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Jim Williamson, CPA, CIA, City Auditor
Brett Rangel, MS, CIA, Audit Manager



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October 10, 2017

The Mayor and City Council:

The Office of the City Auditor has completed an audit of court cost and fee (Court Fee) administration.

Based on the results of our audit, we believe that Court Fee administration during FY2016, materially complied with statutory requirements. However, we did note recommendations for improving Court Fee compliance and monitoring procedures. These recommendations, discussed in more detail in the attached report, are summarized below.

Management compares annual Court Fee collections and Prosecution Costs to ensure Court Fees are not expended for other purposes and do not exceed Prosecution Costs (Court Fee Analysis). When totals significantly vary, transfers are processed between the General and Court Capital Improvement Project (CIP) Funds to help ensure the Court Fees are reserved and expended for the Court.

- Management should transfer actual variances rather than variances beyond a 5% (or \$550,000 in FY2016) threshold. The Municipal Counselor's Office (MCO) should also be consulted to determine whether a threshold is statutorily allowable and whether past years' analyses should be reviewed for accuracy and completeness of transfers. See **Recommendations 5.1** and **5.2**.
- About \$810,000 of fees accumulated in a commingled account should be isolated and posted to distinct accounts. The portion relating to administrative Court Fees (historically excluded from the Court Fee Analysis) should be transferred to the CIP; while new administrative Court Fees should be included in future analyses. See **Recommendation 6**.
- Management should continue monitoring accumulated Court Fees in the CIP Fund (potentially totaling about \$4.3 million during FY2018). If a significant and prolonged balance appears likely, consideration should be given to reducing assessed Court Fee amounts or consulting with the MCO regarding reimbursing discretionary funds used to pay Court-related expenditures. See **Recommendation 7**.

All comments, recommendations, suggestions and observations arising from our audit have been discussed in detail with appropriate representatives from management. These discussions were held to assure a complete understanding of the content and emphasis of items in this report. Responses from management are attached to this report.


Jim Williamson
City Auditor


Brett Rangel
Audit Manager

**DEPARTMENT OF COURT ADMINISTRATION
COURT COST AND FEE COMPLIANCE**

AUDIT OBJECTIVE, BACKGROUND, SCOPE, AND METHODOLOGY

The objective of this audit was to verify court cost and fee administration complied with statutory requirements during Fiscal Year 2016.

State Statutes allow the Department of Court Administration (Court) to collect the costs of prosecution (Prosecution Costs) through an assessment of court costs and fees (Court Fees). Court management is responsible for ensuring Court Fees are not expended for other purposes and do not persistently exceed Prosecution Costs. Therefore, total Court Fees to Prosecution Costs are periodically compared (Court Fee Analysis). When the totals significantly vary, transfers are processed between the General and Court Capital Improvement Project (CIP) Funds to help ensure the Court Fees are reserved and expended for the Court. During Fiscal Year (FY) 2016, both Court Fees and Prosecution Costs totaled about \$11 million.

Procedures performed during this audit included interviews with Court and Finance Department personnel; a review of relevant State Statutes, City Ordinances, and related fee schedules and allocations; and a review and assessment of management's Court Fee Analysis, transfers, and reserved balances. We did not audit the reasonableness of fees; ticket processing, fee collections, or fee expenditures; or fiscal years other than FY2016.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The following section of this report includes recommendations intended to provide constructive suggestions for improving Court Fee compliance and monitoring procedures. Included in the body of this report are management responses, which are also attached to the report in their entirety.

RESULTS OF WORK PERFORMED

The results of our audit indicate that Court Fee administration during FY2016, materially complied with statutory requirements.

CIP FUND TRANSFERS AND BALANCES

As described in the background, management monitors and manages Court Fees, transfers, and balances. These Court-related responsibilities are shared with the Office of Management and Budget (OMB), who performs the periodic Court Fee Analysis and approves the CIP transfers. As of June 30, 2016, the accumulated balance in the Court CIP Fund was about \$6.8 million.¹

During FY2016, management procedures and the Court Fee Analysis used to monitor and transfer Court Fees were materially accurate and complete. However, we did note a few issues, which should help ensure compliance during future Court Fee Analyses and transfer decisions.

