

**AUDIT REPORT
OF
ADAMS COUNTY COURT**

JULY 1, 2003 THROUGH JUNE 30, 2004

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Issued on May 13, 2005

ADAMS COUNTY COURT

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ADAMS COUNTY COURT

SUMMARY OF COMMENTS

During our audit of Adams County Court, we noted certain matters involving the internal control over financial reporting and other operational matters that are presented here. These comments and recommendations are intended to improve the internal control over financial reporting or result in operational efficiencies in the areas as follows:

1. ***Segregation of Duties:*** One individual was capable of handling all phases of a transaction from beginning to end.
2. ***Unclaimed Property:*** The County Court did not remit outstanding checks and trust balances to the State Treasurer in accordance with State Statute.
3. ***Overdue Balances:*** The County Court did not consistently review overdue case balances and take actions, as necessary, to resolve balances.
4. ***Nonwaiverable Court Costs:*** The County Court did not consistently claim, in accordance with State Statute, those court costs which are nonwaiverable on dismissed and/or otherwise uncollectible cases.
5. ***Witness Fee Fund Authorization:*** The County Court did not have documented approval from the Nebraska Court Administrator's office for a separate checking account which it utilized for the payment of witness fees.

More detailed information on the above items is provided hereafter. It should be noted that this report is critical in nature as it contains only our comments and recommendations on the areas noted for improvement and does not include our observations on any accounting strengths of the Court.

Draft copies of this report were furnished to the Court to provide them an opportunity to review the report and to respond to the comments and recommendations included in this report. All formal responses received have been incorporated into this report. Where no response has been included, the Court declined to respond. Responses have been objectively evaluated and recognized, as appropriate, in the report. Responses that indicate corrective action has been taken were not verified at this time, but will be verified in the next audit.

We appreciate the cooperation and courtesy extended to our auditors during the course of the audit.

ADAMS COUNTY COURT

COMMENTS AND RECOMMENDATIONS

1. Segregation of Duties

Good internal control includes a plan of organization, procedures, and records designed to safeguard assets and provide reliable financial records. A system of internal control should include proper segregation of duties so no one individual is capable of handling all phases of a transaction from beginning to end.

We noted the office of the County Court had a lack of segregation of duties as one person was capable of handling all aspects of processing transactions from beginning to end. A lack of segregation of duties increases the risk of possible errors or irregularities. However, due to a limited number of personnel, an adequate segregation of duties is not possible without additional cost. Personnel are under the direction of both the Nebraska State Court Administrator and the Presiding Judge. We have noted this comment in previous audits.

We recommend the County Court and the Nebraska State Court Administrator review this situation. As always, the cost of hiring additional personnel versus the benefit of a proper segregation of duties must be weighed.

2. Unclaimed Property

Neb. Rev. Stat. Section 25-2717 R.R.S. 1995 requires the County Judge to notify the State Treasurer regarding any fees, money, or costs due or belonging to persons which have not been paid or demanded within three years from the date the funds were paid to the County Court, and, at the direction of the State Treasurer, to remit such funds to the State Treasurer for deposit pursuant to the Unclaimed Property Act.

As of June 30, 2004 the County Court had five checks, totaling \$459, and one probate case totaling \$2,759 which had been outstanding and/or inactive for at least three years. As of April 27, 2005 these items had not been remitted to the State Treasurer pursuant to the Unclaimed Property Act.

When unclaimed property is not remitted pursuant to the Unclaimed Property Act there is an increased risk of loss or misuse.

We recommend the County Court work to promptly remit all unclaimed property in its possession in accordance with State Statute.

County Court's Response: The only response I would make to this comment is that I was under the impression that the money in the probate case was going to be disbursed by either the personal representative or the attorney handling the case and I had not received any further instruction from them regarding this disbursement.

ADAMS COUNTY COURT

COMMENTS AND RECOMMENDATIONS

(Continued)

3. Overdue Balances

Good internal control and sound business practice requires overdue balances of the County Court be reviewed on a regular basis to determine what actions might be necessary to address and/or resolve the balances.

