent body specifically to address, investigate, and enforce ethical matters related to AOC employees. An independent body can serve as an important reporting authority so employees can have confidence that ethical concerns will be handled impartially and without reprisal.

Response:

The Personnel Policies of the KCOJ as they currently exist contain a Grievance Policy for the Kentucky Court of Justice in Section 8.02 which explicitly allows an employee to file a grievance without "interference, coercion, discrimination, or retaliation," e,g, "reprisal" and requires the AOC to impartially handle the matter. Section 2.02 of the Personnel Policies provides that any complaints received will be forwarded to the appropriate entity, which includes the Judicial Conduct Commission, the Circuit Court Clerks Conduct Commission, the Attorney General, the FBI, state police, or local law enforcement.

The AOC is a statutorily created entity that is required to fulfill all of its statutory functions. This includes the responsibilities of supervising "clerical and administrative personnel" and "executing the policies and programs of the Court of Justice." See KRS 27A. 020(2) and KRS 27A.050. The AOC is not authorized to delegate these responsibilities to any "independent body." As such, the AOC disagrees with your recommendation to organize an independent body to address, investigate and enforce ethical matters related to its employees.

Finding 5: Procurement Policies are Weak

Recommendation: We recommend AOC review and reduce its small purchase authority, considering the level of authority granted to similar agencies in Kentucky.

Response:

The only agencies in Kentucky that are similar to the AOC with respect to the authority to procure goods and services for their branch of government are the Finance and Administration Cabinet (FAC) and the Legislative Research Commission (LRC). The AOC, as the

administrative and operational arm of the Judicial Branch, cannot be reasonably compared to local agencies or state agencies whose limited authority to purchase is derived from the Finance and Administration Cabinet. As the report indicates, the AOC's small purchase limits are 25% higher than those of FAC and LRC with respect to the requirements for competitive bidding; however, the AOC requires three quotes for purchases of $10,000 to $49,999 while according to Figure 4 of the Audit Report, LRC obtains a single quote for purchases up to $40,000.

The AOC intends to present comprehensive recommendations to the Supreme Court for the adoption of Rules of Administrative Procedure relating to procurement. In light of these recommendations and findings, one recommendation the AOC will make to the Supreme Court will be to consider the small purchase authority of the AOC. As discussed in our response to recommendations in Finding 2, ultimate authority to adopt policies for the Kentucky Court of Justice is vested in the Supreme Court.

Recommendation: We recommend all procurement policies be formalized, documented, and distributed to staff. Adoption of outside policies, such as incorporating FAPs by reference, should be similarly formalized, documented, and communicated.

Response:

The AOC agrees with this recommendation and would like to note that in the thirteen months of the examination, the Auditor did not uncover a single incidence of fraud, waste, or abuse in the procurement of goods and services for the AOC.

The Division of Accounting and Purchasing is working with the Office of General Counsel to develop and submit comprehensive recommendations to the Supreme Court pursuant to KRS 27A.020(6) for the adoption of Rules of Administrative Procedure relating to procurement. As discussed in our response to recommendations in Finding 2, ultimate authority to make changes to the Administrative Procedures for the Kentucky Court of Justice is vested in the Supreme Court.

Until the AOC makes recommendations to the Supreme Court and the Supreme Court adopts Administrative Procedures, the AOC will follow its current processes, which are described in Purchasing and Procurement Guidelines dated March 15, 2018 (AOC Appendix 1). While the AOC recognizes that additional staff training will be required following the Supreme Court's adoption of Rules of Administrative Procedure relating to procurement, the Division of Accounting and Purchasing and the Office of General Counsel, Division of Operations and Procurement have provided training regarding the March 15, 2018 Procurement Guidelines to all AOC Executive Officers and Managers and designated operational contacts within each department or division.

Clarification: The Auditor's report notes that documentation of the AOC's adoption of various FAPs would ideally have pre-dated the audit period. While the AOC agrees with that opinion, it is significant to note that the two Memoranda described on Page 26 of the Auditor's report were written ***by*** the former Manager of the Division of Accounting and Purchasing ***to*** the former General Counsel **upon the Auditor's request** that the former General Counsel identify "All policies, procedures, and ***other guidance*** applicable to the operation of AOC, the Department of Administrative Services, and/or the Budget Office, especially concerning procurement, surplus inventory, conflicts of interest, and ethics."

The Division of Accounting and Purchasing has historically complied with the FAPs identified in part because the AOC uses eMARS, the Executive Branch's accounting software, which is programmed to only permit purchases in compliance with the Finance and Administration Cabinet's FAPs. Significantly, the Auditor's report does not contain any incidents of noncompliance with any of the policies, procedures or other guidance identified by the AOC with respect to purchasing or procurement of goods and services.

Recommendation: We recommend AOC review and adopt clear lines of authority for origination of policies. Any delegation of policymaking powers should be formalized and documented.

Response:

Please see the response to Finding 2, above.

Recommendation: We recommend AOC adopt definite criteria and require written justification for sole source purchasing or other bidding exceptions. Furthermore, clear lines of authority for making the decision regarding sole source purchases should be adopted.

Response:

The AOC agrees with this recommendation. This specific recommendation will be included in the recommendations provided to the Supreme Court for the adoption of Rules of Administrative Procedure relating to procurement. Until the Supreme Court adopts Rules of Administrative Procedure relating to procurement, the AOC will follow its current processes, which are:

- As detailed in the Memorandum dated June 9, 2017 outlining purchasing procedures followed by the Division of Accounting and Purchasing, the AOC follows FAP 111-10-00.
- Purchasing and Procurement Guidelines for the AOC, which were established by the AOC in March 2018, designate the Office of General Counsel Division of Operations and Procurement as the decision-maker as to whether a sole source exception applies and documentation of any exception will be maintained in the contract file.
- Since March 2018, Managers, Executive Officers, and operations contacts within each department and division have been trained on the Purchasing and Procurement Guidelines.
- All purchases will be transacted by the Division of Accounting and Purchasing on behalf of all departments and divisions in the AOC; all solicitations will be issued by the Office of General Counsel Division of Operations and Procurement on behalf of all departments and divisions in the AOC.

Clarification: Apparently this recommendation was based on an informal note made by a former employee on training materials. However, there is no evidence that a sole source determination was ever actually made by any department or division other than the Division of Accounting and Purchasing. All purchases for the KCOJ are centralized in the Division of Accounting and Purchasing. Prior to the March 2018 Purchasing and Procurement Guidelines, if an existing procurement vehicle was not in place and the purchase in question exceeded the small purchase authority, the Division of Accounting and Purchasing would by default have had to make a determination as to whether a competitive bidding exception existed. The internal guidelines for

the Accounting and Purchasing Division appropriately indicated that the decisions should be made in consultation with the Office of General Counsel. Departments were not situated to make "their own determinations" with respect to competitive bidding exceptions. Nevertheless, the AOC agrees that it should recommend to the Supreme Court that it adopt a policy appointing a single procurement point of contact to make determinations on competitive bidding exceptions.

Recommendation: We recommend, consistent with Finding 2 (page 14), AOC conduct a comprehensive review of all ethics policies, including its procurement guidelines, to address the concerns identified in this and other findings.

Response:

In light of these recommendations and findings, the AOC will review any applicable procurement guidelines to address the concerns identified in this Finding as well as in Finding 4 (pages 21-25). Pursuant to KRS 27A.020(6), the AOC will make appropriate recommendations to the Supreme Court for inclusion in Rules of Administrative Procedure for procurement. As discussed in our response to recommendations in Finding 2, ultimate authority to make changes to the Administrative Procedures for the Kentucky Court of Justice is vested in the Supreme Court.

Finding 6: AOC Did Not Follow Advice of Legal Counsel Regarding Surplus Property Sales and Provided Little to No Oversight for These Sales

Recommendation: We recommend AOC discontinue the practice of internal-only sales and instead follow its own legal counsel's guidance from the 2010 memo and subsequent SC Order 2017-5. No exceptions from prescribed procedures should occur. We recommend AOC conduct and advertise any surplus property sales consistently with other state law regarding surplus property.

Response:

The AOC agrees with this recommendation. The Supreme Court has adopted policy concerning KCOJ surplus property in Supreme Court Order 2017-05, Judicial Branch Surplus Property, entered April 19, 2017. The AOC has discontinued the practice of internal sales of surplus property and has entered into an MOU with the Finance and Administration Cabinet to dispose of surplus property of the KCOJ eligible for sale. (MOU with Finance, AOC Appendix 2.)

In accordance with the Supreme Court Order, the Logistics Division (formerly DPAIC) has worked with the Office of General Counsel to create an official KCOJ form, AOC-PA-001, "KCOJ Owned Personal Property Declaration of Surplus," to document in writing all property declared surplus. Once property has been declared surplus eligible for sale, it is delivered to the Finance and Administration Cabinet's Division of Surplus (DOS), which becomes the custodian of the property and is responsible for its disposal in accordance with all applicable law, regulations, policies and procedures. (AOC-PA-001, AOC Appendix 3.)

The Logistics Manager will actively review all AOC-PA-001 Surplus Declaration forms for accuracy. Regular and frequent communication between the Logistics Manager and DOS will ensure DOS deliveries are happening in accordance with the MOU and will allow any issues or irregularities to be quickly identified and resolved.

Recommendation: We recommend AOC accurately record all vehicle information in eMARS as outlined in the Finance Cabinet Process for Vehicles in eMARS and FAP-120-20-01 or a substantially similar AOC policy. Furthermore, fixed assets should be removed from eMARS following each surplus sale to avoid errors in inventory and financial statements.

Response:

The AOC agrees with this recommendation. The Logistics Division is working with the Office of General Counsel to develop and submit comprehensive recommendations to the Supreme Court pursuant to KRS 27A.020(6) for the adoption of Rules of Administrative Procedure relating to inventory and asset management. Once the AOC makes recommendations to the Supreme Court and the Supreme Court adopts Rules of Administrative Procedure relating to inventory and asset management, the Logistics Division and Department of Information & Technology Services (ITS) will promulgate appropriate operational procedures and conduct training.

Please see the responses to Finding 7 addressing asset management records in eMARS and Archibus and the removal of fixed assets from eMARS and Archibus and Finding 8 addressing surplus sales.

Additionally, the AOC has updated fixed asset records of all licensed vehicles and licensed trailers, which it will continue to monitor and update accordingly.

Clarification: Non-titled property will be designated as surplus in eMARS and Archibus upon delivery confirmation from the DOS. Titled property will be designated as surplus in eMARS and Archibus upon confirmation of title transfer from the DOS. All other fixed assets will be updated in eMARS and Archibus at the time of disposal pursuant to Supreme Court Order 2017-05.

Recommendation: We recommend AOC retain certain records related to surplus property for eight years as outlined in the Surplus Property Guidebook.

Response:

The AOC agrees that records related to surplus property should be properly maintained in accordance with Supreme Court Order 2013-05, Records Retention Schedule for the Administrative Office of the Courts, which requires asset management records to be retained for eight years. The Surplus Property Guidebook is not applicable to the AOC because it is an Executive Branch, Finance and Administration Cabinet, Division of Surplus document. The DOS is required to follow the Guidebook in its sales of surplus property received from the AOC pursuant to the MOU.

Since the adoption of Supreme Court Order 2017-05, all surplus declarations have been made in writing by the Director or designee on KCOJ form AOC-PA-001, KCOJ Owned Personal Property Declaration of Surplus. Completed AOC-PA-001 forms and documents related to fleet vehicle maintenance are scanned and stored electronically on the Logistics Division's Property Accountability SharePoint site which was developed on June 1, 2017. The originals are maintained by Logistics in accordance with Supreme Court Order 2013-05.

Recommendation: We recommend AOC properly segregate duties for identifying items as surplus, document asset records (mileage etc.), and conduct surplus sales to safeguard assets and reduce the risk of error or fraud.

Response:

The AOC agrees with this recommendation. The Supreme Court has adopted policy concerning KCOJ surplus property in Supreme Court Order 2017-05, Judicial Branch Surplus Property, entered April 19, 2017. The AOC has discontinued the practice of internal sales of surplus property and has entered into an MOU with the Finance and Administration Cabinet to dispose of surplus property of the KCOJ eligible for sale. As the AOC no longer conducts surplus sales, there are no duties regarding surplus sales to be segregated at this time. However, the duties associated with the process of assessing, recommending, and declaring property as surplus have been segregated.

The AOC has also taken steps to segregate duties by abolishing the Department of Administrative Services and reorganizing the former Department into three separate divisions, each of which reports directly to the Director's office.

The Logistics Division is in the process of promulgating operational procedures as part of the AOC's comprehensive review of operational procedures and guidelines described in the AOC's response to Finding 2, above. These operational procedures will segregate duties among ITS, Facilities and Logistics, requiring ITS to evaluate technical equipment, Facilities to assess furniture, the Logistics Fleet Unit to assess vehicles, and the Logistics Property Accountability Unit to assess all other property. These requirements will ensure that no one person has control over recommending property for surplus declaration and that surplus recommendations are determined by employees with specific experience related to the property type. Recommendations will be reviewed and processed by both the Logistics Property Accountability Administrator and Logistics Manager before being submitted to the AOC Director or designee for final approval.

Assessments and recommendations will be documented in writing. Maintaining assessment and recommendation forms will allow the Logistics Manager and Director's Office, if needed, to cross reference recommendations of ITS, Facilities, and/or the Fleet Unit against property included and listed on an AOC-PA-001 for surplus declaration.

Clarification: The AOC supports the Auditor's decision to refer this finding to the Kentucky Attorney General. The AOC has been assisting the Attorney General in its investigation of this matter since March 2017.

Finding 7: AOC Failed to Properly Maintain Inventory Records and Did Not Establish Procedures to Ensure Assets are Accurately Valued and Accounted For

Recommendation: In order to strengthen the internal controls over inventory assets, we recommend AOC maintain adequate asset listings. To streamline the process and integrate reporting among its departments, AOC should consider utilizing one detailed inventory system

for all asset purchases. Strong oversight over DPAIC should occur and involve an employee who is not concurrently performing any other duties to reduce the chance of errors. Data entry should include some form of review to ensure accuracy and completeness.

Response:

The AOC agrees with this recommendation. The Logistics Division will work with the Office of General Counsel to develop comprehensive recommendations to the Supreme Court pursuant to KRS 27A.020(6) for the adoption of Rules of Administrative Procedure relating to inventory and asset management. Once the AOC makes recommendations to the Supreme Court and the Supreme Court adopts Rules of Administrative Procedure relating to inventory and asset management, the Logistics Division and ITS will promulgate appropriate operational procedures. Until that time, the AOC is taking the following steps to strengthen the internal controls over inventory assets:

1) As of April 2018, ITS has merged the internal Archibus databases. Going forward, all data entered by ITS and Logistics will be recorded in the same database, with identical data fields, and consistent data labels. The AOC does not intend to eliminate the internal inventory database associated with Archibus because it is a more efficient and detailed physical inventory tracking and data management system than eMARS, which is designed to track accounting data more than physical inventory location and tracking. Nonetheless, the AOC will continue to input accounting data associated with assets valued at $5,000 or more into eMARS for the Comprehensive Annual Financial Report (CAFR).

2) Logistics has worked with ITS to develop improved weekly reports from the Purchase Order (PO) database to identify acquired fixed assets that need to be entered into Archibus and eMARS.

3) To reduce human error, the AOC intends to develop an electronic version of the AOC form for purchasing requests (AOC-3), and automate data transfer between the AOC-3, the PO system, and the inventory database.

ITS has already implemented a similar electronic form for Technical Equipment Requests. It has been tested and successfully implemented and will serve as a model for the AOC-3 revision project.

4) Both ITS and Logistics have established new positions with job duties focused solely on inventory and surplus data management.

5) ITS and Logistics staff members have developed an Asset Inventory project team to facilitate continuous process improvement with respect to asset processes and procedures. Currently, the team meets weekly.

6) The AOC continues to conduct a comprehensive and thorough physical inventory of fixed assets valued at $5,000 or more annually. By the end of calendar year 2019, the AOC intends to begin a statewide physical inventory of all fixed assets valued at $500 or more.

The merging of the two Archibus inventory databases into one comprehensive database used by both Logistics and ITS will ensure fixed-asset data is no longer being manually shuffled between two different databases, which previously led to multiple data and tracking errors. Management of

both Logistics and ITS have engaged in an active oversight role to ensure new procedures and data entry methodologies remain consistent and timely entered.

Clarification: Because of staffing changes, division reorganization, and the decision to consolidate the two Archibus databases, the AOC decided to place a temporary hold on data entry into Archibus and eMARS while databases were consolidated and reconciled. As a result, fixed-asset data was incomplete between July 1, 2017 and March 1, 2018. If the examiners tested asset line items during this timeframe, it would produce the incomplete results identified in the Auditor's report.

Recommendation: We recommend AOC implement detailed inventory and disposal policies and procedures to ensure the agency's assets are monitored and accurate. The policies and procedures should address the staff involved and their responsibilities.

Response:

The AOC agrees with this recommendation. Please see the above response.

Recommendation: We also recommend AOC select a sample of assets valued at or above a threshold as established by policy and conduct a physical inventory at the end of each year to make comparisons to the assets in the inventory system.

Response:

The AOC agrees with this recommendation. Please see the above response.

Recommendation: We recommend AOC follow FAP 120-11-00, related to lost or stolen state-owned property. In addition, we recommend all AOC departments, including ITS, verify the contents of shipments upon receipt to the warehouse.

Response:

The AOC agrees with this recommendation. The Logistics Division will work with the Office of General Counsel to develop comprehensive recommendations to the Supreme Court pursuant to KRS 27A.020(6) for the adoption of Rules of Administrative Procedure relating to inventory and asset management that will address this recommendation. The Logistics Division will train AOC staff on any Rules of Administrative Procedure adopted by the Supreme Court relating to inventory and asset management.

FAP-120-11-00 is consistent with current AOC practices, which is to report property suspected as being stolen to the Logistics Manager and the Court Security Unit. The Logistics Court Security Unit will coordinate the filing of police reports as necessary.

The AOC agrees that any KCOJ property reported missing, lost, or stolen should be documented as such in the inventory database. The Logistics Division is currently developing a form to document the circumstances of missing, lost or stolen property. These reports will be maintained on the Court Security SharePoint site and will be provided to the Property Accountability Unit so inventory data can be accurately updated and the property can be declared surplus as necessary.

Recommendation: We recommend AOC follow internal guidance already developed to match shipping documents with purchase orders and develop a system to have a receiving clerk conduct a blind count of incoming shipments before accepting delivery.

Response:

The AOC agrees with this recommendation. The Logistics Division is working with the Office of General Counsel to develop comprehensive recommendations to the Supreme Court pursuant to KRS 27A.020(6) for the adoption of Rules of Administrative Procedure relating to inventory and asset management that will address this recommendation. The Logistics Division will train AOC staff on any Rules of Administrative Procedure adopted by the Supreme Court relating to inventory and asset management.

Finding 8: AOC Did Not Ensure Surplus Sales Receipts Were Deposited Appropriately and Did Not Consistently Apply or Remit Sales Tax from Surplus Sales

Recommendation: We recommend AOC comply with FAP 120-24-00 by depositing cash, checks, and other negotiable instruments in the State Treasury on the same day of receipt. Additionally, we recommend AOC comply with KRS 41.070 by adequately recording each amount received, the source of receipt, and the date received. Furthermore, we recommend AOC update and comply with the AOC Deposit Instructions, which were most recently revised in August 2013. The updated AOC Deposit Instructions should then be communicated to the Division of Accounting and Purchasing staff as well as individual departments which receive money.

Response:

The AOC agrees with the Auditor's recommendation that it should comply with the requirement of KRS 41.070(1) that deposits "be deposited in state depositories in the most prompt and cost-efficient manner available" and recognize that several deposits described in the Auditor's report may not have been promptly deposited. While the Division of Accounting and Purchasing reconciles all moneys daily, the requirement in FAP 120-24-00 that deposits be made on the same day of receipt is unattainable for the AOC based on operational limitations. The AOC Division of Accounting and Purchasing currently deposits cash, checks, and other negotiable instruments in the State Treasury within one week of receipt. The Division of Accounting and Purchasing has determined this practice to be "prompt" within the meaning of KRS 41.070(1) and will promulgate an appropriate operational procedure accordingly. The AOC agrees that its departments and divisions that receive money should adequately record each amount received, the source of receipt, and the date received. This is reflected in the AOC Deposit Instructions and is the current practice.

The AOC Deposit Instructions will be reviewed and updated in accordance with these recommendations as part of the AOC's comprehensive review of operational procedures and guidelines described in the AOC's response to Finding 2, above. The Manager of Accounting and Purchasing will communicate the resulting operational procedure with Division of Accounting and Purchasing staff and departments that receive money.

Recommendation: We recommend AOC collect sales tax on all sales associated with surplus property as well as remit the tax collected to the Department of Revenue as specified in the Division of Surplus Property Guidebook. Furthermore, we recommend AOC comply with KRS 139.550 by filing a sales tax return.

Response:

The AOC agrees with this recommendation. The AOC has entered into an MOU with the Finance and Administration Cabinet to dispose of surplus property of the KCOJ. As such, the Finance and Administration Cabinet will be conducting future sales of surplus property of the KCOJ, collecting sales tax on those sales, and remitting the tax collected to the Department of Revenue. Although the AOC is not subject to the Division of Surplus Property Guidebook, the AOC understands that the Finance and Administration Cabinet will conduct its sales of KCOJ property in accordance with the Division of Surplus Property Guidebook.

Finding 9: AOC Does Not Follow Its Information Technology Sanitization Policy, Which Has Been in "Draft" Form Since 2009

Recommendation: We recommend AOC update and finalize the Kentucky Court of Justice Draft Sanitization & Electronic Data Disposal Policy. ITS staff with authority to assess whether decommissioned IT equipment should return to stock or be surplused, and those staff who sanitize equipment, should receive formal training and be provided a copy of the policy. In addition, we recommend AOC maintain records for all sanitization procedures including surplused equipment in a central location such as the ITS Department, and be maintained as outlined by the records retention schedule.

Response:

The AOC agrees with this recommendation.

The AOC will finalize the "Sanitization & Electronic Data Disposal Procedures" before August 1, 2018. In practice, it has already been implemented although it has not been consistently applied. Once the Procedures have been finalized, they will be distributed to affected staff and training will be conducted.

ITS staff will complete sanitization certificates and scan them to be maintained in a centralized repository.

Additionally, ITS has developed a technical equipment surplus process, which will be implemented. (Surplus Process, AOC Appendix 4.)

As an internal control measure, the warehouse will not accept equipment that has not been sanitized as denoted by the attached certificate of sanitization. (Record of IT Equipment Sanitization, AOC Appendix 5.)

ITS will monitor compliance with these processes through random selection and verification of sanitized technical equipment/assets.

Finding 10: Numerous Weaknesses in Travel and Expense Reimbursement Policies Have Led to Confusion and Inconsistent Application

Recommendation: We recommend KCOJ revise its travel and expense policies to address vague or inconsistent policy language. Once revised, the new policies should be distributed to all KCOJ staff and officials. Mandatory training should also be provided on the revised policies to ensure those submitting requests and those processing requests receive the same level of explanation and detail. AOC should then develop clear procedures to ensure consistent application of the policy.