Court Fee Analysis (Comparison of Court Fees and Prosecution Costs)

Comment 1

Between \$200,000 and \$300,000 of Court Fee collections relating to collection agency referrals were recorded as *finer* and excluded from the FY2016 Court Fee Analysis. The exclusion of fees could result in use of Court Fees for General Fund expenditures unrelated to Prosecution Costs. The previous Court record management system was not designed to isolate and report certain Court Fees when collected as part of the collection agency referral process. However, this reporting issue was addressed during the FY2017 implementation of the new Court record management system.

Court Administration Response 1

Agree. The accounts are a pass-through to the collection agency. The new Incode Municipal Court records management system software does not have the constraints of the prior Court system and will address the reporting issue. This recommendation was addressed with the implementation of the new Incode court records management system software on September 5, 2016.

¹ As of July 21, 2017, about \$4.5 million of this balance remained.

Comment 2

About \$250,000 of the Court building utility expenses were excluded from the FY2016 Court Fee Analysis. The exclusion of reasonable costs could result in an unnecessary restriction and transfer of General Fund collections to the CIP Fund. Historically, utility billings for the Court and Police Department have been combined and paid from the Police Department budget. The proportionate share of the combined utility costs consumed by the Court had not been estimated. However, this issue will be addressed during the FY2018 Court transition to the new Court building with distinct utility billing and payments.

Court Administration Response 2

Agree. In prior years, the Municipal Court building was included as part of the Police Headquarters complex and utility expenses were part of the Police Department's budget with no chargeback to Municipal Court. We cannot address the historical reason for the arrangement between Municipal Court and Police. Moving forward, utilities, maintenance and repairs should be addressed in future Court Fee Analyses. This change will be implemented immediately.

Finance Department Response 2

Agree with recommendation. Utility costs will be included in future Court Fee Analysis after the Municipal Court has moved in to its new building and begins paying utilities separate from Police.

Comment 3

About \$130,000 of year-end cost adjustments were excluded from the FY2016 Court Fee Analysis. The exclusion of final adjusted costs could result in an unnecessary restriction and transfer of General Fund deposits to the CIP Fund. Preliminary estimates were not updated for the Court's share of credit card fees and General Fund cost allocations. Also, Court Services Program costs did not include year-end accounting adjustments.

Recommendation 3

Finance management should use final year-end cost (and fee) amounts in the Court Fee Analysis to help provide a complete and accurate basis for calculating annual transfers between the General and CIP Funds.

Finance Department Response 3

Agree with recommendation. A Court Fee Analysis will be conducted just before closing for future fiscal years so that a preliminary status can be obtained and transfers made before the

year end close for Accounting. A final analysis will be conducted after the year closes to ensure the final figures are correct and make adjustments as needed.

Comment 4

Court management reviews and retains extensive documentation of State Statutes, Municipal Codes, and related Court Fees and fines. However, a comprehensive, operational summary of Court Fees and supporting legislation has not been created to facilitate the review and implementation of new or revised Court Fees. The absence of an operational summary could result in delayed compliance or fee collections; allocation or recording errors; and/or exclusion of fees from the annual Court Fee Analysis. A prolonged exclusion of fees from the Court Fee Analysis could also result in use of Court Fees for General Fund expenditures unrelated to Prosecution Costs.

Recommendation 4

In consultation with the MCO, Court management should develop a comprehensive summary of Court Fees and supporting legislation to help ensure new or revised Court Fees are appropriately allocated, recorded, and/or included in the annual Court Fee Analysis.

Court Administration Response 4

Agree. A spreadsheet originated by the Auditor and populated by the Court Administration and Municipal Counselor's Office provides a sufficient "operational summary" and will be updated as needed. This change has been implemented.

Variance Threshold for Transfers

Comment 5

Management uses a plus or minus 5% variance threshold to trigger annual transfers (beyond the threshold) between the General and CIP Funds. Based on FY2016 Prosecution Costs around \$11 million, the use of a 5% variance threshold could result in retention of up to \$550,000 in either the General or the CIP Fund. A prolonged net retention in either of these Funds could, respectively:

- Allow use of Court Fees for General Fund expenditures unrelated to Prosecution Costs or
- Restrict the discretionary spending of funds otherwise available to the General Fund.