During testing of 15 overdue case balances, the following was noted:

- Two case balances contained commitments that had been issued on the defendants; however, the related returns had not been received from the County Sheriff's office. Resolution of these returns, which was done by County Court personnel at the time of audit fieldwork, allowed the County Court to resolve \$861 in fines/costs on the two cases.
- In one case, in which the defendant had been committed to the Nebraska Department of Correctional Services; however, the County Court had not issued a non-monetary receipt for the amount of waivable fees and had not claimed the amount of nonwaivable fees to Adams County. This was similarly corrected by County Court personnel at the time of audit fieldwork.

Furthermore, as of April 16, 2004, the County Court had a total of \$221,272 in overdue balances. As of April 22, 2005, the total in overdue balances had increased to \$267,369; an increase of \$46,096, or approximately 21% in one year.

Without a regular review of overdue cases, there is an increased risk a case listed as outstanding will either not have proper action taken or the amount outstanding may have been previously paid and/or resolved.

A similar finding was also noted in the prior audit.

We recommend the County Court review overdue case balances on an ongoing basis to determine what actions might be necessary to address and/or resolve those case balances.

County Court's Response: The court recognizes the need to review this report on a consistent basis. However, upon further review after the auditors left, it is noted, specifically in the criminal area, that many of these cases are showing balances because warrants were issued and the defendant was not around to comply with the payment of these fines/costs or restitution is involved in which the court has no control from a punitive standpoint. I (along with many other administrators I found out) suggested to the JUSTICE help desk that those cases involved in those areas be so marked or distinguished so that staff would not waste time going over the same cases each time the report is reviewed.

ADAMS COUNTY COURT

COMMENTS AND RECOMMENDATIONS

(Continued)

4. Nonwaiverable Court Costs

Neb. Rev. Stat. Section 29-2709 R.S.Supp., 2004 states, when any costs in misdemeanor, traffic, felony preliminary, or juvenile cases in county court, except for those costs provided for in subsection (3) of section 24-703 (judge's retirement fee), two dollars of the fee provided in section 33-107.01 (legal services fee), the court automation fee provided in section 33-107.03, and the uniform data analysis fee provided in section 47-633, are found by a county judge to be uncollectible for any reason, including the dismissal of the case, such costs shall be deemed waived unless the judge, in his or her discretion, enters an order assessing such portion of the costs as by law would be paid over by the court to the State Treasurer.

During testing of 20 non-monetary receipts, the following was noted:

- One instance in which all fines/costs were non-monetarily receipted in relation to a defendant having served community service.
- One instance in which all costs were non-monetarily receipted in a juvenile case which had been dismissed.

In each of those instances, the nonwaiverable court costs of \$14, should have been claimed to the appropriate city, village, or county based on by whom and under what authority the cases were brought.

When nonwaiverable court costs are not consistently dealt with in accordance with State Statute, there is an increased risk of error.

We recommend the County Court work to ensure the amount of nonwaiverable court costs on dismissed and/or otherwise uncollectible cases are waived and/or claimed consistent with State Statute.

5. Witness Fee Fund Authorization

General Rule 58 of the Official Rules of the Nebraska Supreme Court and Nebraska Court of Appeals, relates to the petty cash funds and states, in part, “. . . whenever the need exists, a clerk magistrate, with the concurrence of the county judges of his or her district, may establish and maintain a petty cash fund of not more than \$50.”

ADAMS COUNTY COURT

COMMENTS AND RECOMMENDATIONS

(Continued)

5. Witness Fee Fund Authorization (Concluded)

The County Court maintained a separate checking account for the payment of witness fees. The County Board was the original source of this fund and, as such, the County Court periodically submitted claims to the County Board for replenishment of this witness fee fund. As of June 30, 2004, the book balance of this fund was \$837. The County Court had no written documentation from the State Court Administrator's office giving approval for a separate fund in excess of the \$50 limit set forth in General Rule 58.

When funds are not maintained in accordance with court rules there is an increased risk of loss or misuse.

This finding was also noted in the prior audit.

We recommend the County Court continue to pursue resolution of this matter.

County Court's Response: After the audit of 2002-2003, the auditors did mention this problem in their report. My judges wrote a letter to the State Court Administrator's office suggesting that the Supreme Court consider a proposal to allow this type of fund and make this a statewide County Court Rule. As of the time of this audit, this court has not received a response to that proposal.