Response:

The AOC agrees with this recommendation and has reviewed AP Part VII, Reimbursement for Official Travel for the purpose of making recommendations to the Supreme Court pursuant to KRS 27A.020(6). In light of the findings and recommendations in the Auditor's report, the AOC will review the recommendations it has previously made to the Supreme Court and revise them accordingly. As discussed in our response to recommendations in Finding 2, ultimate authority to make changes to the Administrative Procedures for the Kentucky Court of Justice is vested in the Supreme Court.

The AOC also agrees that ITS and the Division of Accounting and Purchasing will train AOC employees and elected and appointed officials on any revised travel regulations adopted by the Supreme Court. Finally, the AOC agrees that any travel vouchers not in compliance with the revised travel regulations will be returned to the employee or elected or appointed official.

Clarification: Contrary to the statements on Pages 15 and 46 of the Auditor's report, the Chief Justice has ***not*** been "outvoted" on this issue. In fact, the Supreme Court has ***not*** taken any "vote" with respect to the proposed travel regulations. Additionally, the draft version of the proposed travel regulations discussed on pages 45-47 of the Auditor's report is not the most current version that has been recommended to the Supreme Court.

Recommendation: We recommend AOC staff consistently apply all enacted policies and that all deviations from those policies be documented in writing and maintained. We recommend AOC staff not process for payment any request containing an insufficient level of detail such as: a valid and clear business purpose, travel departure and arrival times, destination addresses, or description of the item for which reimbursement is being requested. Additionally, AOC should not process for payment any requests that do not have adequate supporting documentation.

Response:

The AOC agrees with this recommendation, and in light of the findings and recommendations in the Auditor's report, the AOC will review the recommendations it has previously made to the Supreme Court concerning proposed travel regulations and will revise them accordingly. As discussed in our response to recommendations in Finding 2, ultimate authority to make changes to the Administrative Procedures for the Kentucky Court of Justice is vested in the Supreme Court.

The Division of Accounting and Purchasing has already implemented a process to reject and return travel vouchers submitted by employees and elected or appointed officials if they do not

comply with AP Part VII, or if they do not include a valid and clear business purpose, travel departure and arrival times, destination addresses, or description of the item for which reimbursement is being requested.

Recommendation: Furthermore, it is in the best interest of AOC to ensure all requests submitted have been reviewed by a second party. Review is an important control to prevent abuse of public funds. For elected officials, AOC should designate a reviewer for administrative matters. For example, Chief Regional Circuit Judges, an AOC Director or Deputy Director, could be assigned as reviewers for various elected officials.

Response:

The AOC agrees with this recommendation in principle, and in light of the findings and recommendations in the Auditor's report, the AOC will review the recommendations it has previously made to the Supreme Court concerning proposed travel regulations and will revise them accordingly. As discussed in our response to recommendations in Finding 2, ultimate authority to make changes to the Administrative Procedures for the Kentucky Court of Justice is vested in the Supreme Court.

Recommendation: We recommend AOC policies and expense reimbursements such as per diems be set at the same level for all employees and elected officials, unless there is a legitimate business reason for variation.

Response:

As discussed in our response to recommendations in Finding 2, ultimate authority to make changes to the Administrative Procedures for the Kentucky Court of Justice is vested in the Supreme Court. The AOC will refer this recommendation to the Supreme Court for consideration.

Finding 11: AOC Failed to Provide Guidance or Establish Sufficient Controls to Properly Monitor the Use of Agency-Issued Credit Cards

Recommendation: We recommend AOC develop, at a minimum, a cardholder agreement to be signed by all individuals issued a credit card. Cardholders should not use their cards to make personal purchases, even when cardholders intend to repay personal charges at a later date. Cardholders should submit supporting documentation for all purchases made using their card. Supporting documentation should include detailed merchant receipts or invoices, clearly identifying the name of the vendor, the date of the charge and the items purchased. Purchases of food when not in travel status should be prohibited. All transactions deemed necessary should include a written description of purpose and list of all recipients of food. AOC should provide cardholders with a list of unallowable items such as entertainment, gifts, alcohol. Elected officials should be required to follow AOC administrative policies.

Response:

The AOC agrees with this recommendation.

The AOC will develop a cardholder agreement to be executed by any individual assigned an American Express card. At a minimum, the cardholder agreement will include the following:

- Notification that American Express cards should only be used by the cardholder for expenditures that are otherwise reimbursable pursuant to AP Part VII;
- A requirement that any expenditure incurred on the card not reimbursable pursuant to AP Part VII shall be reimbursed by the cardholder within 30 days of receipt of the credit card statement;
- A requirement that cardholders submit supporting documentation for all purchases made using their card; and
- A detailed list of unallowable items.

The Division of Accounting and Purchasing has already implemented a process requiring receipts before an American Express bill is paid and requiring reimbursement for personal charges.

Clarification: The reception mentioned in this Finding was allowable under the then-existing Purchasing Guidelines. The Division of Accounting and Purchasing and the Office of General Counsel will incorporate recommendations related to this finding into the proposed procurement policies that will be submitted to the Supreme Court pursuant to KRS 27A.020(6). As discussed in our response to recommendations in Finding 2, ultimate authority to make changes to the Administrative Procedures for the Kentucky Court of Justice is vested in the Supreme Court.

Finding 12: AOC Did Not Ensure Accurate and Timely Reporting of Taxable Personal Benefits from Take-Home Vehicles Assigned to Justices and Other AOC Personnel

Recommendation: We recommend AOC update its vehicle use policy to reflect current operations and expectations of individuals assigned a take-home vehicle. In this policy, we recommend AOC establish penalties for failure to complete and submit, in a timely manner, the required reporting of personal usage to AOC. Appropriate penalties could include all mileage being reported as taxable or loss of take-home vehicle privileges. These consequences should apply equally to elected officials at all levels as well as staff. Once policies are finalized, they should be distributed to those responsible for processing the personal benefit forms and those assigned a take-home vehicle. Finally, these individuals should be trained on the new policies and AOC should provide sufficient oversight to ensure the policies are followed.

Response:

The AOC agrees with this recommendation. In light of these recommendations and findings, the AOC will make recommendations to the Supreme Court, pursuant to KRS 27A.020(6), to adopt Administrative Procedures regarding fleet management. As discussed in our response to recommendations in Finding 2, ultimate authority to make changes to the Administrative Procedures is vested in the Supreme Court.

Effective July 1, 2018, the responsibility for collection of personal use mileage for reporting taxable vehicle benefits was placed in the Logistics Division, which was already responsible for maintaining vehicle maintenance and service records including total mileage data. Managerial oversight of the Fleet Unit within this Division has significantly increased since the Department

of Administrative Services was abolished, which has resulted in improved recordkeeping and data collection.

The AOC will ensure that training is provided to Logistics staff regarding the calculation of taxable vehicle benefits.

The Logistics Division is developing Fleet Management Procedures that will be reviewed and updated in accordance with these recommendations as part of the AOC's comprehensive review of operational procedures and guidelines described in the AOC's response to Finding 2, above.

The Logistics Division will continue to provide KCOJ officials and personnel assigned a vehicle with "take home" privileges with information, policies, and procedures pertaining to the tax consequences of using a KCOJ vehicle for personal use.

Clarification: There are approximately 3,800 elected or appointed officials and employees within the Judicial Branch. Of those 3,800, only 31 are assigned vehicles and 21 of these have "take-home" privileges.

Recommendation: We further recommend AOC revise its procedures to ensure a review of taxable benefit calculations is performed by a second employee before adding the benefit to the individual's tax statement. Also, procedures should ensure that Human Resources staff are informed of individuals who are assigned take-home vehicles so that any taxable benefit is reported appropriately on the employee's W-2 tax documents.

Response:

The AOC agrees with this recommendation. Please see the above response.

Finding 13: ProCard Policies Are Applied Inconsistently and Transactions Lack Adequate Controls

Recommendation: We recommend AOC not use AOC funds to purchase gifts. Either purchase orders or AOC-3 Commodity/Service Request forms should be required for all purchases using a ProCard, except when the purchase is considered an emergency and cannot be delayed to seek approval. Furthermore, we recommend AOC amend purchasing policy and practices to apply consistently to all departments, specifically address these matters, and include consequences for noncompliance regarding unsupported purchases.

Response:

The AOC agrees that ProCard expenditures should have adequate supporting documentation and agrees that AOC funds should not be used to purchase gifts.

The AOC will update the cardholder agreement to specify that the cardholder must obtain prior approval from his or her manager before making purchases with the ProCard. The Division of Accounting and Purchasing will promulgate operational procedures requiring the cardholder to submit receipts prior to payment of the ProCard bill and requiring two layers of review in the Division of Accounting and Purchasing prior to payment of ProCard bills.

In light of these recommendations and findings, the AOC will research how other state court systems address honoraria and make appropriate recommendations to the Supreme Court, pursuant to KRS 27A.020(6). As discussed in our response to recommendations in Finding 2, ultimate authority to make changes to the Administrative Procedures is vested in the Supreme Court.

Finding 14: AOC Did Not Comply with Its Own Policies for Procuring Leases, Resulting in Potential Bias and Conflicts of Interest in the Process

Recommendation: We recommend AOC comply with its own policies. To assist in this effort, AOC should develop standard forms that reflect the policy requirements for leases. This should include reinstating budget department concurrence.

Response:

AP Part V, Real Property Leases constitutes the policies of the Supreme Court regarding the leasing process implemented by the AOC. The AOC is in the process of reviewing AP Part V, Real Property Leases (AP Part V) and, per KRS 27A.020(6), making recommendations to the Supreme Court to update that policy.

In construing FAP 111-35-00 to be applicable to the procurement of private sector leases, the report reflects a misunderstanding of what policies and operating procedures constitute the "competitive bidding process" for private sector leases. FAP 111-35-00 is not applicable to the procurement of leased space. Rather, FAP 111-35-00 applies to competitive bidding for goods and services. The only policy relating to competitive bidding for private sector leases for the Judicial Branch is AP Part V, which is modeled after KRS 56.800 – 56.832.

Standard leasing forms that reflect the policy requirements for leases have been or are in the process of being developed by the Manager of the Division of Facilities in consultation with the Office of General Counsel for each stage of the leasing procurement process. With these standard forms, each stage of the lease procurement process required by AP Part V will be properly documented from the space request to the final execution of the lease documents.

The Space Request form (AOC-FAC-8, AOC Appendix 6) has been developed and has been in use since March 2018. A Lease Certification Form has been developed (AOC-FAC-9, AOC Appendix 7) and leasing staff began using it in March 2018 to certify that they are not aware of any policy violations.

Additional forms will be updated and developed when the Supreme Court amends AP Part V. The use of these forms will be mandatory for all AOC Facilities staff, who will be trained on their use.

The current budget recommendation memo (Memorandum, AOC Appendix 8) contains a signature line for the Budget Director. This format has been in use since April 2017 when the former Executive Officer of Administrative Services was placed on investigative leave. While the AOC acknowledges that the former Executive Officer of Administrative Services removed the signature line for the Budget Director from the recommendation memo, budget concurrence was nonetheless obtained for all leases entered into during the examination period. All private sector lease agreements are reviewed by the Office of General Counsel before being executed by

the Director of the AOC. Part of the Office of General Counsel's review process includes ensuring that budget concurrence has occurred for any new lease. In January 2018, the examiners requested proof of Budget concurrence from the Office of General Counsel relating to certain specific contracts, but not the private sector leases. Had the examiners requested the Office of General Counsel provide proof of Budget concurrence on the five private sector leases identified in the report, the Office of General Counsel would have been able to provide that documentation.

The AOC will monitor compliance with this corrective action plan by requiring the use of a check list for all stages of the lease procurement process, which will be signed off on by the Manager of the Division of Facilities.

Recommendation: We recommend AOC policies require individuals (not just corporate forms) with relationships to AOC or AOC staff disclose those relationships during procurement.

Response:

The AOC agrees with this recommendation. The Disclosure of Ownership form will be updated consistent with these findings and recommendations.

Until AP Part V and the Disclosure of Ownership form are updated, the Leasing Coordinator will require each individual to disclose in writing on the Best and Final form whether he or she is an elected or appointed official of the KCOJ or an employee of the AOC or whether he or she is related to an elected or appointed official of the KCOJ or an employee of the AOC.

Recommendation: We recommend AOC policies address conflicts of interest during procurement to avoid the appearance of favoritism or providing financial benefits to related parties. Disclosing relationships and removing those individuals with conflicts of interest from the process engenders public trust and a more ethical culture among employees. Any known conflict should be properly documented as to the reason(s) this relationship was considered acceptable and allowed to continue. Any individual who abstained from the process due to the conflict should also be documented.

Response:

The AOC agrees with this recommendation. The AOC is in the process of reviewing AP Part V and, pursuant to KRS 27A.020(6), will make appropriate recommendations to the Supreme Court consistent with these findings and recommendations. As discussed in our response to recommendations in Finding 2, ultimate authority to make changes to AP Part V is vested in the Supreme Court.

While AP Part V does not currently address conflicts of interest other than to require disclosure, the AOC relies on Section 2.06 of Personnel Policies for the KCOJ as justification to reject lease proposals from AOC employees. Additionally, it is the longstanding practice of the AOC to abstain from leasing property directly from elected or appointed officials or members of their household.

Recommendation: We recommend AOC create a bid file and maintain all reports and evidence to support selection of winning bidders in the bid file. Reasons for the selection should also be

created and maintained. Analysis should support the result based on the criteria identified in the bid solicitation.

Response:

The AOC agrees with this recommendation in principle. The AOC currently maintains files for all private sector leases; however, the AOC acknowledges that bid documentation in those files has not always been properly maintained. The Manager of Facilities will require that a checklist be included in every private sector lease file to document that all necessary reports and evidence to support the selection of "winning bidders" are included in the file. The Manager of Facilities will require that staff document their analysis of the criteria identified in the bid solicitation and reasons for the selection of the "winning bidder" in each private sector lease file. Before any lease is finalized, the Manager of Facilities will review the file and verify that each item on the checklist is complete and included in the file.

Finding 15: AOC's Facility Reimbursements to Local Governments Used Inconsistent Criteria and Policies Were Not Clearly Communicated, Resulting in Multiple Errors

Recommendation: We recommend AOC develop and communicate consistent criteria for approval of a nonrecurring project. All counties should have a fair method to determine the expenditures that will be reimbursed. The information used to calculate quarterly payments should be verified to ensure accurate numbers are used and supported.

Response:

The AOC agrees with this recommendation. The AOC has developed and communicated consistent criteria for the approval of a nonrecurring project, including definitions of a nonrecurring project in the Policies for the Operation and Maintenance of Court Facilities, promulgated by the AOC in February 2018. (See Policies for the Operation and Maintenance of Court Facilities, AOC Appendix 9.) The AOC is currently reviewing these "Policies" for the purpose of making a recommendation pursuant to KRS 27A.020(6) that the Supreme Court consider adopting them as Administrative Procedures of the KCOJ in conjunction with recommended changes to AP Part X and V.

The AOC will also review its processes related to county facility reimbursements to incorporate these findings and recommendations. Specifically, as part of its annual facilities audit, the Division of Auditing Services will review each county's accounting ledger to verify that the audit adjustment received by the county in the 4th quarter of a fiscal year matches the recommended adjustment requested by the Division of Auditing Services. Any discrepancies noted will be reviewed and resolved by the Manager of Auditing Services and Budget Director. The Division of Facilities will update the Nonrecurring Approval Letter template to require dates for signatures of the local government official and the Manager of Facilities.

The AOC is in the process of reviewing Figures 13 and 14 in the Auditor's report. The initial results of this review indicate that those figures represent *discrepancies* between the Facilities Audit Reports and the actual adjusted reimbursements, but not *all* the reported discrepancies necessarily represent "errors" in the actual adjusted reimbursement amounts paid to counties.

The Division of Auditing will continue to review the items listed in Figures 13 and 14 to resolve any errors.

Clarification: As noted in the Audit report, the AOC has abolished the Department of Administrative Services, reorganizing all the units and divisions therein, making the Division of Auditing Services a stand-alone division that currently reports directly to the Director's Office. There is no longer a single Executive Officer in charge of both the Facilities and Auditing Divisions. On October 1, 2016, the Department of Administrative Services adopted "Procedures for Operation and Maintenance of Judicial Facilities." While these operating procedures were not adopted by the Supreme Court as Administrative Procedures and therefore may have appropriately been described by AOC staff as "procedures" rather than "policies," they were at all times official procedures that were implemented by the former Department of Administrative Services, communicated to the counties in October 2016, and used by the Division of Auditing Services to audit county reimbursements for the period of October 1, 2016 through June 30, 2017. In February 2018, the AOC adopted the "Administrative Office of the Courts Policies for the Operation and Maintenance of Court Facilities," superseding the Procedures developed in 2016. The Policies were sent out to all counties and posted on the KCOJ website. Because these Policies became effective in Fiscal Year (FY) 2018, the Division of Auditing will begin using these Policies as the criteria for its FY2018 audits.

"Nonrecurring Project" is defined in the February 2018 Policies as follows:

> **"Nonrecurring Project"** means a project consisting of a major repair; or a replacement, upgrade or modification to the court facility or KCOJ occupied portion of the facility. Examples of nonrecurring projects include, but are not limited to: new carpet or paint; replacement of the windows, roof, boiler or HVAC; or interior or mechanical renovations…

Finally, as reflected in the Auditor's report, there were departmental communication breakdowns that involved the former Executive Officer of the Department of Administrative Services. The AOC believes these have been resolved through the AOC's dismissal of the former Executive Officer, the abolishment of the former Department of Administrative Services, and the implementation of the February 2018 Operation and Maintenance procedures described above.

Finding 16: AOC Did Not Implement Adequate Controls for User Access to the KYCourts II System

Recommendation: According to the National Institute of Standards and Technology (NIST) Special Publication (SP) 800-53 Revision 4, Security and Privacy Controls for Federal Information Systems and Organizations, an organization should develop, document, and disseminate a defined access control policy to agency personnel. We recommend AOC develop and distribute an access control policy that standardizes access security controls related to KYCourts II. Policies and procedures should reflect applicable laws and standards. The policy should address the purpose, scope, roles, responsibilities, management commitment, coordination among organizational entities, and compliance. It should explain the process for staff to request access to KYCourts II, the need to limit privileges, or rights, within the application, the process to request access to be modified or removed, and the supporting documentation to be maintained to support the access being granted to staff.

Response:

KYCourts II is a 20-year-old legacy system based on an off-the-shelf product (Sustain) that has been constantly modified in-house over time and is being actively retired on a county-by-county basis.

The AOC is developing the next generation trial court case management system, KYCourts3, which replaces KYCourts II. There are 3 counties live on KYCourts3 and the statewide rollout is scheduled to be completed by 2022 and KYCourts II will be permanently retired at that time.

It would be cost prohibitive and would derail current development initiatives to re-design KYCourts II to incorporate the recommendations in this Finding into an application that is reaching end-of-life. However, the AOC has implemented interim solutions to address some of the identified issues as follows:

1) A KCOJ personnel list is generated on Mondays and employees or elected or appointed officials who have separated or transferred are inactivated in KYCourts II.
2) A quarterly audit of KYCourts II users is performed to ensure proper access to KYCourts II.
3) Guidelines for establishing KYCourts II users were distributed to circuit court clerks in April 2018, including naming conventions (first name_last name), which is consistent with Active Directory. (Quick Reference Guide, AOC Appendix 10.)

While the AOC disagrees with these recommendations as they relate to KYCourts II, the AOC does agree with the recommendations in principle and will ensure that all recommendations in this Finding are considered in the development of KYCourts3.

Recommendation: AOC central level staff and Circuit Court Clerks responsible for creating, updating, and deleting access in KY Courts II should enter information into the system consistently. AOC should work with Circuit Court Clerks to develop a uniform naming convention for county level accounts.

Response:

Please see the response above.

Recommendation: The Control Objectives for Information and Related Technologies (COBIT) DSS 05.04 states organizations should "Maintain user access rights in accordance with business function and process requirements. Align the management of identities and access rights to the defined roles and responsibilities, based on least-privilege, need-to-have and need-to-know principles."

Response:

Please see the response above.

Recommendation: We recommend AOC no longer allow the cloning or copying of access rights from existing employees due to the potential for providing unnecessary access.

Response:

Please see the response above.

Recommendation: Reporting should be expanded to reflect a user's job title or role within the system.

Response:

Please see the response above.

Recommendation: AOC and Circuit Court Clerks should perform an annual review of the active user accounts in KYCourts II to ensure users are still employed by AOC and require access to support their job duties. Actions taken to change access levels should be thoroughly documented. All documentation supporting this annual review should be maintained for audit purposes.

Response:

Please see the response above.

Recommendation: NIST SP 800-53 Revision 4 also states that an organization should create, enable, modify, disable, and remove information system accounts in accordance with a defined policy or procedure. Credentials should be removed and access should be disabled when access is no longer required.

Response:

Please see the response above.

Recommendation: We recommend AOC review all active user accounts to ensure they reflect the user's entire legal name. AOC should identify all users that have more than one user ID and determine the necessity of the multiple accounts. If it is determined a user requires both accounts to perform his/her job duties, justification should be documented.

Response:

Please see the response above.

Finding 17: AOC Has No Policy for Account Termination Procedures and Did Not Terminate Accounts in a Timely Manner

Recommendation: We recommend AOC expand its network account policy to ensure a user's KYCourts II access is inactivated at the time an AD account is terminated. The policy should also include the process to follow to disable or terminate an employee's AD and application access when on extended leave. AOC should put policies and processes in place to confirm that this occurs, not only for KYCourts II, but for any other IT systems, equipment, and for physical facilities as well. Termination of access should be documented and maintained.

Response:

The AOC agrees with these recommendations.

KYCourts II is a 20-year-old legacy system based on an off-the-shelf product (Sustain) that has been constantly modified in-house over time and is being actively retired on a county-by-county basis.

KYCourts II has historically had its own login credentials which were entirely separate from the employee's network login credentials. Currently, however, with the implementation of the Accounts Receivable (AR) application, the user's KYCourts II credentials are linked to their unique network AD account.

The KCOJ employee on-boarding process is initiated by an electronic Personnel Action Request (PAR). The PAR determines what access level the individual will have to KCOJ systems based on his/her role. The PAR information is shared electronically with KHRIS via a nightly feed. The AOC is currently reviewing and evaluating its off-boarding process, which is being enhanced to address all of these recommendations.

When employees or elected or appointed officials separate from the KCOJ, their access to systems is eliminated because their AD account is terminated. In KYCourts II, this translates to making the user "Inactive." A KCOJ personnel list is generated on Mondays and employees or elected or appointed officials who have separated or transferred are inactivated in KYCourts II. Employees who change roles within the KCOJ must then request access to KYCourts II if he/she requires it as part of his/her new role.

Currently a user's Active Directory ID is the unique identifier and efforts are underway to link this identifier to KHRIS.