Recommendation 5.1

To help ensure continued public trust and the availability of funds in the General Fund, management should discontinue the practice of transferring amounts beyond a variance

threshold. Instead, future transfer amounts between the General and CIP Funds should be based on the actual Court Fee Analysis variance.

Court Administration Response 5.1

Agree. Moving funds to CIP began several years ago once the management decision had been made to plan for a new courthouse. This change will be implemented immediately.

Finance Department Response 5.1

Agree with recommendation. Future transfers will be based on the exact variance calculated.

Recommendation 5.2

To ensure compliance with relevant State Statutes, management should consult with the MCO to determine whether use of a threshold is statutorily allowable. If not allowable, determine whether (and for how many) prior years' Court Fee Analyses should be reviewed to ensure the accuracy and completeness of prior year transfers between the General and CIP Funds. If a review of prior years is necessary, management should revise the prior year Court Fee Analyses and incorporate the issues identified in **Comments 1** through **4** and **6**.

Court Administration Response 5.2

Agree. According to the Municipal Counselor's Office, court costs inherently must involve the setting of a rate, at least for the common costs associated with all defendants, and rates must rely on historical amounts and averages. A reasonable variance is arguably allowable. However, the further away the use of the money is from the judicial system, the less likely it is to be a legally allowable cost. If it is possible to bring a civil claim regarding such funds, it should be limited to the current fiscal year. This change will be made going forward.

Finance Department Response 5.2

Agree with recommendation. Finance, Municipal Courts and the Municipal Counselor's Office will meet to determine the appropriate approach to prior years.

CLEET FUND TRANSFERS AND BALANCES

As previously mentioned, State Statutes allow the Court to collect Prosecution Costs. Certain offenses also require the collection of additional mandated fees used to fund/reimburse various programs/costs. For example, during FY2016, the Court collected an additional mandated \$9.00 for traffic offenses, which was used for purposes designated by the Council on Law Enforcement Education and Training (CLEET).

The Court is legally required to collect, record, and distribute these and other fees in accordance with statutory designations and may retain a portion of some as a Court Administration Fee. The Court records all of these mandated fees in a separate CLEET Fund.² As of June 30, 2016, the accumulated CLEET Fund balance was about \$920,000.

Comment 6

As of June 30, 2016, about \$810,000 of the accumulated \$920,000 CLEET Fund balance related to multiple statutory purposes commingled in a single account, primarily consisting of discretionary Court Administration Fees, restricted training collections, and accumulated interest.³ The commingling of funds designated for different purposes could result in a non-compliant use or expenditure of those funds.

About \$44,000 of the Court Administration Fees described above were collected in FY2016, but excluded from the FY2016 Court Fee Analysis. Total Court Administration Fees excluded from past annual analyses through FY2016 total about \$700,000 of the \$810,000 commingled balance.⁴ The exclusion of fees from annual Court Fee Analyses could result in use of Court Fees for General Fund expenditures unrelated to Prosecution Costs.

Recommendation 6

To ensure the future expenditure of the CLEET Fund balances comply with legal requirements, management should isolate the portion of the commingled balance (including interest) relating to each of the distinct statutory purposes:

- The Court Administration Fee balance should be transferred to the restricted CIP Fund; while future collections of the same should be deposited to the General Fund (with other routine Court Fee collections) and included in the annual Court Fee Analysis. Also, see Recommendation 7.

² Though called the CLEET Fund, the official name is the Court Admin and Training Fund. The fund actually contains Police, MCO, and Court training and administrative collections for CLEET and other statutory designations.

³ The balance also includes amounts collected for and owed to various State agencies. These amounts are likely small and temporary as a result of timing between daily collections and monthly/quarterly payments.

⁴ As of July 21, 2017, the accumulated CLEET Fund balance was just over \$1 million, the commingled portion was about \$940,000, and the estimated portion of Court Administration Fees was about \$808,000.