The HR Portal project provides the forum for the AOC to continuously evaluate and improve both on-boarding and off-boarding processes and procedures.

Recommendation: AOC should review the current list of employees that have separated from employment and ensure their AD accounts have been terminated. Also, access to any other internally developed applications should be terminated.

Response:

Please see the response above.

Recommendation: We also recommend AOC consider adding a unique identifier that will link the KYCourts II users to KHRIS. This will help AOC ensure they terminate the correct user's accounts.

Response:

Please see the response above.

Finding 18: AOC Enabled the Use of Template and Group Accounts with Elevated Access to KYCourts II Resulting in an Unnecessary Level of Access for Some Individuals

Recommendation: We recommend AOC review the users that have enhanced access to the various KYCourts II template accounts to ensure this access is appropriate. AOC should ensure all template account passwords are changed periodically.

Response:

The AOC agrees with these recommendations in principle. However, the Auditor's report reflects a fundamental misunderstanding of application templates and the KCOJ's use and access of those templates. Templates are used and accessed only for the purpose of facilitating the set-up of new users, e.g. the Manager of Auditing Services may request that ITS set up a new user account for a new auditor and ITS will use the ZZ_AUDITOR template to create the new account. ITS is not familiar with the term "groups" in the context of application templates; templates are not user accounts as that term is used in this Report. To the extent that the use of the term "groups" implies that multiple users access KYCourts II through a template account, that implication is inaccurate. (See Beth Lucas email dated 2/5/18, AOC Appendix 11.)

ITS will review users with enhanced access to templates and will evaluate changing template passwords. ITS will review security of all templates referenced in the Auditor's report to ensure appropriate permissions are applied. ITS will conduct periodic reviews of templates and their usage until the retirement of KYCourts II.

Clarification: The AOC agrees that auditors generally should not have the ability to change information they are auditing or may be asked to audit. However, for a limited time, individuals from the Division of Auditing Services were assigned to the Accounts Receivable project. Due to the nature of their assignment, they required enhanced access. They were *not* conducting audits during the time they were assigned to the Accounts Receivable project. These individuals have since been transferred from Auditing Services to Court Services, where this enhanced level of access is granted to all implementation and support personnel who provide training and consulting services.

Recommendation: Furthermore, all group accounts should be disabled. The associated functionality, if still needed, should be transitioned to individual user accounts to allow for closer monitoring of the actions taken by these accounts. If required for business purposes and the transition to individual user accounts is not feasible, then justification for having the group accounts should be documented and approved by management. Management should consistently monitor use of any retained group accounts to ensure they are being used as intended.

Response:

Please see the response above. Group accounts do not exist.

Recommendation: We recommend AOC review the security controls established over the three template accounts and ensure they are properly restricted from accessing PII. These template accounts should not be allowed the ability to add, update, or delete a case or the associated PII in a case.

Response:

Please see the response above. Templates are not user accounts. A template cannot be used to access KYCourts II. Rather, it is used to facilitate the creation of a new application user.

Finding 19: AOC Did Not Establish User Security Auditing for KYCourts II and Has No Policy or Procedures to Ensure Regular Monitoring

Recommendation: We recommend AOC develop a policy defining the rules that identify threshold breaches and security events. The policy should require AOC staff to log the defined security events and periodically review the captured information. These reviews can be performed on a periodic basis for a sample of accounts or days to make them more manageable. Actions taken by AOC to address issues identified as a result of the review should be thoroughly documented and maintained for audit purposes.

Response:

The AOC agrees with these recommendations in principle.

KYCourts II is a 20-year-old legacy system based on an off-the-shelf product (Sustain) that has been constantly modified in-house over time and is being actively retired on a county-by-county basis. Auditing of security updates was not an available feature at the time KYCourts II was implemented.

The AOC is ensuring that more robust auditing capabilities, consistent with these recommendations, are built into KYCourts3. Once KYCourts3 auditing capabilities are developed, ITS will determine whether operating procedures should be promulgated to address periodic monitoring.

Recommendation: We also recommend AOC continue performing regular reviews of the KYCourts II user lists to ensure only authorized employees have appropriate access to the system. Reviews should continue to be completed until KYCourts III is fully implemented. During this implementation, AOC should follow the COBIT section titled BAI (Build, Acquire and Implement) 03.05 "Build solutions," which states organizations should "Implement audit trails during configuration and integration of hardware and infrastructural software to protect resources and ensure availability and integrity."

Response:

Please see the response above.

Finding 20: AOC Did Not Develop or Maintain Basic Technical Documentation for the KYCourts II System

Recommendation: We recommend AOC develop documentation that provides an understanding of critical programs or jobs currently running in production. Proper documentation should be maintained for each critical program in production in order to, at a minimum, identify the purpose of the programs, the origin of data, the specific calculations or other procedures performed, and the output of data or reports. Once developed, AOC should provide this

documentation to technical staff and end-users for reference, and ensure the documentation is updated as changes are made to systems.

Response:

The AOC agrees with these recommendations.

KYCourts II is a 20-year-old legacy system based on an off-the-shelf product (Sustain) that has been constantly modified in-house over time and is being actively retired on a county-by-county basis.

AOC acknowledges that modification of the product over time was not formally documented to the extent that ITS is currently documenting development projects, including KYCourts3.

The legacy application development manager is currently documenting critical production programs and jobs. The summary document is stored in a centralized repository accessible to ITS staff.

The application development managers ensure development projects comply with AOC software development processes and procedures. Microsoft's Visual Studio Team Server (VSTS) serves as the repository for application development assets including software requirements (user stories), technical requirements, technical specifications, testing requirements, and release specifications. This information is readily available to team resources working on application projects.

Judges, circuit court clerks, and staff have access to online end-user documentation to facilitate system use.

ITS is developing production acceptance criteria that will ensure no application transitions to production without proper documentation.

The Change Advisory Board, comprised of key ITS staff, conducts weekly meetings to review and approve changes made to systems, applications, and programs.

Again, thank you for the opportunity to respond to this report. The AOC has assembled an Audit Implementation Response Team, which will begin to implement changes. In addition, the AOC has asked the APA to conduct a one-day training for AOC managers and staff that will focus on internal controls to prevent waste, fraud and abuse. That training is scheduled for July 24 at the AOC.

I appreciate the hard work of your auditors and the APA's efforts to develop an understanding of Judicial Branch operations. The citizens of Kentucky benefit when the separate branches of government work together for the common good and I am grateful for your contributions to this

important undertaking. I encourage other agencies to take advantage of this opportunity to review their internal processes.

Sincerely,

Laurie K. Dudgeon
Director, Administrative Office of the Courts

Enclosure

cc: Chief Justice of Kentucky John D. Minton, Jr.

APPENDIX

Purchasing and Procurement Guidelines
March 15, 2018

I. Goods and NonProfessional Services

When a Department recognizes a need to purchase goods or nonprofessional services it should initially notify a Judicial Buyer in the Division of Accounting and Purchasing. The Judicial Buyer will work with the Department's Operations Contact to refine the Department's specifications or statement of work, conduct market research, determine a method of procurement, and complete the purchase when the goods or nonprofessional services fall within the small purchase authority or there is an existing procurement vehicle available.

Purchases

- Less than $10,000 – One quote is required.
- $10,000-$49,999 – Three quotes are required.
  - The Judicial Buyer in the Division of Accounting and Purchasing should document the reasons for selecting the chosen vendor in Determinations and Findings kept in the file.
- $50,000 or above – The Judicial Buyer will research for an existing procurement vehicle and, if no existing procurement vehicle exists, refer the Department to the Division of Operations and Procurement in Legal for development of an RFB.
  - Existing procurement vehicles may include:
    - an existing AOC contract;
      - Up to 10% of the total contract amount may be added to an existing contract for a related product / service via Modification or Change Order.
      - If the Judicial Buyer recommends amending an existing contract, he or she will obtain approval of the Budget Director and make a request of the Division of Operations and Procurement to write an Addendum to the contract by submitting an AOC 19.1 to the Contract Coordinator.
    - an Executive Branch contract;
    - another government entity contract;
    - U.S. General Services Administration (GSA) pricing; or
    - other cooperative purchasing agreements.
  - For purchases that will exceed $50,000, if market research results in communications with prospective vendors, the Department or the Judicial Buyer should notify the Director of the Division of Operations and Procurement, who will assign a Procurement Officer or attorney to advise and memorialize any such conversations for the file.
  - The Judicial Buyer in the Division of Accounting and Purchasing is responsible for verifying that the item or service requested by the Department is covered by the identified procurement vehicle.
  - When the procurement vehicle is not a statewide master agreement established by the Executive Branch or GSA pricing, the Judicial Buyer should refer the procurement vehicle to the Director of the Division of Operations and Procurement, who will assign an attorney to determine whether or not it is appropriate for use by the AOC.
  - The Director of the Division of Operations and Procurement will assign an attorney to draft any necessary additional contracts to provide a framework for the purchase.
- The Judicial Buyer in the Division of Accounting and Purchasing is responsible for ensuring that the Department's Operations contact:
  - has obtained Budget approval, if necessary;

- has obtained all necessary documentation to establish the vendor's profile in the payment system including a W-9 and Certificate of Good Standing or Certificate of Authority; and
- has obtained a copy of proof of any insurance required of the vendor.

- The Judicial Buyer in the Division of Accounting and Purchasing is responsible for:
  - Issuing Purchase Orders for goods; and
  - Sending an AOC 19.1 to the Contract Coordinator in the Division of Operations and Procurement requesting a contract be drafted to outline the terms of any services obtained; and
  - Ensuring that the Operations Contact for the Department sends any contracts to the Division of Operations and Procurement in Legal for review. Contracts may take the form of:
    - Service Level Agreements;
    - Statements of Work;
    - Terms and Conditions;
    - Equipment Leases;
    - Agreements; or
    - Contracts.
- The Department receives the goods or services and its Operations Contact is responsible for ensuring vendor compliance with the terms of the Purchase Order or Contract.
- The Judicial Buyer in the Division of Accounting and Purchasing will work with the Department's Operations Contact to resolve any issues that may arise and will maintain records of noncompliance with the Purchase Order or Contract terms.
- The Department's Operations Contact is responsible for verifying invoices and monitoring the contract balance.
- The Division of Accounting and Purchasing is responsible for paying invoices.
- The Division of Accounting and Purchasing will notify the Director of the Division of Operations and Procurement if termination of a contract is necessary, and an attorney will be assigned to assist.
- The Division of Accounting and Purchasing is responsible for maintaining all back up documentation, including any contracts, with the Purchase Order. The Division of Operations and Procurement will maintain a copy of any contract it has reviewed.

Procurements (RFBs)

- If there is no existing procurement vehicle for the purchase of goods and nonprofessional services and the amount of the purchase exceeds the small purchase authority, the Department's Operations contact should submit an AOC 19.1 to the Contract Coordinator in the Division of Operations and Procurement. A Procurement Officer or attorney from the Division of Operations and Procurement will be assigned to:
  - Assist the Department's Operations contact in refining specifications or a Scope of Work;
  - Assist the Department's Operations contact in performing additional Market Research;
  - Memorialize any communications with prospective vendors for the file during the course of market research;
  - Determine whether any exceptions to the requirement to issue a solicitation exist. Exceptions include:
    - Sole Source

  - Emergency
  - Not Feasible to Bid
- Draft the RFB;
- Manage the solicitation process, including:
  - Acting as the point of contact for bidders throughout the RFB process;
  - Conducting any pre-bid meetings;
  - Drafting addenda to the RFB;
  - Receiving and opening bids;
  - Conducting a responsiveness review of the bids;
  - Determining the low bid or best value bidder; and
  - Developing an Award Determination;
- Draft the resulting contract.

- The Department's Operations contact is responsible for investigating whether bidders are responsible.
- The Division of Accounting and Purchasing will assign an RFB number, assist with formatting issues for eMARS purposes, and post all RFBs, attachments, and addenda to eMARS.
- An attorney will be assigned in the Division of Operations and Procurement to review the RFB and answer legal questions that may arise during the course of the bid process.
- The Contract Coordinator in the Division of Operations and Procurement is responsible for ensuring that the Department's Operations contact has obtained Budget approval, if necessary, and for obtaining:
  - All necessary documentation to establish the vendor's profile in the payment system;
  - A Certificate of Good Standing or Certificate of Authority from the Secretary of State's office; and
  - Any insurance required of the vendor.
- The Division of Accounting and Purchasing is responsible for consulting on payment terms in the contract, assigning a contract number, and uploading the contract in eMARS.
- The Division of Accounting and Purchasing should issue any necessary purchase orders.
- The Department receives the goods or services and its Operations Contact is responsible for ensuring vendor compliance with the terms of the Contract.
- The Judicial Buyer in the Division of Accounting and Purchasing will work with the Department's Operations contact to resolve any minor issues that may arise with contract compliance. The Department's Operations contact should request the Director of Division of Operations and Procurement review any notices of noncompliance with contract terms before sending to the contractor. The Division of Operations and Procurement is responsible for maintaining records of Contractor performance in the contract file.
- The Department's Operations Contact is responsible for verifying invoices and monitoring the contract balance.
- The Division of Accounting and Purchasing is responsible for paying invoices.
- The Department's Operations contact will notify the Director of the Division of Operations and Procurement if termination of a contract is necessary, and an attorney will be assigned to assist.
- The Division of Operations and Procurement is responsible for maintaining all back up documentation in the solicitation or contract file.
- The Division of Operations and Procurement will draft contract renewals when appropriate.

II. Establishing Procurement Vehicles for Professional Services

When a Department recognizes a need to obtain professional services, the Department should notify the Director of the Division of Operations and Procurement in the Office of General Counsel. A Procurement Officer or attorney from the Division of Operations and Procurement will be assigned to:

- Assist the Department in developing a Scope of Work and grading criteria;
- Assist the Department in performing Market Research if necessary;
- Memorialize any communications with prospective vendors for the file during the course of market research;
- Determine whether any exception to the solicitation process applies. Exceptions include:
  - 501(c)(3) entities;
  - Governmental entities;
  - Emergency
  - Sole Source
  - Not Feasible to Bid
- Draft the RFP;
- Manage the solicitation process, including:
  - Acting as the point of contact for offerors throughout the RFP process;
  - Conducting any offeror conferences;
  - Drafting addenda to the RFP;
  - Receiving and opening proposals;
  - Establishing a selection committee;
  - Conducting a responsiveness review of the proposals;
  - Facilitating meetings of the selection committee;
  - Drafting conflict of interest / disclosure of contact statements for members of the selection committee;
  - Drafting grading sheets;
  - Developing a Composite Score Sheet; and
  - Awarding the contract to the successful offeror.
- Draft the resulting contract.

- The Department representatives on the grading committee are responsible for investigating whether offerors are responsible.
- The Division of Accounting and Purchasing will assign an RFP number and post all RFPs, attachments and addenda to eMARS.
- The Contract Coordinator in the Division of Operations and Procurement is responsible for ensuring that the Department's Operations contact has obtained Budget approval, if necessary, and for obtaining:
  - All necessary documentation to establish the vendor's profile in the payment system;
  - A Certificate of Good Standing or Certificate of Authority from the Secretary of State's office; and
  - Any insurance required of the vendor.
- The Director of the Division of Operations and Procurement will assign an attorney to review the RFP and resulting contract, if initially prepared by a Procurement Officer.
- The Division of Accounting and Purchasing is responsible for consulting on payment terms in the contract, assigning a contract number, and uploading the contract in eMARS.
- The Division of Accounting and Purchasing submits the contract to GCRC.

Purchasing and Procurement Guidelines
March 15, 2018

- The Director of the Division of Operations and Procurement is responsible for testifying on an as needed basis at GCRC along with the Operations contact / EO / Manager of the Department.
- The Department receives the services and its Operations Contact is responsible for ensuring vendor compliance with the terms of the Contract.
- The Department's Operations contact should request the Director of Division of Operations and Procurement if the vendor is not compliance with the terms of the contract. An attorney will be assigned to review any notices of noncompliance with contract terms before sending to the contractor. The Division of Operations and Procurement is responsible for maintaining records of Contractor performance in the contract file.
- The Department's Operations Contact is responsible for verifying invoices and monitoring the contract balance.
- The Division of Accounting and Purchasing is responsible for paying invoices.
- The Department's Operations contact will notify the Director of the Division of Operations and Procurement if termination of a contract is necessary, and an attorney will be assigned to assist.
- The Division of Operations and Procurement is responsible for maintaining all back up documentation in the solicitation or contract file.
- The Division of Operations and Procurement will draft contract renewals when appropriate.

III. Other Contracts (Leases, Hotels, Terms and Conditions, User Agreements, MOUs, Etc.)

Departments should initiate requests to draft or review a contract by sending a completed AOC 19.1 form to Leigh Taylor, Contract Coordinator, Division of Operations and Procurement, Office of General Counsel.

- Any document containing terms and conditions and requiring the signature of an agency representative should be referred for contract review.
- All contracts must be recommended by a Manager or Executive Officer, reviewed by the Division of Operations and Procurement, Office of General Counsel, approved by the Budget Director if there is a cost to the AOC, and executed by the Director's office.
- The Contract Coordinator in the Division of Operations and Procurement, Office of General Counsel is responsible for circulating finalized contracts for signature internally and for maintaining records of executed contracts.

- The Contract Coordinator in the Division of Operations and Procurement is responsible for ensuring that the Department has obtained a W-9, any insurance or bonds required of the second party, a 501(c)(3) designation letter (if required), and a Certificate of Good Standing or Certificate of Authority.
- The Director of the Division of Operations and Procurement will assign an attorney to draft or review the contract.
- The Division of Accounting and Purchasing is responsible for consulting on payment terms, if any.
- The Contract Coordinator will forward executed contracts involving payment to the Division of Accounting and Purchasing to use a back-up documentation in its files.

IV. Other Responsibilities

- The Division of Accounting and Purchasing is responsible for issuing Delivery Orders for A/Es under Master Agreement with the AOC. The Division of Operations and Procurement is responsible for renewing the Master Agreements annually and ensuring that all appropriate insurance / licensing information is updated.
- The Division of Accounting and Purchasing is responsible for issuing Task Orders for contractors under the executive branch SDS Master Agreement.
- The Division of Operations and Procurement is responsible for providing legal advice to the Director's office on bid protests.

AOC Appendix 2

Administrative Office of the Courts
1001 Vandalay
Frankfort, Kentucky 40601
502-573-2350 or 800-928-2350
www.courts.ky.gov

John D. Minton, Jr.
Chief Justice of Kentucky

Laurie K. Dudgeon
Director

MEMORANDUM

TO: Patrick W. McGee
Finance and Administration Cabinet, Office of General Counsel

FROM: S. Leigh Taylor
Administrative Office of the Courts

DATE: December 18, 2017

SUBJECT: MOU for Surplus Property

Enclosed is a copy of the MOU for surplus property to be executed per your correspondence with Jenny Lafferty. Please contact us if you have any questions.

MEMORANDUM OF UNDERSTANDING

WHEREAS, Division of Surplus Property ("Surplus"), a division of the Department for Facilities Management and Support Services within the Finance and Administration Cabinet is responsible for the disposal of all personal property no longer needed for state use, and to otherwise carry out the functions required by KRS 45A.045(5);

WHEREAS, the Administrative Office of the Courts ("AOC") is the agency responsible for carrying out the administrative functions of the court system and the judicial branch of government in Kentucky, as provided for by KRS Chapter 27A;

WHEREAS, AOC wishes to utilize the resources and expertise of Surplus to dispose of personal property owned by AOC which is no longer needed by the agency;

WHEREAS, Surplus is amenable to providing services to AOC on the same terms and conditions as the services it provides for executive branch agencies;

WHEREAS; the parties hereto wish to memorialize their agreement through this Memorandum of Understanding.

NOW THEREFORE, in consideration of the foregoing, Surplus and AOC hereby covenant and agree as follows:

1. That, in accordance with the provisions of the Order of the Supreme Court of Kentucky, No. 2017-05 titled *In Re: Judicial Branch Surplus Property*, said Order being incorporated herein by reference ("the Order"), Surplus shall accept and sell such items as requested by the Director of the AOC or the designee of the Director of the AOC;

2. Surplus will sell such personal property accepted by it under this MOU in accordance with the provisions of the *User's Guide: Surplus Property Disposal* manual (10/2017

edition), found on the webpage for the Division of Surplus Property, to the extent such manual does not conflict with the provisions of the Order;

3. AOC will not send to Surplus any personal property deemed to be damaged beyond repair.

4. Non-Titled Property

a. AOC will contact Surplus in advance to schedule and arrange a delivery based on availability of Surplus. AOC will deliver the property to Surplus for sale.

b. AOC will submit all requests as a Surplus Request via the Surplus Property Management System (SPMS).

c. All proceeds generated will be retained by Surplus.

5. Titled Property

a. Surplus will conduct online sales of vehicles, or other titled personal property, designated for sale by AOC pursuant to the Order.

b. To effectuate the sales:

i. AOC will send general descriptions of the vehicles to Surplus.

ii. AOC will supply supporting documentation (i.e. maintenance records, titles, affidavits) to Surplus upon request.

iii. Surplus will take pictures of vehicles located within a 10-mile radius of Frankfort; AOC will supply pictures of vehicles located outside of a 10-mile radius of Frankfort.

iv. Surplus will verify auction contact information for AOC.

v. Surplus will catalogue items for auction.

vi. Surplus will Post items to the internet sales platform of its choice.

vii. Surplus will coordinate removal of the vehicles from AOC property by purchasers.

viii. Surplus will complete all paperwork needed for transfer of property from the AOC to the purchaser and provide copies thereof to the AOC.

ix. Surplus will distribute funds to the AOC via eMARS.

c. Surplus will retain 15% of the proceeds, or a minimum amount of $150, whichever is greater, as an Administrative Fee for conducting the sale.

6. The term of this Memorandum of Understanding shall begin on January 1, 2018 and end on June 30, 2018, and thereafter shall renew automatically for additional one (1) year periods at the end of each fiscal year unless terminated by either party.

7. Either party may terminate this Memorandum of Understanding without cause by giving the other party thirty (30) days written notice of such termination.

8. Each party agrees that the other party shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The parties recognize that any books, documents, papers, records, or other evidence received during a financial audit or program review are the property of the originating agency. Any requests received pursuant to the Kentucky Open Records Act, KRS 61.870-61.884 or Supreme Court Order 2017-09 shall be referred to the originating agency as the custodian of the documents.

6. All notices delivered in connection with this Memorandum of Understanding shall be delivered to the following parties:

FOR SURPLUS:

Division of Surplus Property
999 Chenault Road
Frankfort, Kentucky 40601

FOR AOC:

Tressa Milburn, Manager
Administrative Office of the Courts
1001 Vandalay Drive
Frankfort, Kentucky 40601

WITNESS OUR HANDS, this 30th day of November, 2017.

Finance and Administration Cabinet
Department for Facilities Management and
Support Services
Division of Surplus Property

By:

William M. Landrum III, Secretary
Finance and Administration Cabinet

Administrative Office of the Courts

By:

Laurie K. Dudgeon, Director
Administrative Office of the Courts

Approved as to Form and Legality:

Counsel, Finance and Administration Cabinet

Approved as to Form and Legality:

Counsel, Administrative Office of the Courts

Reviewed and Recommended:

Tressa Milburn, Manager
Administrative Office of the Courts

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Rev. 2-18
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Commonwealth of Kentucky
Court of Justice www.courts.ky.gov

Division of Logistics-Internal Form

KCOJ OWNED PERSONAL PROPERTY DECLARATION OF SURPLUS

LOGISTICS USE ONLY

AOC Surplus Declaration #: _____

☐ Div. of Surplus DS #: _____

☐ Solid Waste Weight: _____

☐ Donation Agency/Organization: _____

The personal property specifically described in the table below is certified as either surplus to the need of the Court of Justice or has become unsuitable for use and will be disposed of by the following method:

☐ Transfer to Executive Branch Division of Surplus

☐ Solid Waste

☐ Recycle

☐ Donate/Sell to 501(c)(3) Organization *(See attached supporting documentation)*

☐ Donate/Sell to Government Agency *(See attached supporting documentation)*

PROPERTY TAG # (IF APPLICABLE). IF NO TAG, LIST QUANTITY.	DESCRIPTION	SERIAL # (IF APPLICABLE)	INTENDED USE AT TIME OF ACQUISITION	DATE OF PURCHASE	PURCHASE PRICE	REASON FOR SURPLUS/DISPOSAL: OBSOLETE, DAMAGED, NO LONGER NEEDED

Recommended By: _____ _____
PROPERTY ACCOUNTABILITY ADMINISTRATOR Date

Endorsed By: _____ _____
LOGISTICS MANAGER Date

Approved By: _____ _____
DIRECTOR Date

SURPLUS OF TECHNICAL EQUIPMENT

Removal of Equipment

- Technician creates a Service ticket. The following information is required:
  - End User Name.
  - Phone Number.
  - Location- address and room number or description.
  - KCOJ Declaration of Surplus Form (Save a local copy of this form to your PC, do not edit the form on the SharePoint site)
    - Each field on this form must be completed
    - Multiple items can be added on one form
  - Service ticket will be assigned to Warehouse Staff.
  - Property Accountability Administrator will coordinate the removal of equipment with warehouse crew and customer and/or technician.
  - Property Accountability Administrator will coordinate removal of equipment from warehouse for State Surplus Sales. Property Accountability Administrator will ensure proper storage until said sale.

- **Computers:**
  - Technician will complete 'Kentucky Record of IP Equipment Sanitization' (KRIES) for each item that is being placed in surplus.
    - The hard copy of the completed form will be attached to the equipment for COT
    - A digital copy of the completed forms shall be scanned and emailed to RequestFulfillment@kycourts.net
  - Removal of hard drives must be deemed necessary and approved in writing by Technician's Manager.

- **Print Devices:**
  - Technician will complete the Out-of-Service disk wiping process.
  - Technician will complete 'Kentucky Record of IP Equipment Sanitization' (KRIES) for each print device being placed into Surplus
    - The hard copy of the completed form will be attached to the equipment
    - A digital copy of the completed forms shall be scanned and emailed to RequestFulfillment@kycourts.net
  - Removal of hard drives must be deemed necessary and approved in writing by Technician's Manager.

- **Miscellaneous Equipment:**
  - Miscellaneous items are considered mice, monitors, docking stations, keyboards, webcams, etc.).

Commonwealth of Kentucky Record of IT Equipment Sanitization

Date Requested: _____

Agency (include Cabinet, Department & Division): _____

Person Submitting Request: _____

Equipment Serial Number: _____

Equipment Inventory Number: _____

Equipment Manufacturer/Model: _____

Equipment/Media Type:

- ☐ Server
- ☐ Workstation: Assigned to (name of user): _____
- ☐ Magnetic Tape (Type I, II or III)
- ☐ Magnetic Disk (Bernoulli, floppy, non-removable rigid disk, removable rigid disk)
- ☐ Optical Disk (read many-write many, read only, write once-ready many (WORM)
- ☐ Memory (DRAM, PROM, EAPROM, EPROM, FEPROM, ROM, SRAM etc.)
- ☐ Cathode Ray Tube (CRT)
- ☐ Printer
- ☐ Other (describe) _____

Disposition:

☐ Transfer ☐ Surplus ☐ Donation ☐ Repair/maintenance
☐ Return to Contractor ☐ Other (explain) _____

Decommissioning provisions:

- ☐ Equipment/media has been kept in continuous physical protection until sanitization
- ☐ Information requiring archiving as public records identified and preserved
- ☐ Temporary backups made (e.g., for equipment scheduled for repair)
- ☐ OEM operating system and other software available for reload for repurposed equipment
- ☐ MARS Fixed Asset documents completed
- ☐ Agency asset management procedures completed
- ☐ B217-2 form completed (Finance & Administration: Declared Surplus)
- ☐ Compliant with procedures for disposal of hazardous waste if destroyed
- ☐ Other (describe) _____

General description of data residing on equipment/media to be sanitized:

_____

_____

_____

Agency (Cabinet, Department & Division): _____

Person Performing Sanitization: _____

Title: _____ Date Completed: _____

Equip. Inventory #: _____ Equip. Serial #: _____

Signature: _____

Sanitization Method Used:

- ☐ DoD-compliant Overwrite (list software used): _____
  - ☐ Type I Degausser
  - ☐ Type II Degausser
  - ☐ Full Chip Erase
  - ☐ Ultraviolet Erase
  - ☐ Physical Destruction (disintegrate, incinerate, pulverize, shred, melt)
  - ☐ Other (describe) _____

AOC Appendix 6

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Commonwealth of Kentucky
Court of Justice www.courts.ky.gov

Division of Facilities-Internal Form

ADMINISTRATIVE OFFICE OF THE COURTS
DIVISION OF FACILITIES
SPACE REQUEST FORM

AOC USE ONLY

Date Received: _____

NAME OF REQUESTOR: _____ TITLE: _____

REQUESTOR PHONE NUMBER: (___) _____ REQUESTOR EMAIL: _____

DEPARTMENT: _____ COUNTY WHERE SPACE IS NEEDED: _____

PROGRAM/POSITION: _____

REASON FOR REQUEST: *(ONLY CHECK ONE)* ☐ NEW PROGRAM ☐ ADDITIONAL STAFF-NUMBER:. _____

☐ OTHER: _____

TYPE OF SPACE REQUIRED: *(CHECK ALL THAT APPLY)* ☐ NEW ☐ ADDITIONAL ☐ REPLACEMENT ☐ PERMANENT

☐ TEMPORARY-NUMBER. OF MONTHS: _____

ESTIMATION OF SQ. FT. NEEDED: _____ NUMBER OF OFFICES NEEDED: _____

TOTAL NUMBER OF STAFF AT THIS LOCATION: FULL-TIME: _____ PART-TIME: _____

WILL CLIENTS BE SEEN AT THIS LOCATION: ☐ YES ☐ NO IF YES, DAILY NUMBER OF CLIENTS: _____

DAYS PER WEEK AT LOCATION: _____ HOURS OF OPERATION: _____

DESIRED OCCUPANCY DATE: _____ GRANT FUNDING: ☐ YES ☐ NO

LOCATION PREFERENCE: ☐ WITHIN 1-3 BLOCKS OF COURTHOUSE ☐ WITHIN CITY LIMITS ☐ NO PREFERENCE

☐ OTHER: _____

SPECIAL NEEDS: ☐ PARKING-NUMBER. OF SPACES_____ ☐ SECURE STORAGE ☐ CONFERENCE ROOM SPACE

☐ AFTER-HOURS OPERATIONS ☐ OTHER: _____

LOCAL CONTACT NAME: _____ TITLE: _____

LOCAL CONTACT PHONE NUMBER: (___) _____

THIS SECTION TO BE FILLED OUT BY FACILITIES ONLY:

DIVISION OF FACILITIES INFORMATION:

CURRENT LEASE: ☐ YES ☐ NO

IF YES, PR NUMBER: _____ CURRENT TOTAL SF: _____

CURRENT PRICE PER SF $ _____ CURRENT ANNUAL COST $ _____

COUNTY/GOVERNMENT SPACE AVAILABLE: ☐ YES ☐ NO

IF YES, AVAILABLE SF: _____ PRICE PER SF $ _____

APPROVED BY: _____ DATE: _____
Manager of Facilities

BUDGET APPROVAL TO ADVERTISE:

_____ DATE: _____ ☐ Approved ☐ Denied
Budget Director

AOC Appendix 7

AOC-FAC-9 Rev. 3-18 Page 1 of 1 Commonwealth of Kentucky Court of Justice www.courts.ky.gov Division of Facilities-Internal Form	**ADMINISTRATIVE OFFICE OF THE COURTS** **DIVISION OF FACILITIES** **LEASE CERTIFICATION FORM**	

AOC EMPLOYEE NAME: _____ PR NUMBER: _____
please print

As an employee of the Division of Facilities directly involved with a site evaluation or negotiating a lease hereby certify that, to the best of my knowledge *(please check one)*:

- ☐ I am not aware of any circumstances that may constitute a violation of AP Part V in the awarding of this Lease.
- ☐ I am aware of the following circumstances that may constitute a violation of AP Part V:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

I hereby certify that the information set forth above is true and complete to the best of my knowledge as of the date below.

_____ _____
Employee Signature Date

AOC Appendix 8

Administrative Office of the Courts
1001 Vandalay Drive
Frankfort, Kentucky 40601
502-573-2350 or 800-928-2350
www.courts.ky.gov

John D. Minton, Jr.
Chief Justice of Kentucky

Laurie K. Dudgeon
Director

MEMORANDUM

To: [NAME]

From: [NAME]

Date: [DATE]

Subject: [PROPOSED LEASE]

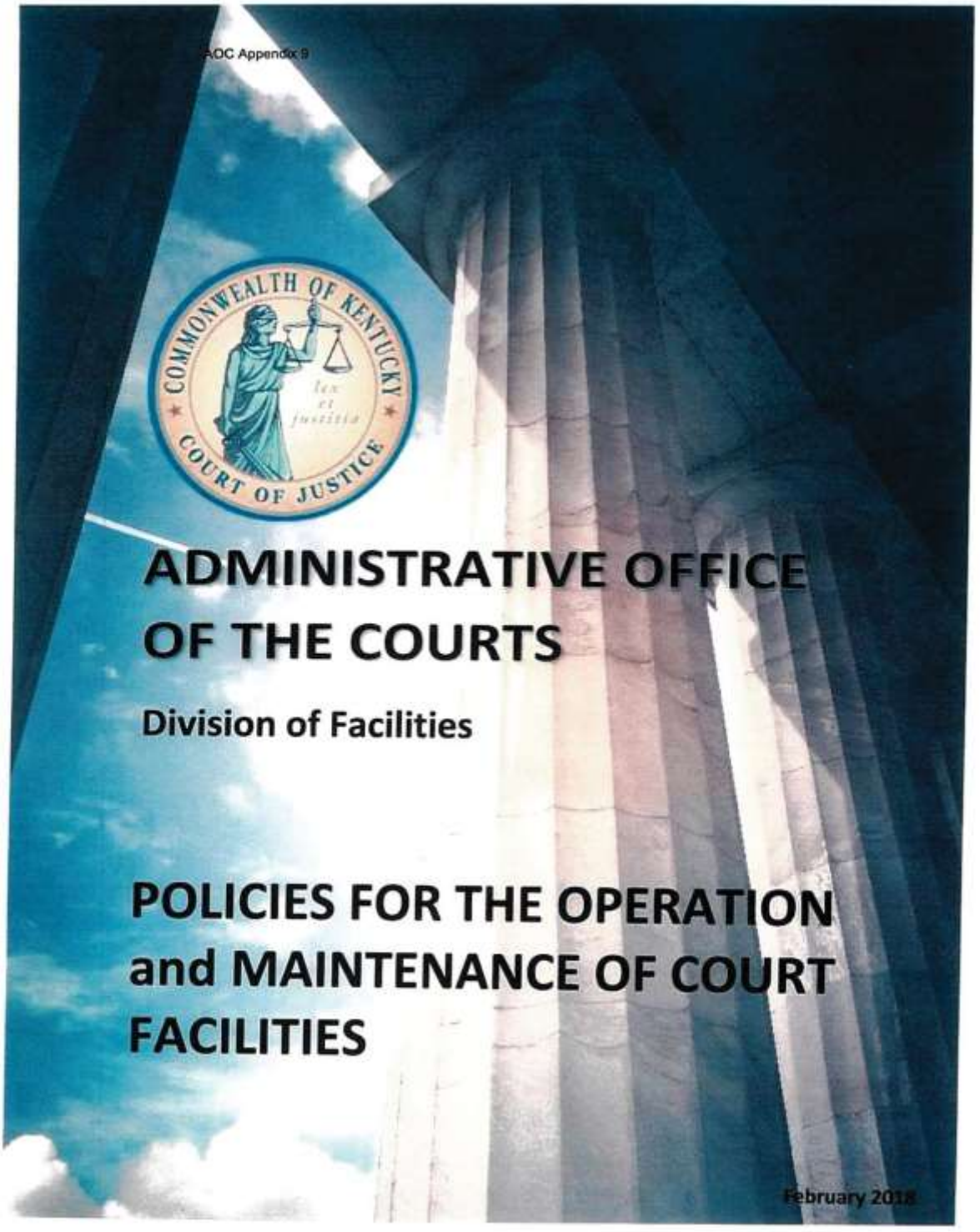
The AOC advertised for space and received [NUMBER] responses. I reached out to schedule visits with all [NUMBER] landlords. The [NUMBER] responses were [ADRESS OF PROPERTY, ADDRESS OF PROPERTY, ADDRESS OF PROPERTY]. The proposed properties were visited and Best & Finals Proposals were sent out.

[NUMBER] Best & Final responses were received. The proposal is for [NUMBER] square feet @ [$AMOUNT] per sq. ft. for an annual cost of [$AMOUNT]. The lease term is until [DATE].

_____
Danny Rhoades
Facility Manager

_____
Carole Henderson
Budget Director
Account Code: _____

AOC Appendix 9



ADMINISTRATIVE OFFICE OF THE COURTS

Division of Facilities

POLICIES FOR THE OPERATION and MAINTENANCE OF COURT FACILITIES

February 2018

ADMINISTRATIVE OFFICE OF THE COURTS
POLICIES FOR THE OPERATION AND MAINTENANCE OF COURT FACILITIES

Updated February 2018

Table of Contents

ADMINISTRATIVE OFFICE OF THE COURTS
POLICIES FOR THE OPERATION AND MAINTENANCE OF COURT FACILITIES

Section 1: Introduction and Contact Information

Updated February 2018

INTRODUCTION

The Administrative Office of the Courts ("AOC") Division of Facilities oversees the management of court facilities in all of Kentucky's 120 counties, including Judicial Centers, courthouses, and other property owned or operated by a local unit of government and occupied by the Court of Justice. The Division of Facilities also manages space occupied by the Court of Justice through private sector leases. Approvals for expenditures of funds related to the operation and maintenance of court facilities are processed by the Division of Facilities. The goal of these AOC Policies for the Operation and Maintenance of Court Facilities ("Operation and Maintenance Policies") is to provide guidance to local units of government in the management of court facilities while ensuring state funds are spent in an efficient manner on necessary repair and operating costs. Division of Facilities employees are committed to helping local governments efficiently manage court facilities and are available to answer questions or concerns you and your staff may have regarding the operation of court facilities. Division of Facilities staff can be contacted as noted below.

CONTACT INFORMATION

Administrative Office of the Courts
Division of Facilities
1001 Vandalay Drive
Frankfort, KY 40601
PH: (502) 573-2350

Danny Rhoades, Manager
EXT. 50077
EMAIL: dannyrhoades@kycourts.net

Brad Smith, Facilities Coordinator
EXT. 50901
EMAIL: bradsmith@kycourts.net

Michele Blanton, Facilities Coordinator
EXT. 50054
EMAIL: micheleblanton@kycourts.net

Corky Mohedano, Facilities Coordinator
EXT. 50078
EMAIL: corkymohedano@kycourts.net

Ayshia Wood, Administrative Support Coordinator
EXT. 50813
EMAIL: ayshiawood@kycourts.net

Ronnie McCall, Facilities Coordinator
EXT. 50072
EMAIL: ronniemccall@kycourts.net

Michelle Evans, Facilities Coordinator
EXT. 50933
EMAIL: michelleevans@kycourts.net

Sandra Starks, Facilities Coordinator
EXT. 50814
EMAIL: sandrastarks@kycourts.net

ADMINISTRATIVE OFFICE OF THE COURTS
POLICIES FOR THE OPERATION AND MAINTENANCE OF COURT FACILITIES

Section 2: References and Terms

Updated February 2018

"AOC" refers to the Administrative Office of the Courts.

"Additional Rentals" or "Other Rented Space" means property other than a judicial center, courthouse, or courthouse annex that is owned or operated by a local unit of government and occupied by the Kentucky Court of Justice.

"Court Facilities Local Government Reimbursement Form" or "Annual Reimbursement Form" formerly known as the Blue Form, refers to the document sent annually from the AOC Budget Office to Local Units of Government containing an itemization of the following annual payments to be made to the Unit of Government: (1) Regular Operating Expenses (estimated); (2) Use Allowance (if applicable); and (3) Additional Rentals (if applicable).

"Facility" or "Court Facility" as used in these Policies refers to a judicial center, courthouse, Additional Rentals or other property owned or operated by a local unit of government in which space for the Kentucky Court of Justice is provided.

"Fiscal Year" or **"FY"** means a one-year period beginning July 1 and ending on June 30.

"Janitorial Costs" refers to the costs associated with janitorial supplies; a contract for janitorial services and/or janitorial personnel employed by the county, including salaries, health and life benefits; and uniform costs.

"KCOJ" refers to the Kentucky Court of Justice.

"Local Unit of Government" or "Unit of Government" means a county, city, urban-county government, special district, or corporate entity created for the purpose of constructing or holding title to a court facility.

"Maintenance Costs" refers to the costs associated with general maintenance supplies; a contract for maintenance services and/or maintenance personnel employed by the county, including salaries, health and life benefits; uniform costs; elevator service contracts; HVAC preventative maintenance contracts; and consumables for the building (i.e. lightbulbs, filters).

"Major Repair" means a repair that costs $2,500 or more and is not a reasonably anticipated recurring annual expense.

"Nonrecurring Project" means a project consisting of a major repair; or a replacement, upgrade or modification to the court facility or KCOJ occupied portion of the facility. Examples of nonrecurring projects include, but are not limited to: new carpet or paint; replacement of the windows, roof, boiler or HVAC; or interior or mechanical renovations. Capital renovations involving modifications to the exterior envelope of the facility are Court of Justice Capital Construction Projects and must be authorized by the General Assembly and developed in accordance with AP Part X.

"Operating Costs" means the reimbursement from the AOC to compensate the Unit of Government for annual expenses for utilities, janitorial costs, rent, insurance, and necessary maintenance, repair, and upkeep of the court facility which do not increase the permanent value or expected life of the court facility, but keeps it in efficient operating condition. Operating Costs are divided into the following categories: (1) Regular Operating Expenses which are estimated on the Annual Reimbursement Form; (2) Rent for Additional Rentals; and (3) Nonrecurring Projects.

"Ordinary repairs" are those repairs that are reasonably anticipated recurring annual expenses or unanticipated nonrecurring repairs costing $2,499 or less.

"Regular Operating Expenses" or "Operating Expenses" means the local unit of government's annual expenses for janitorial costs, insurance, utilities, maintenance costs, and necessary maintenance and upkeep of the facility including ordinary repairs which do not increase the permanent value or expected life of the court facility, but keep it in efficient operating condition.

"Utilities" means electricity, gas, water, sewer, trash, and phone/internet services **only** to support the elevator phone, fire alarm, and panic button.

"Utility costs" refers to those costs associated with providing utilities. It does not include maintenance or repair costs for any of the systems involved in providing utility services.

ADMINISTRATIVE OFFICE OF THE COURTS
POLICIES FOR THE OPERATION AND MAINTENANCE OF COURT FACILITIES

Section 3: Regular Operating Expenses

Updated February 2018

Per KRS 26A.115, the AOC pays Operating Costs to local units of government providing space to the KCOJ. Operating Costs are divided into the following categories: (1) Regular Operating Expenses which are estimated on the Annual Reimbursement Form; (2) Rent for Additional Rentals; and (3) Nonrecurring Projects.

Regular Operating Expenses include the local unit of government's annual expenses for utilities, insurance, janitorial costs, maintenance costs, and necessary maintenance and upkeep of the facility including ordinary repairs which do not increase the permanent value or expected life of the court facility, but keep it in efficient operating condition. Ordinary repairs are those repairs that are reasonably anticipated recurring annual expenses or unanticipated nonrecurring repairs costing $2,499 or less.

A. Reimbursements to Local Units of Government for Operating Expenses

The AOC estimates operating expenses for each local unit of government annually based on the adjusted operating expenses for the prior Fiscal Year as determined by the annual AOC audit of the local unit of government's expenses. The estimated amount of operating expenses are included on the Annual Reimbursement Form for Court Facilities and the AOC makes quarterly payments to the local unit of government consistent with the estimate. Adjustments may be made to fourth quarter payments consistent with the annual AOC audit of the local unit of government's expenses for the prior fiscal year.

Example: Fiscal Year 2017 encompasses the time period July 1, 2016 – June 30, 2017. The annual AOC audit of Fiscal Year 2017 expenditures will conclude in or around February 2018. At that time, the operating expense reimbursement estimate for Fiscal Year 2018 will be adjusted and the adjustment will be reflected in the April 2018 reimbursement payment. The estimated operating expense reimbursement amount included on the Annual Reimbursement Form for Court Facilities for Fiscal Year 2019 (July 1, 2018 – June 30, 2019) will be based on the adjusted operating expenses approved in the February 2018 audit.

B. Calculation of Operating Expenses

The AOC's payment of operating expenses is calculated based on the KCOJ's proportionate share of the operating expenses according to the pro rata portion of the floor space that is occupied by

the KCOJ in a court facility. Operating expenses are not typically paid for Additional Rentals, as any such costs are wrapped into the agreed-upon per square foot rent.

C. Utilities

The AOC will reimburse the local unit of government for its proportionate share of costs for electricity, gas, water, sewer, trash, and phone/internet services only to support the elevator phone, fire alarm and panic button in a court facility. The local unit of government must provide documentation demonstrating the amount billed for utilities and the amount paid for utilities during the annual AOC audit.

The AOC pays directly for phone and internet services provided to KCOJ staff and elected officials. The AOC is not responsible for any other phone or internet services provided in the court facility for elected officials or staff of the local unit of government or for the convenience of the local unit of government.

The AOC is not responsible for any cable services provided in court facilities.

D. Insurance

Insurance costs will only be included in the operating expenses if proof of insurance is provided annually to the Division of Facilities Administrative Support Coordinator on or before August 1 of each Fiscal Year.

E. Ordinary Repairs

Ordinary repairs are those repairs that are reasonably anticipated recurring annual expenses or unanticipated nonrecurring repairs costing $2,499 or less.