- The remaining statutory training and other balances and future collections of the same should be deposited, maintained and monitored in distinct accounts within the CLEET Fund.

Court Administration Response 6

Agree. As of this date, these funds have been spent down to \$441,000 for furniture and equipment at the new building. At least \$158,000 of restricted training funds have been spent to purchase software, hardware, equipment and furniture for the training rooms in the new building. The total expenditures exceeds the amount of 14% (of \$940,000) which was determined to be related to restricted training funds.

Municipal Court will work with OMB to ensure that the remaining CLEET Administration (unrestricted) fund balance is transferred to the restricted CIP Fund; while future collections of the same be deposited to the General Fund (with other routine Court Fee collections) and included in the annual Court Fee Analysis.

Municipal Court will work with OMB to ensure that the CLEET Training (restricted) funds comply with legal requirements by being deposited, maintained and monitored in a distinct account within the CLEET Fund. This change will be implemented immediately.

Finance Department Response 6

Agree with recommendation. The Court Fee Analysis has been updated to capture the Council on Law Enforcement Education and Training (CLEET) administrative funds coming in to the General Fund. Finance will work with the Municipal Courts Department to determine the appropriate amount to transfer from the CLEET fund to the CIP Fund for past Court Administrative Fees.

The Finance Department will work with Municipal Courts to determine the appropriate division of revenues in the CLEET Fund to allow for more segregation of funds for different purposes. New Operating Units (distinct accounts) will be created as needed.

CIP AND CLEET FUND BALANCE CONSIDERATIONS

Comment 7

As of June 30, 2016, the balance of *Court Fees* in the CIP and CLEET Funds was about \$7.5 million (i.e., \$6.8 million CIP and \$700,000 CLEET). However, in FY2018, this balance could fall to about \$4.3 million, given the July 21, 2017 balance⁵ and the FY2018 CIP expenditure budget, including about \$1 million relating to construction for and transition to the new Court building.

Our proposed revisions to the FY2016 Court Fee Analysis indicated Court Fee collections essentially equaled Prosecution Costs (i.e., 1% variance). However, in addition to the Court's new building transition, management also anticipates other Court operational changes, which could lead to future Court Fee Analyses triggering additional transfers to or from the CIP Fund.

A significant and prolonged CIP balance, if not used for Court-related expenditures or to offset future Court Fee deficits, could constitute excess Court Fees.

Recommendation 7

Management should continue to monitor and assess its need for CIP balances during the Court building and operational transition. If a significant and prolonged CIP balance appears likely, management should consider reducing Court Fee amounts or consulting with MCO regarding reimbursing discretionary funds used to pay Court-related expenditures.⁶

As a more efficient alternative to Recommendation 6, management could also consider using the commingled CLEET Fund balance (consisting of restricted training and unrestricted administrative collections) to reimburse a portion of MAPS 3 Use Tax dollars used to construct the training room in the new Court building.

Court Administration Response 7

Agree. When discussions of a new courthouse began several years ago, monies that could be set aside in CIP were set aside to help fund the building construction, FF&E budget and/or utilities. Municipal Court obligated \$3,000,000 from the Court CIP fund to complete the construction of the project. CLEET Administration and Training funds were set aside with the intention to complete the FF&E of the new building due to limited funds in the project. As mentioned in response No. 6 above, at least \$158,000 of restricted training funds have been spent to purchase software, hardware, equipment and furniture for the training rooms in the new building. The total expenditures exceeds the amount of 14% (of \$940,000) which was determined to be related to restricted training funds.

⁵ As of July 21, 2017, the *Court Fee* balance was about \$5.3 million (i.e., \$4.5 million CIP and \$808,000 CLEET).

⁶ For example, during FY2016 and FY2017, unaudited Court building construction expenditures included about \$2.8 million paid with MAPS 3 Use Tax funds.

Also, in FY 18 there was a \$300,000 transfer to the General Fund to pay for facility operations in the new Municipal Court Building. The estimated new annual expenses include \$170,000 for Veolia to provide steam and chilled water, \$87,000 for electricity, and \$3,700 for water services. Other new expenses include additional elevator inspections, contracted janitorial services and \$39,000 for building maintenance. Municipal Court was advised by OMB that no additional funds would be added to the Municipal Court budget to assist with the utilities and additional maintenance costs.