In order to receive reimbursement for ordinary repairs costing $2,499 or less, the local unit of government must provide (1) the invoice and (2) documentation demonstrating the amount paid for the repair to the AOC Auditor during the annual AOC audit.

In order to receive reimbursement for ordinary repairs costing $2,500 or more, the local unit of government must:

(1) Contact the Division of Facilities at FacilitiesRequest@kycourts.net for approval prior to proceeding with the Work to submit a Work Order Request;

(2) Obtain at least three (3) quotes if the repair is a reasonably anticipated recurring annual expense costing $5,000 or more and provide those quotes to the AOC Division of Facilities;

(3) Receive written approval to proceed with the Work from the Division of Facilities on the Work Order Request Form; and

(4) Provide (a) the invoice and (b) documentation demonstrating the amount paid for the repair to the AOC Auditor during the annual AOC audit.

Failure to provide the required documentation may result in rejection of the expense for reimbursement.

The AOC reserves the right to reject reimbursement for expenses associated with Work completed by any individual or entity that has been debarred by any state or federal agency, including the AOC.

ADMINISTRATIVE OFFICE OF THE COURTS
POLICIES FOR THE OPERATION AND MAINTENANCE OF COURT FACILITIES

Section 3a: Janitorial Services

Updated February 2018

Per KRS 26A.110, each local government is responsible for providing or procuring janitorial services for its court facility. The AOC will reimburse the local government for its proportionate costs for janitorial services based on the pro rata portion of the floor space that is occupied by the KCOJ in the court facility. Janitorial services include:

- a contract for janitorial services;
- janitorial supplies;
- janitorial personnel employed by the local government, including salaries, health and life benefits; and/or
- uniform costs.

The local government is not required to use one company to perform all required services or use its own staff for all required services. Rather, the local government may choose to contract with separate entities to perform various aspects of these requirements or to perform some aspects of the requirements with its own staff and contract for the rest. For example, a contract may be entered into for all daily, weekly and monthly performance requirements with one service provider, but the semi-annual and annual requirements may be bid separately and awarded to a different service provider. Or, a local government may use its own staff to provide daily and weekly services, but contract with a service provider to provide the monthly, semi-annual and annual requirements.

Janitorial services are considered operating expenses and are reimbursed via the Annual Reimbursement Form.

A. DENIAL OF REIMBURSEMENT

The AOC may refuse to reimburse the local government expenses associated with an *employee* who performs janitorial services if:

(1) The local government failed to provide the AOC the information required in Subsection C for any individual accessing the building to perform janitorial services; or

(2) The local government allowed an individual to perform janitorial services for a court facility (either individually or on behalf of an entity) after the AOC notified the local government that the individual had been denied access to the court facility as a result of a Criminal History Record Check; or

(3) The local government has added additional personnel to provide janitorial services without prior approval of the AOC; or

(4) The local government fails to perform all of the minimum services in Subsection E, or otherwise fails to maintain a clean court facility.

The AOC may refuse to reimburse the local government expenses associated with *a contract* for janitorial services if:

(1) The local government failed to notify the Division of Facilities prior to advertising for janitorial services; or

(2) The local government failed to provide the AOC the information required in Subsection C for any individual accessing the building to perform janitorial services; or

(3) The local government allowed an individual to perform janitorial services for a court facility (either individually or on behalf of an entity) after the AOC notified the local government that the individual had been denied access to the court facility as a result of a Criminal History Record Check; or

(4) The local government contracted with a janitorial service provider that is debarred by any state or federal agency, including the AOC; or

(5) The local government contracted with a janitorial provider that did not provide insurance and bonds as required by Subsection F; or

(6) The local government failed to enter into a valid contract with a janitorial services provider that includes, at a minimum, the services listed in Subsection E; or

(7) The local government otherwise fails to maintain a clean court facility.

B. POINTS OF CONTACT

The Chief Circuit Judge has the authority to control, assign, and otherwise manage the space in a judicial center or courthouse occupied by the KCOJ. The Chief Circuit Judge may designate a local KCOJ representative (i.e. Circuit Court Clerk, judicial secretary) to communicate facility-related concerns, issues, or requests to the local government's designated point of contact. If the Chief Circuit Judge designates a local KCOJ representative, he or she shall provide contact information for the designee to the local government.

The local government must designate a point of contact employed by the local government for the following purposes: (1) to discuss payment and contractual issues with the AOC Division of Facilities; and (2) to communicate with the Chief Circuit Judge or designee regarding concerns,

issues, or requests raised by local KCOJ officials and employees. The contact may be the same individual for both purposes or different individuals may be named for each purpose.

All issues concerning the adequacy of services shall first be discussed between the local government's designated point of contact and the Chief Circuit Judge or designee.

C. CRIMINAL HISTORY RECORD CHECKS

Because sensitive and confidential court documents, records, and information are housed in court facilities, the AOC must complete a Criminal History Record Check and approve each individual proposed to have access to the court facility to provide janitorial services.

To obtain approval, the local unit of government **must** provide to the Division of Facilities Administrative Support Coordinator at FacilitiesRequest@kycourts.net the following information for each individual **prior to** hiring, assigning, or contracting the individual or a business entity to provide janitorial services for a court facility:

- Name
- Address
- Social Security Number
- Date of Birth

The AOC reserves the right to deny access to a court facility by any proposed individual based on the result of a Criminal History Record Check.

D. SCHEDULING AND ACCESS

The local government and the Chief Circuit Judge or designee must:

- Agree to all janitorial service schedules, including active cleaning times;
- Agree to and designate special access areas, such as records areas, judges' private offices, and evidence storage areas; and
- Determine and coordinate how access to the court facility and special access areas will be given.

The local government must provide the Chief Circuit Judge or designee the names of all janitorial personnel, whether employed by the local government or contracted, who will have access to the court facility.

The AOC is not responsible for providing keys to the court facility for service provider access, but is available to assist with access issues should they arise.

E. JANITORAL PERFORMANCE STANDARDS

The local government must provide or contract to provide the following minimum janitorial services for a court facility.

Minimum Cleaning Requirements

1. ***DAILY SERVICES***

The court facility is to be cleaned five days/nights per week, Monday through Friday.

Trash

- Empty trash receptacles:, replace all soiled or torn liners, and clean receptacle as needed
- Pick up all litter not put in trash containers
- Dispose of boxes and other items marked "TRASH" by the facility's occupants
- Dispose of trash and litter in dumpsters or area designated by the city or local government for pick-up

Restrooms

- Restock all supplies: paper towels, toilet tissue, soap, etc.
- Clean glass mirrors
- Flush commodes and urinals
- Wipe down all surfaces, including faucets and door handles or push plates

Breakrooms

- Clean any food spillage around cooking appliances (stoves, microwave ovens, coffee makers, etc.) and refrigerators
- Wipe down countertops, table tops, sinks and appliance surfaces

General Cleaning

- Spot clean surfaces, horizontal and vertical, to remove all smudges, cup rings, spills, nicotine residues, etc.
- Wipe down all drinking fountains
- Wiped down work counters and public work surfaces, including but limited to, clerk area counters, litigation tables, conference room tables, etc.

Floors

- Vacuum all carpeted high traffic areas, including halls, corridors, circulation within open office areas
- Spot clean carpets with commercial carpet cleaner or (if necessary) spot remover and wet/dry vacuum to insure stains are removed rather than spread and set

Outside of the Facility

- Empty trash receptacles, replace all soiled or torn liners; clean receptacles as needed
- Pick up all litter not put in trash containers
- Dispose of trash and litter in dumpsters or area designated by the city or local government for pick-up
- Empty smoker's outpost, disposal containers as needed
- Maintain perimeter sidewalks, outside stairs and ramps that provide direct access to the building and/or the property, in a clean, debris-free manner

2. ***WEEKLY SERVICES***

Floors

- Vacuum all carpeted areas, including office spaces, break rooms and stairs

- Damp mop all non-wood, hard surfaced traffic areas, including office spaces, break rooms and stairs
- Dust mop all wood floor areas, including office spaces, break rooms and stairs

Bathrooms

- Clean and disinfect all dispensers: paper towel, toilet tissue holder, soap, etc.
- Clean and disinfect entrance doors, including bright surfaces: door knobs, push plates, etc.
- Clean and disinfect all tiled wall surfaces and partition walls
- Clean and disinfect commodes and urinals, both inside and out
- Mop and disinfect all floors

General Cleaning

- Spot clean horizontal and vertical surfaces, removing any obvious stains or residue
- Spot clean windows and doors, including glass area
- Clean all public seating: Cloth seats- brush-out or vacuum, Wood seating- wipe down

Break rooms

- Disinfect (sanitize) all tabletops, counter tops and sinks

3. ***Monthly***

General Cleaning

- Dust, high (above desktop level, including signage) and low (below desktop level)
- Clean and polish entrance doors
- Clean baseboards
- Clean wainscot (except for restrooms, which are cleaned weekly)
- Remove cobwebs and bugs from high areas, lights, and corners
- Vacuum air diffusers and grills

4. ***Semi-Annually***

The following services should be performed at least twice a year. The services may be included in the janitorial services contract, or may be bid or quoted separately as needed.

- Apply polish and buff hard-surfaced (non-wood) floors to a high gloss
- Scrub and clean all stone or ceramic/quarry tiled floors
- Clean all wood floors - apply polish and buff wood floors
- Clean (hot water extraction method) all high-traffic carpeted floors, including halls, corridors, circulation within open office areas
- Mop all sealed concrete floors
- Clean light fixtures and light fixture lenses
- Vacuum clean all drapes and blinds

5. ***Annually***

The following services should be performed at least once a year. The services may be included in the janitorial services contract, or may be bid or quoted separately as needed.

- Clean (hot water extraction method) all carpeted floors not cleaned semi-annually, including all office spaces, breakrooms and stairs

- Clean and polish all window interiors and exteriors
- Clean all blinds
- Strip, clean, and apply sealer to all non-wood, hard-surfaced floors
- Strip and seal joints in stone or ceramic/quarry tiled floors
- Pressure clean walkways

Specifications

The standards outlined above are minimum requirements and may be used as specifications in a request for bids for janitorial services. The local government and Chief Circuit Judge or designee may agree that additional services need to be performed in the Facility or that they should be performed more often than required by this Subsection. If an agreement is reached to perform services in excess of these minimum requirements and the local government intends to use contracted janitorial services, the request for bids, quotes, or proposals should clearly specify all requirements and they should also be included in the contract for services.

Unsatisfactory Performance of Janitorial Services

Concerns regarding the adequacy of janitorial services performed at the court facility should first be brought by the Chief Circuit Judge or designee to the local government's designated point of contact. If the local government fails to respond or to correct the unsatisfactory performance of janitorial services, the Chief Circuit Judge or designee should contact the Manager of the AOC Division of Facilities via email to report the unresolved concerns. Once notified of potential issues with the performance of janitorial services, the AOC Division of Facilities will discuss the alleged unsatisfactory performance directly with the local government.

Reporting Facility Deficiencies

Janitorial staff or services providers are required to immediately notify the designated local government contact of any deficiencies noted in the court facility, including, but not limited to, plumbing leaks or issues, electrical problems, carpet rips or tears, broken mirrors, insect infestations, or other conditions requiring repair observed while performing janitorial services. Upon receiving notice of a deficiency or issue with the court facility, the local government should take immediate steps to correct the deficiency. The procedures in *Section 4: Nonrecurring Project Requests* apply.

Inspections

The AOC reserves the right to inspect the entire court facility and prepare a list of janitorial insufficiencies. The list shall be presented to local government and the local government should either correct or present a plan to the AOC to correct the insufficiencies within five (5) business days. If this schedule for corrections is not met, the local government may no longer qualify for reimbursement of janitorial services.

F. CONTRACTED JANITORIAL SERVICE PROVIDERS

The requirements in this Subsection only apply when a local government uses a contracted service provider, as opposed to janitorial staff employed by the local government, to provide some or all of the required janitorial services.

Requests for Bids, Quotes, or Proposals

The local government must notify the AOC Division of Facilities prior to advertising for a new janitorial service provider.

Insurance and Bonding

The AOC will only reimburse the local government for expenses associated with a janitorial service provider, whether it be an individual or business entity, if that provider is bonded *and* maintains a General Liability Insurance policy with a minimum of $25,000 in coverage for Property Damage. The amount of the janitorial service provider's bond is in the discretion of the local unit of government. The local government may also choose to require a janitorial service provider to maintain a General Liability Insurance policy for Personal Injuries and/or Workman's Compensation Insurance to provide coverage for personal injury claims.

The local unit of government must send copies of the insurance and bond to the AOC Division of Facilities Administrative Support Coordinator via email at FacilitiesRequest@kycourts.net.

The AOC will not reimburse the local government for any expenses associated with personal injuries caused by negligence of a janitorial service provider or for claims made by the janitorial service provider for work-related injuries.

Services Contract Required

The local government must enter into a contract with any individual or business entity selected to provide janitorial services for a court facility who is not employed by the local government. The contract must contain at least the required services outlined above in Subsection E- Janitorial Performance Standards. The local government must send a copy of the contract(s) to the Division of Facilities Administrative Support Coordinator via email at FacilitiesRequest@kycourts.net.

The contract should include at the minimum the following: names of individuals accessing the Facility to provide janitorial services; the type and scope of services to be provided; how often services will be provided; rate of pay for the services provided; and a start date and end date for the contract.

G. SERVICES PROVIDED DIRECTLY BY THE LOCAL GOVERNMENT

Maintaining a clean facility is important to ensure that judicial centers and courthouses operate efficiently. If a local government elects to use its own staff instead of contracting for janitorial services, the AOC strongly encourages the local government to designate a single employee to specifically address the needs of the KCOJ-occupied space.

The requirements in this Subsection only apply when a local government uses janitorial staff employed by the local government to provide all of the required janitorial services.

Initial Set-Up of a New Judicial Center

For new judicial centers, AOC will reimburse the local government upon submittal of an invoice, for the following:

- Commercial/Industrial quality vacuum cleaner
- Commercial/Industrial floor polisher and/or buffer
- Wet/Dry vacuum cleaner
- Sufficient quality and quantity of mops and mop buckets with wringers
- All other appropriate cleaning tools and equipment
- Cleaning supplies and materials
- Appropriate "safety" signage (Danger – Wet Floor, etc.)
- Supplies: Trash can liners, Toilet tissue, Paper towels, Hand soap

If the total cost of purchasing these items exceeds $4,000, the local government is required to obtain prior approval from the Manager of the AOC Division of Facilities.

Supplies After Initial Set-Up

The cost of janitorial supplies is included in the Operating Expenses paid by the AOC to the local government quarterly in accordance with the estimate agreed to on the Annual Reimbursement Form signed by the local government.

Equipment After Initial Set-Up

From time to time a local government may need to purchase equipment related to providing janitorial services at the court facility and its grounds. The AOC will reimburse the local government for the purchase if the proposed piece of equipment is to be used solely for KCOJ occupied space and the cost is under $1000. To receive reimbursement for these purchases, send an invoice and copy of the payment issued by the local government to the Division of Facilities Administrative Support Coordinator via email at FacilitiesRequest@kycourts.net. Reimbursements will be paid directly to the local government from the AOC Budget Office.

If the piece of equipment will cost $1000 or more, or if the local government intends to also use the equipment in spaces not occupied by the KCOJ, the AOC will only reimburse the purchase if the local government requests and receives approval in writing prior to the purchase of the equipment. To obtain pre-approval, follow the process outlined in *Section 4: Nonrecurring Project Requests*.

ADMINISTRATIVE OFFICE OF THE COURTS
POLICIES FOR THE OPERATION AND MAINTENANCE OF COURT FACILITIES

Section 3b: Maintenance and Preventative Maintenance Services

Updated February 2018

Per KRS 26A.110, each local government is responsible for providing or procuring maintenance services for its court facility. Additionally, the local government is encouraged to procure an HVAC preventative maintenance services contract. The local government **must** obtain prior approval from the AOC before awarding any maintenance or preventative maintenance contract.

The AOC will reimburse the local government for its proportionate costs for maintenance services based on the pro rata portion of the floor space that is occupied by the KCOJ in the court facility. Maintenance services includes:

- a contract for maintenance services;
- general maintenance supplies;
- maintenance personnel employed by the local government, including salaries, health and life benefits;
- uniform costs;
- elevator service contracts;
- HVAC preventative maintenance contracts; and
- consumables for the building (i.e. lightbulbs, filters).

Maintenance and preventative maintenance services are considered operating expenses and are reimbursed via the Annual Reimbursement Form.

A. DENIAL OF REIMBURSEMENT

The AOC may refuse to reimburse the local government expenses associated with an *employee* who performs maintenance services if:

(1) The local government failed to provide the AOC the information required in Subsection C for any individual accessing the building to perform maintenance or preventative maintenance services; or

(2) The local government allowed an individual to perform maintenance or preventative maintenance services for a court facility (either individually or on behalf of an entity) after the AOC notified the local government that the individual had been denied access to the court facility as a result of a Criminal History Record Check; or

(3) The local government has added additional personnel to provide maintenance services without prior approval of the AOC; or

(4) The local government fails to perform all of the minimum services in Subsection E or otherwise fails to properly maintain the court facility or fails to adhere to appropriate safety standards.

The AOC may refuse to reimburse the local government expenses associated with *a contract* for maintenance or preventative maintenance services if:

(1) The local government failed to notify the Division of Facilities prior to advertising for maintenance or preventative maintenance services; or

(2) The local government failed to provide the AOC the information required in Subsection C for any individual accessing the building to perform maintenance or preventative maintenance services; or

(3) The local government allowed an individual to perform maintenance or preventative maintenance services for a court facility (either individually or on behalf of an entity) after the AOC notified the local government that the individual had been denied access to the court facility as a result of a Criminal History Record Check; or

(4) The local government contracted with a maintenance or preventative maintenance provider that is debarred by any state or federal agency, including the AOC; or

(5) The local government contracted with a maintenance or preventative maintenance provider that did not provide insurance and bonds as required by Subsection F; or

(6) The local government failed to enter into a valid contract with a maintenance or preventative maintenance provider; or

(7) The local government failed to obtain the approval of the AOC prior to entering into the maintenance or preventative maintenance contract; or

(8) The local government fails to properly maintain the facility or fails to adhere to appropriate safety standards.

B. POINTS OF CONTACT

The Chief Circuit Judge has the authority to control, assign, and otherwise manage the space in a judicial center or courthouse occupied by the KCOJ. The Chief Circuit Judge may designate a local KCOJ representative (i.e. Circuit Court Clerk, judicial secretary) to communicate facility-related concerns, issues, or requests to the local government's designated point of contact. If the Chief

Circuit Judge designates a local KCOJ representative, he or she shall provide contact information for the designee to the local government.

The local government must designate a point of contact employed by the local government for the following purposes: (1) to discuss payment and contractual issues with the AOC Division of Facilities; and (2) to communicate with the Chief Circuit Judge or designee regarding concerns, issues, or requests raised by local KCOJ officials and employees. The contact may be the same individual for both purposes or different individuals may be named for each purpose.

All issues concerning the adequacy of services shall first be discussed between the local government's designated point of contact and the Chief Circuit Judge or designee.

C. CRIMINAL HISTORY RECORD CHECKS

Because sensitive and confidential court documents, records, and information are housed in court facilities, the AOC must complete a Criminal History Record Check and approve each individual proposed to have access to the court facility to provide maintenance or preventative maintenance services.

To obtain approval, the local unit of government **must** provide to the Division of Facilities Administrative Support Coordinator via email to FacilitiesRequest@kycourts.net the following information for each individual **prior to** hiring, assigning, or contracting the individual or a business entity to provide maintenance or preventative maintenance services for a court facility:

- Name
- Address
- Social Security Number
- Date of Birth

The AOC reserves the right to deny access to a court facility by any proposed individual based on the result of a Criminal History Record Check.

D. SCHEDULING AND ACCESS

The local government and the Chief Circuit Judge or designee must:

- Agree to all maintenance and preventative maintenance service schedules, including active cleaning times;
- Agree to and designate special access areas, such as records areas, judges' private offices, and evidence storage areas; and
- Determine and coordinate how access to the court facility and special access areas will be given.

The local government must provide the Chief Circuit Judge or designee the names of all maintenance and preventative maintenance personnel, whether employed by the local government or contracted, who will have access to the court facility.

The AOC is not responsible for providing keys to the court facility for service provider access, but is available to assist with access issues should they arise.

E. MAINTENANCE SERVICE PERFORMANCE STANDARDS

Personnel

The local government and/or service provider shall utilize personnel who are both competent and, if applicable, licensed and certified in the Commonwealth of Kentucky to execute work in the applicable trades and for the type of equipment in use at the court facility.

Work Plan

It is responsibility of the local government or the local government's contracted maintenance service provider to determine the appropriate level of maintenance for the components of the court facility. The local government or service provider should execute maintenance, including the changing of wearable components, filters, lubrication, and cleaning, in accordance with the manufacturer's recommendation or best industry management practice, whichever is more stringent.

For contracted maintenance service providers, the service provider should submit with the bid or proposal package a "Preliminary Work Plan." This plan shall include, but not be limited to: personnel providing services, including tradesmen and/or sub-service providers the service provider will employ or utilize as part of the contract; scope and type of work to be performed; schedules of maintenance; cost of services to be provided; and the experience of the company and its personnel in maintaining commercial buildings and the type of equipment used in the court facility.

Repairs and Replacements

Maintenance or preventative maintenance service providers or local government staff should not perform repairs costing $2,500 or more and should not replace any equipment, systems, or components of the court facility without receiving prior approval from the local government. The local government must not authorize the performance of repairs totaling $2,500 or more or replace any equipment, systems, or components of the court facility without first receiving written pre-approval from the AOC Division of Facilities.

The AOC **will not** reimburse a repair or replacement totaling $2,500 or more if the local government did not seek and receive written approval from the Division of Facilities before authorizing and beginning the work. Repairs are categorized as ordinary repairs or major repairs.

Ordinary repairs are considered reimbursable operating expenses. Ordinary repairs are those repairs that are reasonably anticipated recurring annual expenses or unanticipated nonrecurring repairs costing $2,499 or less. For all ordinary repairs costing more than $2,499, the approval processes in *Section 3: Operating Expenses* apply.

A Major Repair is a repair that costs $2,500 or more, including all parts and labor related to the repair, and *is not* a reasonably anticipated recurring annual expense. Major Repairs are considered Nonrecurring Projects. Replacements, upgrades, modifications and renovations are also considered Nonrecurring Projects. The processes in *Section 4: Nonrecurring Project Requests* of these rules apply.

Renovations

Any proposed renovations **must** be pre-approved. Work should not begin on a renovation until all procedural steps outlined in *Section 4: Nonrecurring Project Requests* have been taken and the local government has received written authorization from the Manager of the Division of Facilities to proceed.

Unsatisfactory Performance of Maintenance Services

Concerns regarding the adequacy of maintenance or preventative maintenance services performed at the court facility should first be brought by the Chief Circuit Judge or designee to the local government's designated point of contact. If the local government fails to respond or to correct the unsatisfactory performance of the maintenance or preventative maintenance services, the Chief Circuit Judge or designee should contact the Manager of the AOC Division of Facilities to report the unresolved concerns. Once notified of potential issues with the performance of maintenance or preventative maintenance services, the AOC Division of Facilities will discuss the alleged unsatisfactory performance directly with the local government.

Reporting Facility Deficiencies

Maintenance staff or service providers are required to immediately notify the designated local government contact of any deficiencies noted in the court facility, including, but not limited to, plumbing leaks or issues, electrical problems, carpet rips or tears, broken mirrors, insect infestations, or other conditions requiring repair observed while performing janitorial services. Upon receiving notice of a deficiency or issue with the court facility, the local government should take immediate steps to correct the deficiency. The procedures in *Section 4: Nonrecurring Project Requests* apply.

Inspections

The AOC reserves the right to inspect the entire court facility and prepare a list of maintenance insufficiencies. The list shall be presented to local government and the local government should either correct or present a plan to the AOC to correct the insufficiencies within five (5) business

days. If this schedule for corrections is not met, the local government may no longer qualify for reimbursement of maintenance or preventative maintenance services.

F. CONTRACTED MAINTENANCE SERVICE PROVIDERS

The requirements in this Subsection only apply when a local government uses a contracted service provider, as opposed to maintenance staff employed by the local government, to provide some or all of the maintenance and HVAC preventative maintenance services. Local governments are encouraged to procure maintenance and HVAC preventative maintenance service providers if the local government's maintenance employee does not have the applicable or recommended license or certification to work on the equipment installed at the court facility.

Requests for Bids, Quotes,or Proposals

The local government must notify the AOC Division of Facilities prior to advertising for a maintenance or preventative maintenance service provider. HVAC preventative maintenance agreements **must** be pre-approved in writing by the AOC Division of Facilities or local government will not be reimbursed for the preventative maintenance contract costs.

Note: If a local government currently has an agreement in place, email a copy of the agreement to the Division of Facilities Administrative Support Coordinator at FacilitiesRequest@kycourts.net. If the local government does not have a current, written contract for services, contact the Manager of the AOC Division of Facilities to discuss options.

Insurance and Bonding

The AOC will only reimburse the local government for expenses associated with a maintenance or preventative maintenance service provider, whether it be an individual or business entity, if that provider is bonded *and* maintains a General Liability Insurance policy with a minimum of $25,000 in coverage for Property Damage. The amount of the maintenance or preventative maintenance service provider's bond is in the discretion of the local unit of government. The local government may also choose to require a maintenance or preventative maintenance service provider to maintain a General Liability Insurance policy for Personal Injuries and/or Workman's Compensation Insurance to provide coverage for personal injury claims.

The local unit of government must send copies of the insurance and bond to the AOC Division of Facilities Administrative Support Coordinator via email at FacilitiesRequest@kycourts.net.

The AOC will not reimburse the local government for any expenses associated with personal injuries caused by negligence of a maintenance or preventative maintenance service provider or for claims made by the maintenance or preventative maintenance service provider for work-related injuries.

Service Provider Personnel and Qualifications

As part of its submitted proposal for work, the service provider should provide the experience of the company and its personnel in maintaining commercial buildings and the type of equipment

in use at the court facility. Before awarding a contract to a maintenance or preventative maintenance service provider, the local government should review and check that all personnel proposed by the service provider are competent and licensed/ certified in the Commonwealth of Kentucky to execute work in the applicable trades and for the type of equipment in use at the court facility.

Services Contract Required

The local government must enter into a contract with any individual or business entity selected to provide maintenance or preventative maintenance services for a court facility who is not employed by the local government. The local government must send a copy of the contract(s) to the Division of Facilities Administrative Support Coordinator via email at FacilitiesRequest@kycourts.net.

The contract should include at the minimum the following: names of individuals accessing the Facility to provide janitorial services; the type and scope of services to be provided; how often services will be provided; rate of pay for the services provided; which party is responsible for providing the equipment, tools, materials, and supplies to perform all manufacturer-recommended or necessary maintenance; and a start date and end date for the contract.

G. AUTHORIZED MAINTENANCE SUPPLIES, SERVICES AND EQUIPMENT EXPENDITURES

The information below is provided for the purpose of helping local units of government ensure maintenance expenditures are authorized and will be reimbursed as an operating cost. If the local government is not sure whether an expenditure is an authorized maintenance expense, prior to entering into the contract, purchasing the supply or arranging the inspection, contact the Manager of the AOC Division of Facilities for clarification. All HVAC preventative maintenance contracts require prior approval by the Division of Facilities.

Supplies

The cost of general maintenance supplies is included in the Operating Expenses paid by the AOC to the local government quarterly in accordance with the estimate on the Annual Reimbursement Form signed by the local government.

General maintenance supplies may include, but are not limited to, the following items:

- HVAC Filters
- Fuses
- Light Bulbs
- Keys
- Fire Alarm Equipment and Extinguishers
- Locks

Contracted Services and Inspections

The following types of contracted services are considered maintenance costs unless they are associated with a major repair:

- HVAC Preventative Maintenance (must be pre-approved by the Division of Facilities)
- Elevator Service and Inspection

- Water Treatment
- Boiler, HVAC Inspections
- Pest and Termite Control-Extermination
- Security or Fire Alarm Monitoring
- Snow and Ice Removal
- Grounds Maintenance

Equipment

From time to time a local government may need to purchase equipment that is necessary to efficiently maintain the Facility and its grounds. The AOC will reimburse the local government for the purchase if the proposed piece of equipment is to be used solely at the judicial center or courthouse and the cost is under $1000.

If the piece of equipment will cost $1000 or more or will not be used solely at the judicial center or courthouse, the AOC will only reimburse the purchase if prior approval for the purchase was given by the AOC. To obtain pre-approval, follow the process outlined in *Section 4: Nonrecurring Project Requests* of these Policies.

Workmanship

All work shall be performed in a neat, orderly, and professional manner with applicable local, state, and federal laws and codes. Whenever possible, maintenance services, preventative maintenance services, and repair services should be performed in a manner that is not disruptive to the administration of court business. Additionally, special care shall be taken to insure that all tools, fixtures, and equipment used by service provider staff or local government maintenance personnel in the execution of duties are properly stored and not kept or used in such a way that creates a safety or environmental hazard.

Safety

Safety in and around the workplace should take precedence over all other required tasks. The following provisions and procedures must be strictly administered:

- Lockout/Tagout procedures
- Appropriate Barriers and Barricade
- Appropriate Shoring, Bracing, and Blocking
- Warning Signage
- Appropriate tools (*e.g. insulated hand tools, the proper wrenches, etc.*)
- Appropriate equipment (*e.g., insulated ladders, test sets, etc.*)
- Safety harnesses and lanyards, when working in high areas
- Ground guides, when maneuvering equipment inside and outside of building
- Flagmen, when necessary
- Appropriate safety apparel when handing hazardous/toxic substances and materials
- Label, handle, and store all hazardous and toxic materials in strict accordance with applicable environmental law and regulations

- Appropriate trade training and certifications
- All required OSHA training and certifications **and**
- Immediately notify the Chief Circuit Judge or designee and proper agencies (*e.g., Fire Department*) of all hazardous and potentially hazardous situations.

If the AOC becomes aware of unsafe conditions at the court facility and the local government does not quickly rectify the problem upon notice, the local government may be disqualified from receiving reimbursement for maintenance or preventative maintenance expenses.

ADMINISTRATIVE OFFICE OF THE COURTS
POLICIES FOR THE OPERATION AND MAINTENANCE OF COURT FACILITIES

Section 4: Nonrecurring Project Requests

Updated February 2018

A Nonrecurring Project means a major repair (i.e. those that cost $2,500 or more for all labor and materials, and are not reasonably anticipated annual expenses); or replacements, upgrades or modifications to the KCOJ facility or KCOJ occupied portion of the facility. Examples of nonrecurring projects include, but are not limited to: new carpet or paint; replacement of the windows, roof, boiler or HVAC; or interior or mechanical renovations. Renovations involving exterior walls are Court of Justice Capital Construction Projects and must be authorized by the General Assembly and developed in accordance with AP Part X.

The AOC will reimburse the local government for the AOC portion of the Nonrecurring Project in the fourth quarter of the fiscal year, or earlier upon request and approval as set forth in these Policies. For Nonrecurring Projects that benefit the facility as a whole (e.g. windows, roof, boiler, HVAC, structural issues, mechanical renovations), the AOC portion is calculated based on the KCOJ's proportionate share of the operating expenses according to the pro rata portion of the floor space that is occupied by the KCOJ in a court facility. For Nonrecurring Projects that benefit *only* the KCOJ-occupied portion of the facility (e.g. moving a wall in the circuit clerk's office; new carpet or paint in the judicial suites), the AOC may agree to reimburse the local unit of government up to 100% of its costs associated with the Nonrecurring Project subject to the approval processes and documentation required by this Policy. If the Nonrecurring Project benefits only the portion of the facility occupied by the local government, the AOC will not reimburse the local government for any portion of the costs.

The process for obtaining pre-approval of a Nonrecurring Project is the same for both emergency and non-emergency situations. However, the AOC recognizes that some emergency circumstances may necessitate a modification in the Nonrecurring Project Request process. Emergency exemptions will be handled on a case by case basis and are addressed in more detail in Subsection C below.

The local unit of government should follow its procurement policies in the procurement of any goods or services for the court facility. Additionally, the following requirements must be met in order for the local government to qualify for reimbursement from the AOC of expenses associated with a Nonrecurring Project:

A. INITIATING A NONRECURRING PROJECT REQUEST

Prior to submitting a Nonrecurring Project Request to the AOC, the local government should begin by obtaining at least one (1) quote for the necessary work from a qualified contractor or vendor. If the quote is for a repair costing less than $2,500, including both the cost of necessary parts and the labor to install all parts, the local government does not need to obtain prior approval and may proceed with the work. The repair will be included in Operating Expenses and the estimated Operating Expenses for the Fiscal Year will be adjusted accordingly during the annual AOC audit. The quote and all related paperwork should be maintained by the local government for auditing purposes, however, there is no need to submit it to the AOC Division of Facilities.

If the quote received by the local government totals $2,500 or more for a repair, including all necessary parts and labor, or if the quote is for a replacement, modification, upgrade or renovation of the court facility, the local government must obtain approval of the AOC prior to entering into a contract for services or proceeding with the work. Approval may be requested by submitting the Work Order Request form to the AOC Division of Facilities.

If the quote received by the local government totals $5,000 or more, including all necessary parts and labor, the local government is required to obtain two (2) additional quotes for the same scope of work as the original quote. Once the local government has received three (3) quotes, the next step is to submit the Nonrecurring Project Request to the AOC Division of Facilities. If the local government is having difficulty finding three (3) contractors or vendors willing to provide a free quote for the necessary repair or replacement services, contact the Manager of the Division of Court Facilities to discuss possible resolutions to the issue. If the local government's procurement policies require a Request for Bids to be issued, the local government should issue the RFB in lieu of obtaining quotes.

Vendor and Contractor Quotes

Quotes should be in writing and contain the following information:

- Name and contact information of contractor or vendor
- Detailed description of the proposed scope of work
- Expenses related to parts and labor, and if applicable, travel, listed separately
- Parts information should be specific and include identifying information, such as the manufacturer and model or part number

Failure to provide a detailed quote with the above information could result in the quote being disqualified by the AOC.

B. SUBMITTING A REQUEST

All requests for pre-approval of a Nonrecurring Project begin with an email to the AOC Division of Facilities Administrative Support Coordinator at FacilitiesRequest@kycourts.net. The request should contain the following information:

- Local government name
- Requestor's name, title, and contact information
- Facility name (*Example: Franklin County Courthouse*)
- Facility address
- Location of the requested repair, replacement, renovation within the Facility. (*Example: 3rd Floor, Pretrial Office*)
- Name of a Facility Contact familiar with the repair, replacement or renovation request (*Typically this will be the local government's maintenance or janitorial staff assigned to the Facility*)
- Email and phone number for the Facility Contact
- Identify whether the Nonrecurring Project Request is related to an emergency (*Example: flooded basement, loss of power, etc. See Subsection C below for more information about emergencies)* or an urgent situation (*Example: malfunctioning HVAC system*)
- Description of the Nonrecurring Project Request, including any pertinent background information
- If the Nonrecurring Project Request involves an HVAC system, please note whether the local government has an HVAC preventative maintenance contract. If there is a valid preventative maintenance contract, list the name and contact information of the service provider.
- List the totals of each quote obtained and the name of the business providing the quote
- Note the estimated amount of time the repair, replacement or addition is expected to take
- Identify the anticipated start and completion date
- Attach all three (3) quotes to the email
- Identify the vendor or contractor the local government prefers to select. If the preferred contractor or vendor is not the lowest quote submitted, provide an explanation as to why the local government prefers to work with that vendor or contractor. So long as the quote provided by the preferred vendor is close in price to the other two (2) quotes, the AOC will honor the local government's preference whenever feasible.

The AOC Division of Facilities will review the submitted request and provide a written response via email. For some requests, a Facilities Coordinator may need to follow-up with a phone call or site visit to review the requested repair, replacement, or renovation. In those instances, the Division of Facilities will notify the local government that a decision on the submitted request will be delayed until all necessary inspections and reviews have been completed.

If the submitted request involves an urgent situation, the AOC Division of Facilities will make every effort to contact the local government the same day the request is submitted. If the local government has not heard from the AOC Division of Facilities within 24 hours of an emergency related submittal, call the Manager of the AOC Division of Facilities to discuss the request. If the submitted request involves an emergency, please see Subsection C below.

C. EMERGENCY REPAIRS

If an emergency occurs in a court facility that prevents the normal function of judiciary business, call the Manager of the Division of Facilities to obtain immediate authorization for mitigation, repair or replacement expenses. If the Manager is not available, refer to the Division of Facilities Contact Information in *Section 1: Introduction and Contact Information* of these Procedures to contact another employee of the AOC Division of Facilities. To receive reimbursement for expenses related to an emergency, following the process outlined in Subsection E below.

D. APPROVAL OF A NONRECURRING PROJECT REQUEST

If the AOC Division of Facilities approves a Nonrecurring Project Request, it will notify the local government Judge Executive or Mayor, the local government Treasurer or Financial Officer, and the person who submitted the request via email. Attached to the email will be a written approval letter signed by the Manager of the Division of Facilities detailing the scope of the Nonrecurring Project, the name of the approved vendor or service provider, approved project cost based on the provided quote, percentage of AOC reimbursement based on KCOJ occupancy, Fiscal Year in which the project is committed, required start and completion deadlines, and the name of the Facilities Coordinator assigned to the nonrecurring project.

If the local government agrees to the terms of the approval letter, the letter must be signed, dated, and emailed back to the AOC Division of Facilities prior to beginning work on the nonrecurring project. If the local government has any questions or concerns about the details contained in the letter, contact the Manager of the Division of Facilities to discuss the matter before returning the letter.

E. REIMBURSEMENT OF AN APPROVED NONRECURRING PROJECT

Upon completion of the pre-approved Nonrecurring project, the local government should submit the following to the AOC Division of Facilities Administrative Support Coordinator via email at FacilitiesRequest@kycourts.net:

- Invoice from contractor or vendor detailing completed work. If there are any substantial changes in the completed work versus the proposed work, it should be noted clearly on the invoice.
- Copy of cancelled check showing local government issued payment to the approved contractor or vendor.

Upon receipt of invoice and proof of payment, the Division of Facilities will submit all the necessary paperwork to the AOC Budget Office for processing. A reimbursement check for the Nonrecurring Project expense should be issued within 60 days.

F. DENIAL OF A NONRECURRING PROJECT REQUEST

The AOC Division of Facilities has a limited budget to address statewide repair, replacement and renovation issues and requests. Our goal is to ensure the most urgent and necessary needs are

prioritized over cosmetic upgrades. If a request is denied, the Division of Facilities will, when possible, provide a recommendation for when the Nonrecurring Project Request may be resubmitted for consideration. Providing ample advance notice for Nonrecurring Project Requests allows the Division of Facilities to efficiently allocate our resources. All local governments are encouraged to provide advanced notice when making a non-emergency or non-urgent request. Advance notice is crucial for larger projects, as explained in Subsection G below, which could require 1-2 years of Budget Planning.

G. PLANNING FOR NONRECURRING PROJECTS

The AOC Division of Facilities receives numerous Nonrecurring Project Requests every Fiscal Year. In the Appendix is a Nonrecurring Project Request Planning Tool, which is intended to help both the AOC and the local government plan for small and large nonrecurring projects. Local governments can submit a planning tool to the AOC Division of Facilities at any point during the Fiscal Year, however, local government units will be asked to submit one every April. The submission is merely a planning tool and not an official request for funds. Unless the local government has been advised otherwise in writing, all Nonrecurring Projects must be officially requested according to the procedures outlined in this *Section 56 Nonrecurring Project Requests.* Below is guideline for how long the budgeting process might take for Nonrecurring Project Requests based on total project price.

Total Nonrecurring Project Cost	Ideal Advance Notice Timeframe
$1000-$99,999	0-6 months
$100,000-$299,999	6 months – 1 year
$300,000-$599,000	1-2 years
$600,000 +	2+ years (*will require Legislative approval*)

If the local government has any questions regarding the planning process for Nonrecurring Project Requests it should contact the Manager of the Division of Facilities to discuss the process and seek advice.

ADMINISTRATIVE OFFICE OF THE COURTS
POLICIES FOR THE OPERATION AND MAINTENANCE OF COURT FACILITIES

CHECKLIST: Contracting with Service Providers

Updated February 2018

- ☐ Obtain at least three (3) proposals prior to awarding a service provider contract, or issue a solicitation if required by the local unit of government's procurement policies.
- ☐ Review proposals to ensure all the required information is included, including proof the service provider is bonded **and** maintains a General Liability Insurance policy with a minimum of $25,000 in coverage for Property Damage.
- ☐ Submit all service provider proposals to the AOC for review and approval.
- ☐ Receive written approval from the AOC to contract with its selected service provider.
- ☐ Check to ensure selected service provider has provided the name, social security number, address, and date of birth for each person proposed to work in the court facility as part of the service contract.
- ☐ Submit the required information for proposed personnel of the selected service provider to the Division of Facilities Administrative Support Specialist via email to FacilitiesRequest@kycourts.net for an AOC *Criminal History Record Check*

  Do not begin work until the AOC Division of Facilities has provided written notice the proposed personnel have passed the record check.
- ☐ Chief Circuit Judge or designee agrees to the proposed regular janitorial or maintenance schedule and how special areas of the court facility will be accessed.
- ☐ Circuit Judge or designee has been provided with the names of all service provider personnel that will have access to the court facility.
- ☐ Service provider signs a contract with the local government that includes the following:
  - Names of individuals accessing the Facility to provide services
  - Type and scope of services to be provided
  - How often services will be provided
  - Rate of pay for the services provided
  - Start date and end date for the contract

☐ Email a copy of the completed and signed contract to the Division of Facilities Administrative Support Coordinator at FacilitiesRequest@kycourts.net.

ADMINISTRATIVE OFFICE OF THE COURTS
POLICIES FOR THE OPERATION AND MAINTENANCE OF COURT FACILITIES

CHECKLIST: Work Project Request

Updated February 2018

For Repairs, Replacements, or Renovations totaling **$2,500 or more**, including all necessary parts and labor, the following steps should be taken to obtain pre-approval of the Work and receive reimbursement for the expense:

SUBMITTING A REQUEST

☐ Prior to submitting the request to the AOC for review and approval: Solicit at least 3 quotes to perform the same scope of work for the proposed Work. If the estimated cost of the Work would require the local unit of government to issue a solicitation pursuant to its procurement guidelines, the local unit of government must contact the AOC for approval prior to issuing the solicitation.

EXECPTION: HVAC related requests will only require 1 quote if the following 3 requirements are met: **(1)** County has an HVAC preventative maintenance contract on file with the AOC Division of Facilities, **and (2)** Written quote is provided by the preventative maintenance service provider, **and (3)** Written quote is for between $2,500-$4999.

☐ Submit an email request containing the following information to the Division of Facilities Administrative Support Specialist at FacilitiesRequest@kycourts.net:

- County name
- Requestor's name, title, and contact information
- Facility name (*Example: Franklin County Courthouse*)
- Facility address
- Location of the requested repair, replacement, renovation within the Facility (*Example: 3rd Floor, Pretrial Office*)
- Name of a Facility Contact familiar with the repair, replacement or renovation request (*Typically this will be the county's maintenance or janitorial staff assigned to the Facility*)
- Email and phone number for the Facility Contact
- Identify whether the Work Order Request is related to an emergency situation (*Example: flooded basement, loss of power, destroyed equipment*)
- Description of the Work Request, including any pertinent background information
- If the Work involves an HVAC system, please note whether the county has an HVAC preventative maintenance contract. If there is a valid preventative maintenance contract, list the name and contact information of the service provider.

- List the totals of each quote obtained and the name of the business providing the quote
- Note the estimated amount of time the repair, replacement or addition is expected to take
- Anticipated start and stop date
- Identify the vendor or contractor the county prefers to select. If the preferred contractor or vendor is not the lowest quote provided, provide an explanation as to why the county prefers to work with that vendor or contractor

☐ Attach all three (3) quotes to the email.

☐ Upon receiving a written approval letter signed by the Manager of the Division of Facilities, accept the reimbursement offer by signing and dating the letter and returning it via email to the Division of Facilities Administrative Support Specialist at FacilitiesRequest@kycourts.net.

☐ Begin work.

REIMBURSEMENT OF NONRECURRING PROJECT

Upon completion of the Work submit the following documents via email to the Division of Facilities Administrative Support Specialist at FacilitiesRequest@kycourts.net:

☐ Final invoice for Work reflecting all costs, including necessary parts and labor.

☐ Proof of payment issued by the local government to the vendor or contractor (*e.g. Copy of cancelled check*).

The AOC Budget Office should issue a reimbursement check to the county within 60 days.

Administrative Office of the Courts
1001 Vandalay Drive
Frankfort, Kentucky 40601

John D. Minton, Jr.
Chief Justice of Kentucky

Laurie K. Dudgeon
Director

WORK ORDER REQUEST

Date of Request: _____ County: _____
Requested by: _____ Title: _____
Email: _____ Phone: _____

Facility Name: _____ Address: _____
Location of Repair/Renovation: _____
Local contact who will be coordinating repair/renovation: _____
Email: Phone:

Type of Request: ☐ Emergency ☐ Non-Emergency
Description of Repair/Renovation Request:

_____
_____
_____

Is there a current preventative maintenance contract for items affected by this request? Yes___ No___
If yes, include name of service provider: _____ Phone: _____

Provide copy of signed contract with quote.
List in order of service provider preference, three (3) quotes, with itemized parts and labor, obtained for this request. Submit all quotes and this form to the AOC Department of Facilities to:

	Name	Total Amount of Quote
1.		
2.		
3.		

If preferred service provider is not the lowest quote, provide an explanation for selecting this provider.