Municipal Court's projected expenses were based on actual utility expenses incurred by Police in their new building. However, the Municipal Court building has more public space, restrooms and courtrooms that will have to be maintained. These factors could drastically increase utility and maintenance expenses.

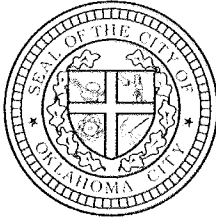
After accounting for utility and maintenance costs, increased enforcement, and anticipated CIP needs such as equipment replacement, increased personnel costs, etc., if it appears that court costs will exceed current and anticipated costs of prosecution, then recommendations can be made to Council for ordinance amendments to adjust court costs and fees.

Municipal Court will continue to work closely with OMB to accurately assess the operating costs of the new facility.

Finance Department Response 7

Agree with recommendation. It has always been management's plan to review Court Fees and Costs once the Municipal Courts were established in their new building and the operating costs of the new facility could be accurately assessed. Each year during the budget process a preliminary estimate of future fees and costs is prepared and the issue is discussed during the meeting between the Finance Department, Municipal Courts and the City Manager's Office. This discussion will continue in future years.

CLEET funds are being used to help pay for some of the construction costs of the new building to alleviate the need for additional funds from the MAPS 3 Use Tax or other funds.



MEMORANDUM

The City of
OKLAHOMA CITY



TO: Jim Williamson, City Auditor

THROUGH: James D. Couch ^{JDC} City Manager

FROM: LaShawn R. Thompson, Director ^{LRT}
Department of Court Administration

DATE: September 27, 2017

SUBJECT: Audit #16-05, Department of Court Administration Court Cost and Fee Compliance

Following are management's responses to recommendations outlined in the recent Department of Court Administration Court Cost and Fee Compliance Audit.

Recommendation 1:

Agree. The accounts are a pass-through to the collection agency. The new Incode Municipal Court records management system software does not have the constraints of the prior Court system and will address the reporting issue. This recommendation was addressed with the implementation of the new Incode court records management system software on September 5, 2016.

Recommendation 2:

Agree. In prior years, the Municipal Court building was included as part of the Police Headquarters complex and utility expenses were part of the Police Department's budget with no chargeback to Municipal Court. We cannot address the historical reason for the arrangement between Municipal Court and Police. Moving forward, utilities, maintenance and repairs should be addressed in future Court Fee Analyses. This change will be implemented immediately.

Recommendation 4:

Agree. A spreadsheet originated by the Auditor and populated by the Court Administration and Municipal Counselor's Office provides a sufficient "operational summary" and will be updated as needed. This change has been implemented.

Recommendation 5.1:

Agree. Moving funds to CIP began several years ago once the management decision had been made to plan for a new courthouse. This change will be implemented immediately.

Recommendation 5.2:

Agree. According to the Municipal Counselor's Office, court costs inherently must involve the setting of a rate, at least for the common costs associated with all defendants, and rates must rely on historical amounts and averages. A reasonable variance is arguably allowable. However, the further away the use of the money is from the judicial system, the less likely it is to be a legally allowable cost. If it is possible to bring a civil claim regarding such funds, it should be limited to the current fiscal year. This change will be made going forward.

Recommendation 6:

Agree. As of this date, these funds have been spent down to \$441,000 for furniture and equipment at the new building. At least \$158,000 of restricted training funds have been spent to purchase software, hardware, equipment and furniture for the training rooms in the new building. The total expenditures exceeds the amount of 14% (of \$940,000) which was determined to be related to restricted training funds.

Municipal Court will work with OMB to ensure that the remaining CLEET Administration (unrestricted) fund balance is transferred to the restricted CIP Fund; while future collections of the same be deposited to the General Fund (with other routine Court Fee collections) and included in the annual Court Fee Analysis.