_____
_____

Anticipated Start: Click or tap to enter a date. Projected Completion: Click or tap to enter a date.

FACILITY USE ONLY

☐ Approved for AOC Reimbursement ☐ Denied for AOC Reimbursement ☐ CFF
☐ Non-Recurring Expense Project # _____ ☐ Regular Operating Expense

ADMINISTRATIVE OFFICE OF THE COURTS
POLICIES FOR THE OPERATION AND MAINTENANCE OF COURT FACILITIES

Planning Tool: Nonrecurring Project Requests

Updated February 2018

Please list below any Nonrecurring Project Requests anticipated to be submitted for approval in the next 6 months to 2 years.

1. PROJECT DESCRIPTION, INCLUDE ANY RELEVANT BACKGROUND INFORMATION:

ESTIMATED COST: $

HAVE BIDS OR QUOTES BEEN OBTAINED? ☐ **NO** ☐ **YES** (If yes, please attach)

2. PROJECT DESCRIPTION, INCLUDE ANY RELEVANT BACKGROUND INFORMATION:

ESTIMATED COST: $

HAVE BIDS OR QUOTES BEEN OBTAINED? ☐ **NO** ☐ **YES** (If yes, please attach)

AOC acceptance of this document does not constitute prior written approval.

3. PROJECT DESCRIPTION, INCLUDE ANY RELEVANT BACKGROUND INFORMATION:

ESTIMATED COST: $

HAVE BIDS OR QUOTES BEEN OBTAINED? ☐ **NO** ☐ **YES** (If yes, please attach)

4. PROJECT DESCRIPTION, INCLUDE ANY RELEVANT BACKGROUND INFORMATION:

ESTIMATED COST: $

HAVE BIDS OR QUOTES BEEN OBTAINED? ☐ **NO** ☐ **YES** (If yes, please attach)

5. PROJECT DESCRIPTION, INCLUDE ANY RELEVANT BACKGROUND INFORMATION:

ESTIMATED COST: $

HAVE BIDS OR QUOTES BEEN OBTAINED? ☐ **NO** ☐ **YES** (If yes, please attach)

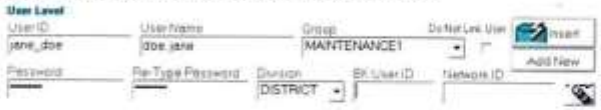
AOC acceptance of this document does not constitute prior written approval.
Nonrecurring Project Planning Tool
Page 2 of 2

AOC Appendix 10

KyCourts II
Setting Up New Users
Quick Reference Guide

Administrative Office of the Courts
1001 Vandalay Drive
Frankfort, KY 40601
(502) 573-2350

Legend: Look for *Helpful Hints* | Click=Select w/ Mouse or Touch Pad | Bold Text = Action | Italicized Text = Object of Action | Bracketed Text<> = button or link | Single Quotes = Description

Step	Objective	Action
1	**Adding a New User** *Helpful Hint: "ZZ-Clerk" has Utility (delete or expunge cases, Security Table (ability to add or remove employees) and Supervisor Rights (use of Local Notes). "ZZ-Deputy" has rights to inquire, add, change and delete material except for Case Entity. "ZZ-Deputy No Ca" has rights to inquire, add, change, delete (except for case entity) but has no rights to confidential cases.*	1. Ensure the user has a network account. Contact Human Resources for assistance, if needed. 2. From the Security Table, **click** <Add New>. 3. **Enter** the *User ID* (jane_doe) and *User Name* (doe, jane) then choose the appropriate group from the *Group* dropdown menu.  4. In the *Password* field, **create** a password for the user. The password must be at least four characters. **Enter** the password again in the *Re-Type Password* field. 5. Using the *Division* drop-down menu, specify the preferred division for the user. This is the division in which the user will complete the majority of their work. 6. **Click** <Insert>. A message will appear indicating that the insert was successful.
2	**Cloning a User**	1. From the *Security Table*, **select** the new user.  2. **Click** <Clone User>. The *Clone User* dialog box opens.  3. On the Clone User dialog box, **click** *Clone From* on the dropdown menu and select the appropriate template. Next, click Clone To from the dropdown menu and select the new user.  

For additional questions, please contact Support Services at (502) 573-2350 x 50109.

Administrative Office of the Courts • Produced with State Funds • March 2018

4. **Click** on the *Clone User* dialog box. A message displays in the lower-left corner, indicating that the clone was successful.

5. The new user is now ready to log into KyCourts II to link to his/her Network Account.

3 Reviewing a User's Security Permissions

1. From the *Security Table*, **select** a user from the drop-down list.
2. **Select** *User Division Security*. The user will be listed in the table with all divisions in which he/she has access.

3. **Select** *Menu Security*. The rights available to the user will display in this table. The permission options are inquire, add, update, delete or print from each listed screen. The screen will also indicate division and case type.

4 Modifying a User's Permissions

Helpful Hint: It is possible to delete a user entirely from this section. Simply click <Delete> and the user will be removed.

1. With the user's security permissions open, **highlight** the line you wish to modify. The item displays in the fields at the bottom of the screen.

2. Using the *Division* drop-down list, **select** the division for which you want to change permissions.
3. Using the *Case Type* drop-down list, **select** the case type for which you want to change permissions.
4. Using the *Item* drop-down list, **select** the item for which you want to change permissions.
5. **Type** "Y" or "N" to change the *Inquiry*, *Add*, *Update* or *Delete* permissions as necessary.
6. Using the *Print* drop-down list, **select** "5" if you want the user to be able to print.
7. **Click** <Updated/Insert>. A message will display indicating that the update was successful.
8. **Click** <Refresh> to view updates.

For additional questions, please contact Support Services at (502) 573-2350 x 50109.

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Redacted

From: Redacted
Sent: Monday, February 05, 2018 3:48 PM
To: Redacted (APA)
Cc: Redacted
Subject: RE: KYCourts - 2nd Set of Additional Follow Up Questions
Attachments: APA Audit - Additional Questions_2018_01_17.pdf

Greetings Redacted

All KYCourts user templates are utilized for the same purpose – to facilitate the application access set-up process.

Please refer to APA Audit Follow-up KYCOURTS Security Questions 1/17/2018 document page 6 for a list of templates. This document is re-attached to this email for your convenience.

If this is not what you are asking, please let me know.

Thanks
Redacted

From: Redacted (APA) [mailto: Redacted
Sent: Friday, February 02, 2018 11:09 AM
To: Redacted @kycourts.net>
Cc: Redacted @kycourts.net>; Redacted @kycourts.net>; Redacted Redacted @KYCOURTS.NET>; Redacted @KYCOURTS.NET>; Redacted Redacted @kycourts.net>
Subject: RE: KYCourts - 2nd Set of Additional Follow Up Questions

Within this response, AOC stated that the ZZ_CLERK is a template used to facilitate the application access process. Can I get this type of information (purpose/use) for all of the template accounts?

From: Redacted [mailto: Redacted @kycourts.net]
Sent: Wednesday, January 17, 2018 9:51 AM
To: Redacted @ky.gov>
Cc: Redacted >; Redacted @kycourts.net>; Redacted Redacted @KYCOURTS.NET>; Redacted @KYCOURTS.NET>; Redacted Redacted @kycourts.net>
Subject: RE: KYCourts - 2nd Set of Additional Follow Up Questions

Good morning –

Here is the link to the list of terminated employees from 2015-2017. 2015 to 2017 APA Report Employee Leaving.xlsx. This list was provided by HR.

Attached is a document containing answers to the remaining questions.

Please advise if there are additional questions.

1

Redacted

From: Redacted (APA) [mailto:Redacted@ky.gov]
Sent: Friday, January 05, 2018 3:33 PM
To: Redacted@kycourts.net>
Cc: Redacted@kycourts.net>; Redacted@kycourts.net>; Redacted@KYCOURTS.NET>; Redacted@KYCOURTS.NET>; Redacted@KYCOURTS.NET>; Redacted@kycourts.net>
Subject: KYCourts - 2nd Set of Additional Follow Up Questions

After managerial review, I have another set of questions related to KYCourts II logical security. If possible, please try to provide the requested information by Tuesday, January 16. Items can be sent piecemeal if necessary.

Thanks!

APA Audit Follow-up
KYCOURTS Security Questions
1/17/2018

INTRODUCTION

APA Audit follow-up questions regarding KyCourts Security. Responses requested by January 16, 2018. Answers follow.

1. **Separated and Terminated Employees**
   Please provide a list of users that have left AOC (separated and terminated) between July 1, 2015 and June 30, 2017. If possible, please include the users' Perner or member Id and the date in which separation/termination occurred. **This list will be provided separately.**

2. **Termination Documentation**
   What types of documentation are maintained to support the termination of a network account and deactivation of a KyCourts II account?

   Termination/Deactivation of a network account. When a user is terminated, the Service Desk receives an incident request via email, phone, etc. Rights are disabled. After 90 days the account is terminated. The policy for creating and terminating NT User and Email Accounts follows:

   Policy for Creating and Terminating NT User and E-mail Accounts:
   - Only help Desk staff can setup or terminate NT User and E-mail accounts.
   - Managers, Elected Official, or PAR reporting are the only way Additions, Deletions, and Changes can be requested.
   - Managers, Elected Official, or PAR reporting must notify the help desk of the needed change. The "best security" practice it to have them e-mail the information from their account. This ensure correct name spelling, written request for the action, and ensure that you are indeed speaking with the Manager or elected official.
   - Using a template must create all NT User and E-mail accounts.
   - Disabled accounts must include: Disabled on month/year per Name of person requesting action or PAR reporting in the "Full Name" field.
   - Disabled accounts must be disabled 90 days prior to deletion.
   - Changes listed in the PAR reporting must be made to both accounts with-in 24 hours.
   - Delete monthly (1st Tuesday of the Month) all accounts that meet the 90-day criteria. (Sort all accounts by "full name" and delete all account that has been disabled for 90 days. Delete all e-mail accounts associated to that name.)
   - If a user calls and their account has been disabled please get verification from their current manager or elected official, before enabling the account. Once verified, enter the correct the information.

   Termination/Deactivation of a KyCourts account. Please refer to the KyCourts Manual Chapter on Security previously provided.

3. **Template Access**

Please provide a list of users with access to the following template accounts. Please include all application screens or security levels they have access to and what functions or types of access they have (read only, update, delete, etc.). **All users with supervisory access to KyCourts have access to and may use the templates. Refer to information previously provided, namely KyCourts Statewide User Permission file dated 1/7/17 and Jefferson User Permissions file dated 11/8/2017, regarding the list of users who may access these templates.**

User Name	User Id
AOC INQUIRY	ZZ_AOCI
APPEALS DEPUTY	ZZ_APPEALS
ATTORNEY WORKROOM USERS	ATTY_ROOM
CA-SUBPOENA	ZZ_CA-SUBP
CIRCUIT CIVIL DEPUTY	ZZ_CIRCUIT CIVIL
Circuit Clerk	FR_Clerk
CIRCUIT CRIMINAL DEPUTY	ZZ_CIRCUIT CRIMINAL
CIVIL JUDGE/SECRETARY	ZZ_CIVJUDGE/SEC
CLERK/SUPERVISOR	ZZ_CLERK
CountyAttorney	ZZ_COUNTY-ATTY
DEMO USER	DEMO_USER1
DEPUTY	ZZ_DEPUTY
DEPUTY CIRC	ZZ_DEPCIRC
DEPUTY MENTAL INQ	ZZ_DEPMINQ
DEPUTY PROBATE	ZZ_DEPPROB
DEPUTY SUPPORT STAFF	ZZ_SUPPORTSTAFF
DEPUTY-NO CONFIDENTIAL	ZZ_CIRC_CIVIL_NO_CO
DEPUTY-NO CONFIDENTIAL	ZZ_DEPUTY-NO CO
DESK	DESK
DISTRECPT	DSTREC
DISTRICT	DISTRICT
DISTRICT CIVIL DEPUTY	ZZ_DISTRICT CIVIL
DISTRICT CRIMINAL SUPERVISOR	ZZ_D CRIMINAL SUPERVISOR
DIVERSION SUPERVISOR	ZZ_DC_SUPV
DIVERSION OFFICER	ZZ_DC_OFFICER
DOM. VIOL. DEPUTY	ZZ_DOMESTIC VIOLENCE
EVERYDAY USER	USER
EWARRANT03	EWARRANT03
FAMILY COURT	FAM
GENERIC CLERK	FR_DICICO
HELP DESK	HELP9
ID LAB	LMDC3
INQ NO COFIDENTIAL	ZZ_INQ_ONLY_NO_CO
INTERPRETER	ZZ_INTERPRETER
JEFFERSON CO. ATT	COAT

User Name	User Id
JEFFERSON JDG SEC CI	ZZ_JDGSEC_JEFFCI
JEFFERSON JDG SEC DI	ZZ_JDGSEC_JEFFDI
JUDGE READONLY ID	JUDG
KENTUCKY ALTERNATIVE PROGRAMS	KAP
LAW CLERK	LCLK
MASTER USER	GOD9
MEDIATION	ZZ_MEDIATION
MENTAL HEALTH DEPUTY	ZZ_MENTAL_HEALTH
METRO CORRECTIONS BOOKING	lmdc2
METRO CORRECTIONS RECORDS	LMDC1
NSCLERKTEST	NSCLERKTEST
PRETRIAL	PRETRIAL
PRETRIAL JEFFERSON CO	PRETRIAL056_7
PRETRIAL SERVICES	PRETRIAL
PRETRIAL TEST	PRETRIALS
PRINT, DOCKET	DPO9
PROBATE DEPUTY	ZZ_PROBATE
SECURITY MAINTENANCE	ZZ_SECURITYMAIN
SUPV CIRC	ZZ_SUPVCIRC
SUPV MENTAL INQ	ZZ_SUPVMINQ
SUPV PROBATE	ZZ_SUPVPROB
Template CIVIL_DI_CLERK	ZZ_CIVIL_DI_CLERK
Template CIVIL_DI_SUPERVISOR	ZZ_CIVIL_DI_SUPERVISOR
Template Clerk ADOPTION	ZZ_ADOPTION
Template Clerk Inquiry Only	ZZ_ClerkInquiry
Template Clerk INTAKE	ZZ_INTAKE
Template Clerk SUPERVISOR	ZZ_SUPERVISOR
TEMPLATE FOR AUDITORS	ZZ_AUDITOR
TEMPLATE JUDGE OR JUDGE STAFF	ZZ_JUDICIAL
TEST	TEST
TEST MEDIATION	99MD
TEST SEC	TEST
ZZ_JUDGEWITHBENCHPRO	ZZ_JUDGEWITHBENCHPRO

Table 1 – KYCourts User Templates

4. **Revoking User Access**

Please explain the process used to revoke user access at the central level and circuit clerk level. **Refer to the KyCourts Manual Security Chapter previously provided.**

KyCourts II access is now tied to Active Directory. Does AOC use the Enterprise Identity Management (EIM), which was enabled by COT, to process network access terminations? **No.**

5. KyCourts User Creation Templates

Who authorizes inclusion into the above noted templates; is this done at AOC, by the circuit clerks, or both? **Usage of the templates is limited to the supervisor role. KyCourts application supervisors include Circuit Court Clerks and members of the AOC staff.**

The Clerk/Supervisor (ZZ_CLERK) is setup to be used in each of the 120 KY counties. Is this considered an individual account per county and each county maintains this account (so there would be 120 different passwords to use it)? **ZZ_CLERK, like all items listed in Table 1, is a template used to facilitate the application access process. Rather than cloning existing users or creating access to screens one by one, templates expedite the set-up process.** Or can whoever has access to this particular account access all 120 counties via 1 password? **There is a password for every template. However, it is unknown.**

How often are the passwords changed to the above noted templates? Who is responsible for performing this function? **We do not change templates passwords, unless there is breach. If the password needs to be changed ITS staff would be responsible for doing so.**

The above noted templates (Table 1) appear to have the ability to create, update and delete a case within one or more of the following application screens/security levels:

- Amount Due Screen
- ARSecurity
- eReceipts Menu
- Money Balances Screen
- Money Line Items Screen
- Party Screen
- Security Screen
- Xlate Local Screen
- Xlate Statewide Screen

Based on the name of some of these accounts, we would not anticipate some of these having the ability to create, update and delete a case (for example AOC Inquiry (ZZ_AOCI) or Template for Auditors (ZZ_AUDITOR))? Please provide a justification as to why they need ~~for~~ this type of access. **We will review AOC Inquiry as it should have inquiry-only rights. AOC Auditors must be able to perform auditing tasks/activities and access to this information is necessary.**

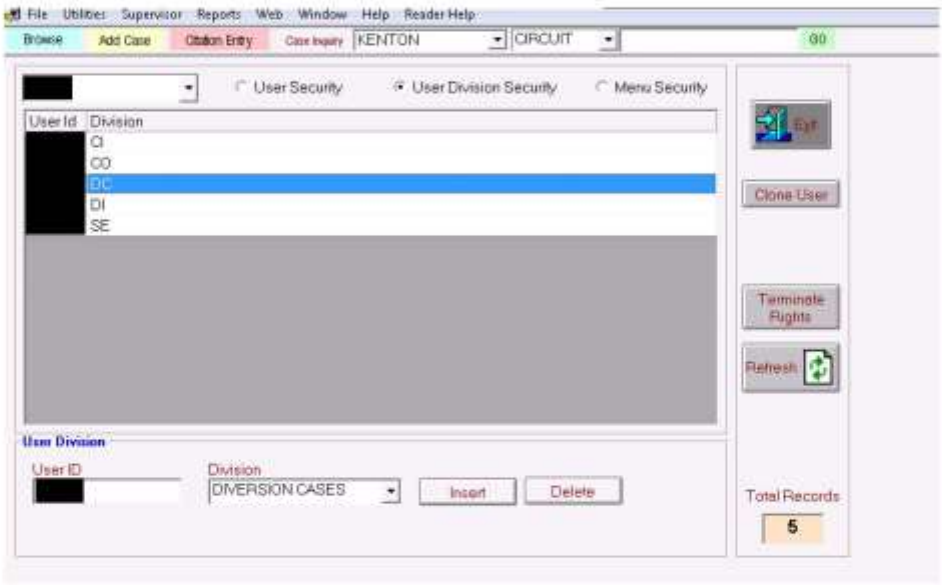
Can you also provide screen prints of the above noted application screens/security levels so we can see what data is available? **Screen shots are included in the pages that follow.**

The following screens will only display for jurisdictions with Diversion Programs/Divisions:

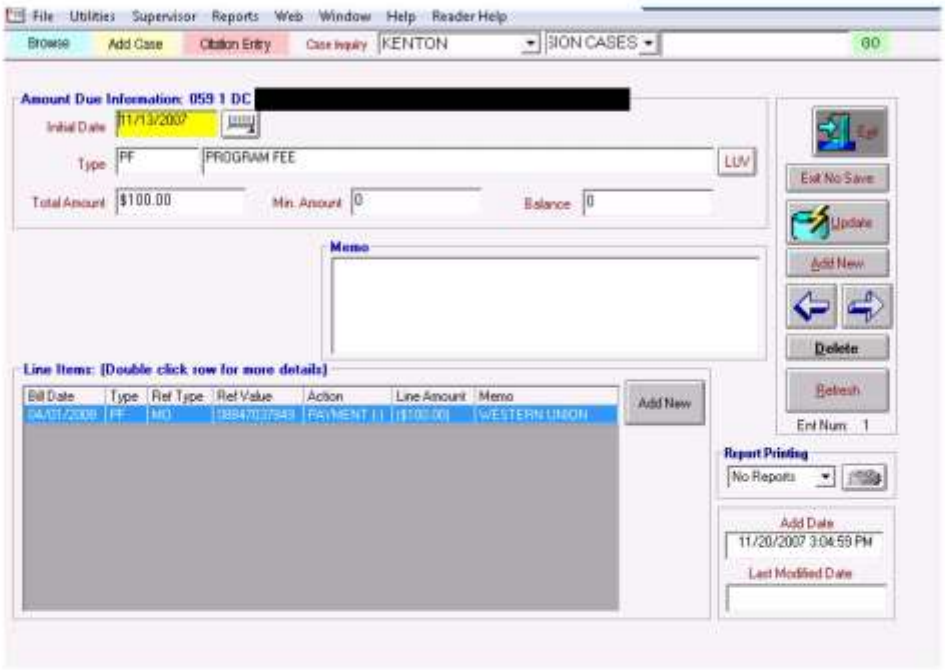
- Amount Due Screen
- Money Balances Screen
- Money Line Items Screen

To view these screens, users must have the appropriate access level. Screen shots follow.

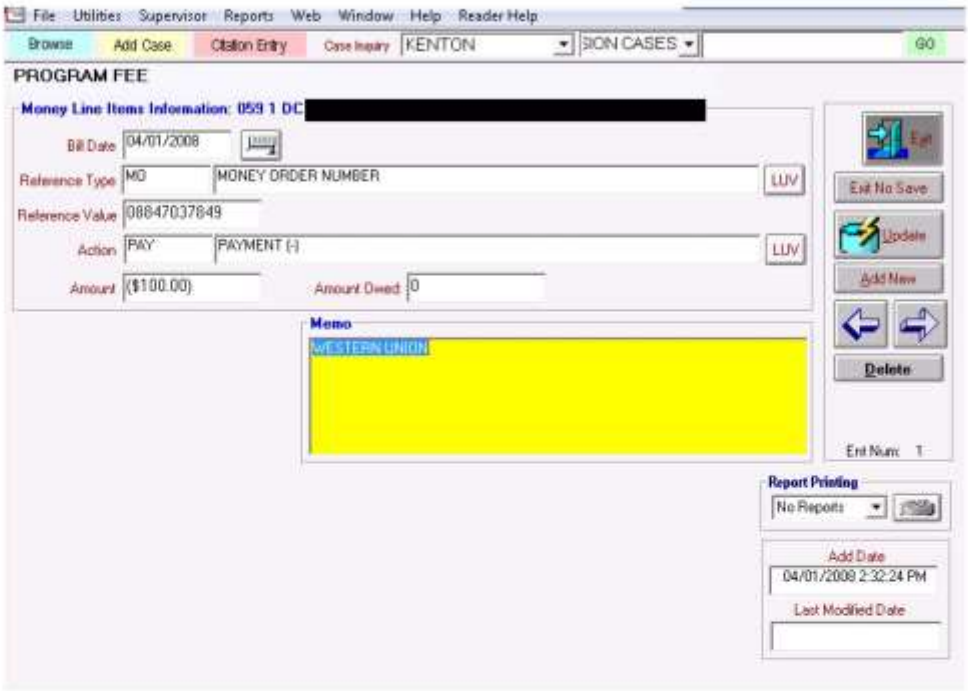
Security Level for Diversion Division:



Amount Due Screen/Money Balances Screen:

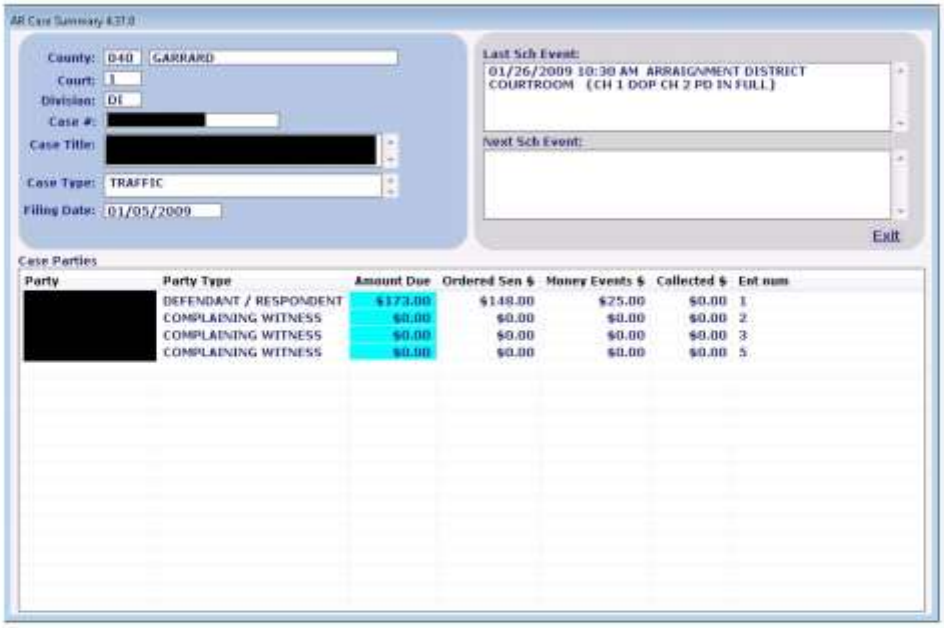


Money Line Items Screen:

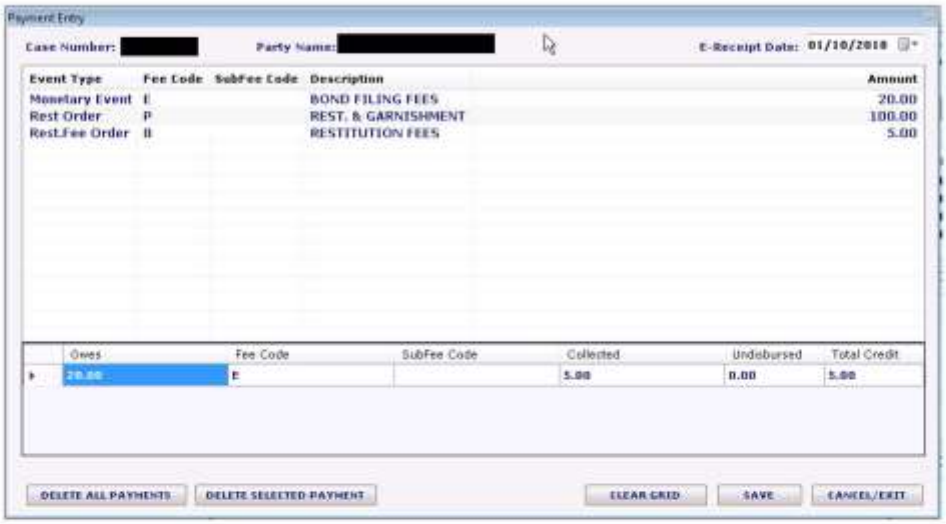


ARSecurity Screen:

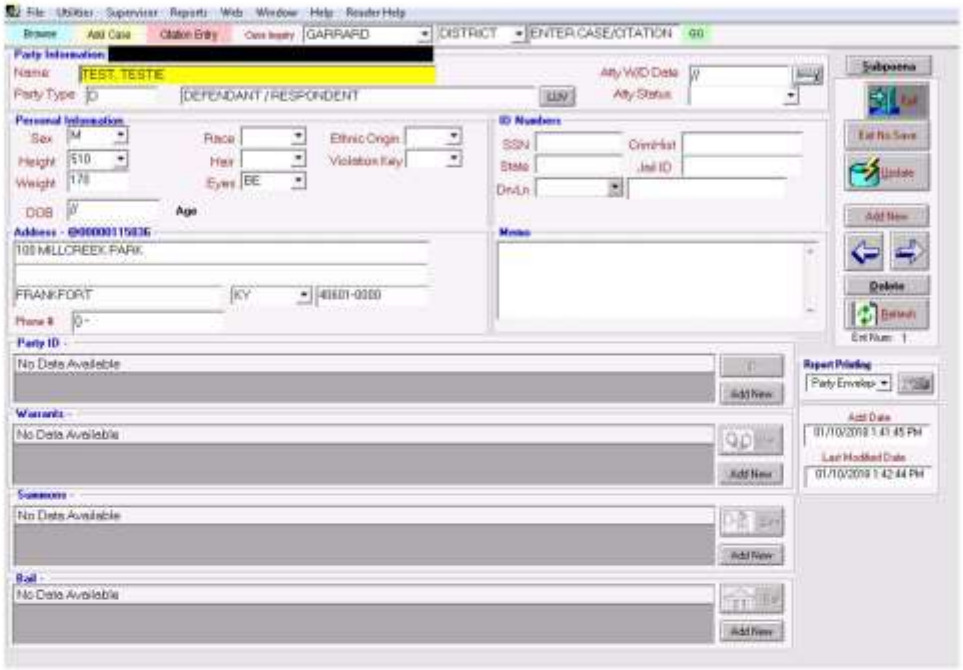
Users with this security have access to the Accounts Receivable application.



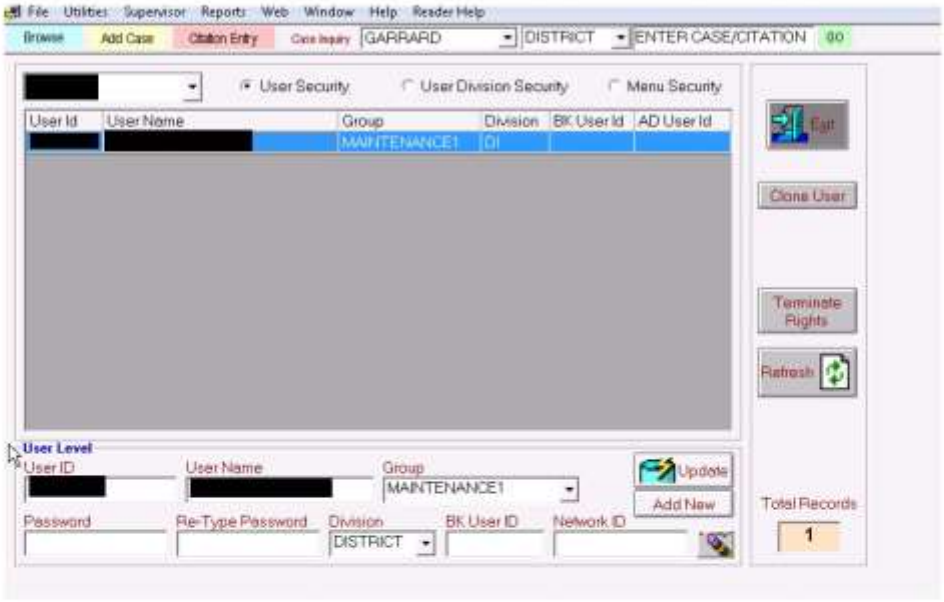
eReceipts Menu:



Party Screen:

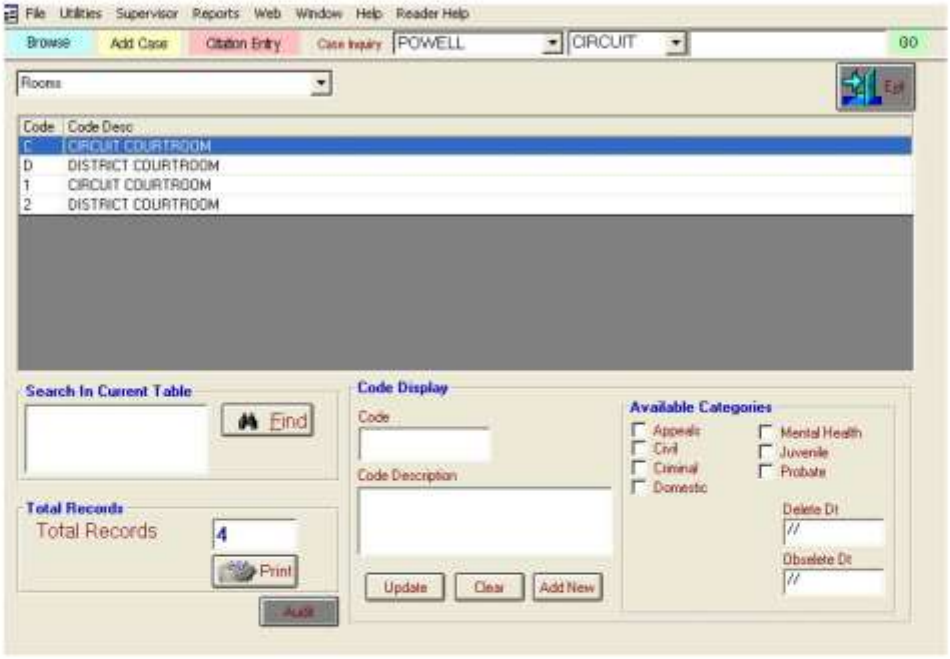


Security Screen:

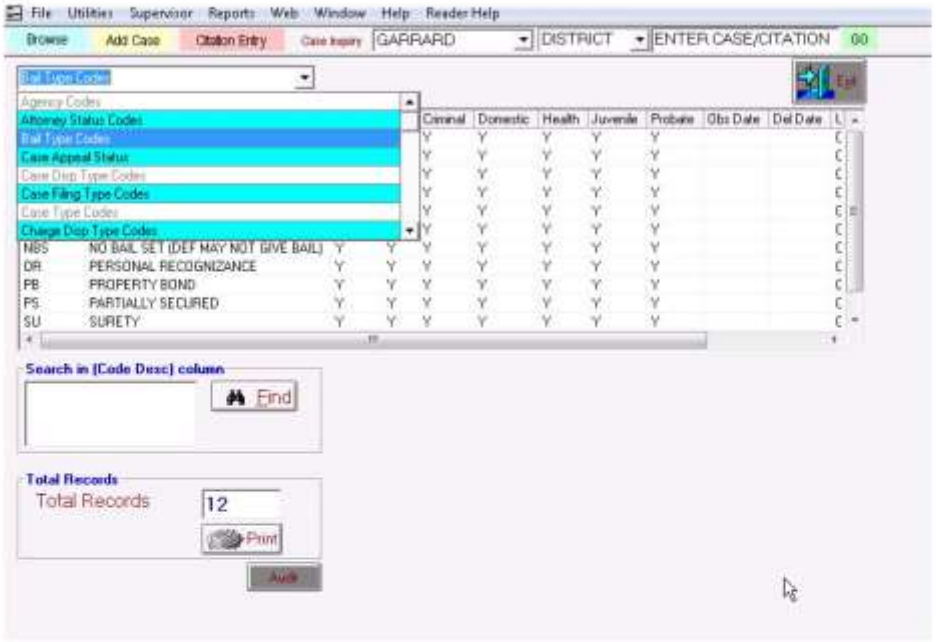


Xlate Local Screen:

Users with Create, Read, Update, Delete permissions see the screen below.



Xlate Local Screen:



Xlate Statewide Screen:

Only AOC administrators have ability to modify this screen. All users statewide only have Inquiry permissions to the Xlate Statewide Screen.

6. **Auditing Usage**

Does AOC enable audit logging for the KyCourts II application? **There is audit logging for various screens within the application. Auditing Codes, definitions, and a sample audit follow.**

Sample Audit

Audit Listing for Case [redacted]
POWELL

DI 10-T-00592 [redacted] (CLOSED)

Date/Time	Entity Type/Num	Trans Cd	Aud. User Id
05/10/2010 8:05:18AM	CAS 0	A	[redacted]
05/10/2010 8:05:18AM	CAS 0	A	
05/10/2010 8:05:18AM	CHG 1	A	
05/10/2010 8:05:18AM	DEF 1	A	
05/10/2010 8:05:18AM	DOC 1	A	
05/10/2010 8:05:18AM	MEM 0	A	
05/10/2010 8:05:18AM	MEM 0	A	
05/10/2010 8:05:18AM	MEM 1	A	
05/10/2010 8:05:18AM	PTY 1	A	
05/10/2010 8:05:18AM	PTY 3	A	
05/10/2010 8:05:18AM	SCH 1	A	
06/11/2010 1:52:36PM	CAS 0	C	
06/11/2010 1:52:36PM	CHG 1	C	
06/11/2010 1:52:38PM	DOC 2	A	
06/11/2010 1:52:47PM	CAS 0	C	
06/11/2010 1:53:07PM	DOC 3	A	
06/11/2010 1:53:07PM	MEM 3	A	
06/11/2010 1:53:23PM	MEM 1	A	
06/11/2010 1:53:23PM	MEM 1	A	
06/11/2010 1:53:23PM	SCH 1	C	

Codes and definitions in KyCourts II

Audit Type	Definition	Audit Type	Definition
BAL	Old Bail	PER	Person Reference
BLC	Bail Conditions	PTI	Parties ID
BLD	Bail Details	PTY	Parties
BLH	Bail Header	S01-S21	Sced Event Super Memo, Judges Order
BPM	Bench Pro Message	SCH	Scheduled Events
C01-C21	Case Supermemo	SEN	Old Sentences
CAS	Cases	SN2	Not Used
CHG	Charges	SNB	Sentences Base
CXF	Case Cross Reference	SNM	Sentences Money
DEF	Defendants Offenders	SNT	Sentences Time
DOC	Documents	STS	Sentences Other Options
MED	Monetary Events Detail	SUB	Subpoena
MEM	Memo	SUM	Summons
MOT	Motions	SUR	Sureties
OUT	Outcomes	WAR	Warrants

Audit Type	Definition	Audit Type	Definition
PEF	Parties Expunged Felonies	Z01-Z10	County Atty Recommendations

Trans CD	
A	Add
C	Change
D	Delete
T	Transfer To
F	Transfer From
E	Case Delete

If so, does AOC monitor this log? If so, who is responsible for this job function? Please explain when this type of review is performed, how it is documented, and how issues are investigated/resolved.
Application auditing is not monitored, but it may be used in furtherance of other activities/tasks. For example, Information & Technology Services (ITS) may audit records to perform troubleshooting and/or to resolve issues. Clerks may use application logging to review employee activities within the KyCourts application. Auditing Services may use application logging when there is an investigation within a clerk's office.

AUDITOR'S REPLY

AOC's Response Shows Continued Failure to Accept Accountability

Many of AOC's responses and "clarifications" confirm the Auditor of Public Accounts' (APA) finding that AOC's operating environment continues to lack accountability (Finding 1, page 10). AOC's disagreement that part of its role is to hold elected officials accountable to administrative policies is indefensible. It is the agency's responsibility to provide meaningful oversight of administrative matters and privileges to officials as well as staff. AOC's suggestion that oversight is the responsibility of the voters is dismissive of its taxpayer-funded responsibilities. AOC staff should be empowered to enforce administrative policies as to both employees and elected officials. For example, AOC should not process transactions for employees or elected officials that are not accurate, compliant, or supported by sufficient documentation. Taxpayers rely on the administrative arm to hold individuals accountable to policies. (AOC response at page 101; relates to Finding 1, page 10).

AOC's disagreement with its role in governing administrative matters shows that greater external oversight is required. This oversight should be implemented and supported by the Chief Justice as the executive head of AOC. AOC takes the position that "the determination of whether to require an external audit and the frequency of such must remain at the discretion of the Supreme Court so as not to violate the principle of separation of powers." This argument is not consistent with Chief Justice Palmore's opinion, adopted unanimously by the Kentucky Supreme Court, in Ex Parte Auditor of Public Accounts, 609 S.W.2d 682, 685 (Ky. 1980) (emphasis added):

> Nevertheless, to the extent that it has appropriated funds from the general revenues of the state to the judicial branch of government the legislative body has a legitimate and necessary right to know how those funds have been spent. **In short, the legislative body may require that the accounts so financed be audited.**

According to Kentucky Supreme Court precedent, APA's recommendation is constitutionally valid. Checks and balances are a vital part of our Constitution's system of separation of powers. One such check would be the requirement that funds appropriated to AOC be subject to an annual financial statement audit. (AOC Response at page 106; relates to Finding 3, page 17).

AOC disagrees that it has the authority to organize an independent body to address ethical matters related to employees. If AOC believes that the Supreme Court is the appropriate body to create such an entity, the response does not indicate this recommendation will be made to the Supreme Court. For example, the Supreme Court created the Circuit Court Clerk Conduct Commission by AP effective January 1, 2013 (AOC response at page 108; relates to Finding 4, page 21).

The Supreme Court, if it meets as a body on administrative matters, should follow similar open meetings rules, along with applicable exceptions, as other governmental bodies. The statement that the Supreme Court "must have discretion to conference confidentially about pending matters, administrative or otherwise" evidences a lack of willingness to be at least as transparent as all other governmental bodies (AOC response at page 104; relates to Finding 2, page 14).

AOC states that it would be "cost prohibitive" to implement several recommendations related to the KYCourts II system, which will be permanently retired by 2022. The auditor's recommendation to "develop, document, and disseminate a defined access control policy to agency personnel" does not require a re-design of the existing system; it merely requires adoption of policies. Documents attached to the AOC response include cloning of users, which is a problem addressed in the report. User access controls are vital during the four years that KYCourts II continues in operation. (AOC Response page 126; relates to Finding 16, page 71).

Auditors acknowledge throughout the report the policy changes and steps taken by AOC to address these issues. However, the examination shows that without a change of culture and key processes, these steps will not be sufficient to bring accountability and transparency to judicial branch operations.

AOC's Policymaking Process Requires Correction

AOC employees and management were not operating with a common understanding of the overarching policies or principles driving the agency's operations. As detailed in the report, it is not the role of auditors to determine who has policymaking authority. However, the Chief Justice described the Supreme Court's policymaking role as different than it was under Justice Palmore, whose practice was to write and enforce the rules himself. The Chief Justice explained that other Justices were interested in participating and he wanted to encourage that. Regarding the Chief Justice's authority, the report cites the relevant sections of the Kentucky Constitution, which supersede the rules enacted by the Supreme Court. (AOC response at page 102; relates to Finding 2, page 14).

One objective of the APA's examination was to assess the effectiveness of policymaking at AOC. That process in practice is broken, as documented in the report. Auditors focused on the effectiveness of the policymaking function. AOC's statement that "[n]o additional written guidance is needed" with respect to the policymaking process contradicts its own leadership's statements about this being an area of weakness. (AOC response at page 102; relates to Finding 2, page 14).

AOC's position that all policy must be made by the Supreme Court is contradicted throughout the report and AOC's own response, which acknowledges multiple policies (sometimes called procedures or guidelines) that are developed by AOC staff and departments. Therefore, delegation of some policymaking authority has already occurred, at least in practice. The existence of these policies on the one hand and AOC's statement that "AOC does not create policy" on the other hand, validates the confusion identified in the report regarding policymaking authority. The APA's recommendation does not require the Chief Justice to delegate authority, but recommends a process if this occurs. AOC staff should understand who has authority to establish and enforce policies or procedures within the agency. If AOC management continues to equivocate regarding what are "policies" versus "operational procedures and guidelines" without addressing what each of these types of policy are and who has authority to enact them, these problems will persist. (AOC response at page 102; relates to Finding 2, page 14).

The Report Identifies Multiple Areas of Noncompliance, Lack of Records, and Wasteful and Questionable Spending in AOC Procurement

AOC's response stating that the report "does not contain any incidents of noncompliance" with AOC policies and procedures for purchasing and procurement and that there are no incidents of fraud, waste, or abuse in procurement is incorrect. (AOC response page 109). Contrary evidence is discussed throughout the report, including the following, which at minimum represent noncompliance with policies and wasteful spending:

- Mint Julep cups were purchased as gifts for outside parties at the direction of the Chief Justice's spouse and the AOC Director (Finding 13, page 55). AOC acknowledges that "AOC funds should not be used to purchase gifts." (AOC response, page 121).
- Multiple instances of noncompliance in private lease procurement, resulting in an apparent conflict of interest with a Justice's office space being leased from a company owned by members of his immediate family without documented justification for choosing a space that was three times as expensive as the alternative (Finding 14, page 57).
- Lack of controls and multiple questionable expenses incurred on credit cards maintained by upper management, including total lack of supporting documentation for purchases by the Chief Justice and local meals purchased by the AOC Director (Finding 11, page 50).
- Missing laptops without adequate records or process to determine whether they were never received or were stolen (Finding 7, page 34).

In addition, the report identifies key weaknesses in procurement policies. Lack of adequate records to justify transactions is not a defense to wasteful and questionable use of public funds.

Responses Requiring Clarification

Several responses misinterpret the applicable period of examination procedures or make inaccurate assumptions. To reiterate, the period examined was July 1, 2015 to June 30, 2017, unless otherwise noted.

AOC states that the proposed travel policy changes cited in the APA's report were never voted upon by the Supreme Court. However, the response stating that "the draft version of the proposed travel regulations" discussed in the report "is not the most current version that has been recommended to the Supreme Court" suggests the prior version was rejected, whether by formal vote or otherwise. Because the Supreme Court meetings on administrative matters are closed meetings, auditors cannot confirm whether a vote took place. The employee who provided the information was the one presenting the proposed policies to the Supreme Court. Furthermore, the draft version discussed in the report is the applicable one for the time period discussed and examined. The question of whether a formal vote occurred on the proposed travel policy is a perfect illustration of the need for open meetings if the Supreme Court continues to set policy as a body. (AOC response page 118; relates to Finding 2, page 14 and Finding 10, page 44).

AOC's response to private lease procurement discusses a Finance and Administration Policy (FAP 111-35-00), that is not mentioned, or relied on, in that finding. Auditors evaluated

the private lease procurement based on AOC's own policies (AOC Response page 122; relates to Finding 14, page 57).

AOC states that budget concurrences are documented with legal counsel and were available there. A budget concurrence for facility leases should be maintained along with the lease file or budget office who made the concurrence. (AOC Report page 123; relates to Finding 14, page 57).

AOC's response states that "it is the longstanding practice of the AOC to abstain from leasing property directly from elected or appointed officials or members of their household." As discussed in the report, without a documented policy in place, this "practice" leads to varying interpretations among management. Also, the wording of the practice is significant in that it uses the term "household" rather than the more common prohibition of transactions with an official's "family," in light of the concerns with a Justice's office space identified in the report. (AOC Response page 123; relates to Finding 14, page 57).

AOC's response conflates templates or template accounts with what auditors refer to as group accounts. Templates have passwords and AOC included these template accounts in a user list of accounts with create, update, and delete abilities. There are a large number of users that have access to the templates that allow creation of user accounts. All users with supervisory access to KYCourts II have access to the templates. References to "group" accounts are not references to templates. Group accounts in the report refer to accounts with generically named user accounts for which there is no way to verify who is associated with that account, or if multiple people are associated with the account. (AOC Response page 129; relates to Finding 18, page 76).