Municipal Court will work with OMB to ensure that the CLEET Training (restricted) funds comply with legal requirements by being deposited, maintained and monitored in a distinct account within the CLEET Fund. This change will be implemented immediately.

Recommendation 7:

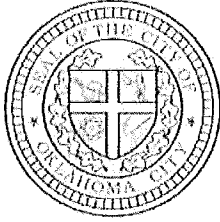
Agree. When discussions of a new courthouse began several years ago, monies that could be set aside in CIP were set aside to help fund the building construction, FF&E budget and/or utilities. Municipal Court obligated \$3,000,000 from the Court CIP fund to complete the construction of the project. CLEET Administration and Training funds were set aside with the intention to complete the FF&E of the new building due to limited funds in the project. As mentioned in response No. 6 above, at least \$158,000 of restricted training funds have been spent to purchase software, hardware, equipment and furniture for the training rooms in the new building. The total expenditures exceeds the amount of 14% (of \$940,000) which was determined to be related to restricted training funds.

Also, in FY 18 there was a \$300,000 transfer to the General Fund to pay for facility operations in the new Municipal Court Building. The estimated new annual expenses include \$170,000 for Veolia to provide steam and chilled water, \$87,000 for electricity, and \$3,700 for water services. Other new expenses include additional elevator inspections, contracted janitorial services and \$39,000 for building maintenance. Municipal Court was advised by OMB that no additional funds would be added to the Municipal Court budget to assist with the utilities and additional maintenance costs.

Municipal Court's projected expenses were based on actual utility expenses incurred by Police in their new building. However, the Municipal Court building has more public space, restrooms and courtrooms that will have to be maintained. These factors could drastically increase utility and maintenance expenses.

After accounting for utility and maintenance costs, increased enforcement, and anticipated CIP needs such as equipment replacement, increased personnel costs, etc., if it appears that court costs will exceed current and anticipated costs of prosecution, then recommendations can be made to Council for ordinance amendments to adjust court costs and fees.

Municipal Court will continue to work closely with OMB to accurately assess the operating costs of the new facility.



MEMORANDUM

The City of
OKLAHOMA CITY



TO: Jim Williamson, City Auditor

THROUGH: James D. Couch, ^{JDC}City Manager

FROM: Craig Freeman, Finance Director ^{CF}

DATE: September 27, 2017

SUBJECT: Finance Department Response to Auditor's Report #16-05 "Department of Court Administration Court Cost and Fee Compliance Audit Response"

Recommendation 2

Agree with recommendation. Utility costs will be included in future Court Fee Analysis after the Municipal Court has moved in to its new building and begins paying utilities separate from Police.

Recommendation 3

Agree with recommendation. A Court Fee Analysis will be conducted just before closing for future fiscal years so that a preliminary status can be obtained and transfers made before the year end close for Accounting. A final analysis will be conducted after the year closes to ensure the final figures are correct and adjustments are made as needed.

Recommendation 5.1

Agree with recommendation. Future transfers will be based on the exact variance calculated.

Recommendation 5.2

Agree with recommendation. Finance, Municipal Courts and the Municipal Counselor's Office will meet to determine the appropriate approach to prior years.

Recommendation 6

Agree with recommendation. The Court Fee Analysis has been updated to capture the Council on Law Enforcement Education and Training (CLEET) administrative funds coming in to the General Fund. Finance will work with the Municipal Courts Department to determine the appropriate amount to transfer from the CLEET fund to the CIP Fund for past Court Administrative Fees.

The Finance Department will work with Municipal Courts to determine the appropriate division of revenues in the CLEET Fund to allow for more segregation of funds for different purposes. New Operating Units (distinct accounts) will be created as needed.

Recommendation 7

Agree with recommendation. It has always been management's plan to review Court Fees and Costs once the Municipal Court was established in the new building and the operating costs of the new facility could be accurately assessed. Each year during the budget process a preliminary estimate of future fees and costs is prepared and the issue is discussed during the meeting between the Finance Department, Municipal Courts and the City Manager's Office. This discussion will continue in future years.

CLEET funds are being used to help pay for some of the construction costs of the new building to alleviate the need for additional funds from the MAPS 3 Use Tax or other funds.