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ADAMS COUNTY COURT

INDEPENDENT AUDITORS' REPORT

Ms. Janice Walker
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We have audited the accompanying financial statement of Adams County Court as of and for the fiscal year ended June 30, 2004, as listed in the Table of Contents. The financial statement is the responsibility of the Court's management. Our responsibility is to express an opinion on the financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

As discussed in Note 1, the financial statement was prepared on the basis of cash receipts and disbursements, which is a comprehensive basis of accounting other than generally accepted accounting principles.

Also, as discussed in Note 1, the financial statement presents only the Court's Agency Funds activity and does not purport to, and does not, present fairly the assets, liabilities, and results of operations of Adams County Court for the year then ended in conformity with the cash receipts and disbursements basis of accounting.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the assets and liabilities arising from cash transactions of the Agency Funds of Adams County Court as of June 30, 2004, and the related activity for the fiscal year then ended, on the basis of accounting described in Note 1.

In accordance with *Government Auditing Standards*, we have also issued our report dated April 27, 2005, on our consideration of Adams County Court's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

April 27, 2005

A handwritten signature in cursive script that reads "Dawn Hayfner CPA".

Deputy State Auditor

ADAMS COUNTY COURT
HASTINGS, NEBRASKA
STATEMENT OF CHANGES IN ASSETS AND LIABILITIES
ARISING FROM CASH TRANSACTIONS
AGENCY FUNDS

For the Fiscal Year Ended June 30, 2004

| | Balance July 1, 2003 | Additions | Deductions | Balance June 30, 2004 |
|------------------------------|-------------------------|--------------|--------------|--------------------------|
| ASSETS | | | | |
| Cash and Deposits | \$ 192,185 | \$ 1,098,324 | \$ 1,078,323 | \$ 212,186 |
| LIABILITIES | | | | |
| Due to State Treasurer: | | | | |
| Regular Fees | \$ 20,107 | \$ 156,279 | \$ 160,445 | \$ 15,941 |
| Law Enforcement Fees | 747 | 13,726 | 13,170 | 1,303 |
| State Judges Retirement Fund | 2,655 | 31,775 | 31,531 | 2,899 |
| Court Administrative Fees | 4,777 | 73,144 | 71,509 | 6,412 |
| Legal Services Fees | 3,149 | 38,091 | 37,689 | 3,551 |
| Due to County Treasurer: | | | | |
| Regular Fines | 29,831 | 287,022 | 289,377 | 27,476 |
| Overload Fines | 1,025 | 9,700 | 10,125 | 600 |
| Regular Fees | 1,575 | 33,623 | 32,379 | 2,819 |
| Witness Fee Fund | 1,152 | 8,771 | 9,086 | 837 |
| Due to Municipalities: | | | | |
| Regular Fines | 537 | 4,655 | 5,032 | 160 |
| Regular Fees | 137 | 3,989 | 3,899 | 227 |
| Trust Fund Payable | 126,493 | 437,549 | 414,081 | 149,961 |
| Total Liabilities | \$ 192,185 | \$ 1,098,324 | \$ 1,078,323 | \$ 212,186 |

The accompanying notes are an integral part of the financial statement.

ADAMS COUNTY COURT
NOTES TO FINANCIAL STATEMENT
For the Fiscal Year Ended June 30, 2004

1. Summary of Significant Accounting Policies

A. Reporting Entity

The Adams County Court is established by State Statute and is administratively operated through the Court Administrator's Office of the Nebraska Supreme Court, which is part of the State of Nebraska reporting entity. The Statement of Changes in Assets and Liabilities Arising from Cash Transactions of the County Court reflects only the Agency Funds activity of the Court; the receipts, and their subsequent disbursement to the appropriate entities for which they were collected. The financial statement does not reflect the personal services expenses of the Court, which are paid by the Nebraska Supreme Court, or the operating expenses, which are paid by Adams County.

B. Basis of Accounting

The accounting records of the County Court Agency Funds are maintained, and the Statement of Changes in Assets and Liabilities Arising from Cash Transactions has been prepared, on the cash receipts and disbursements basis of accounting. Under this basis of accounting, fines, fees, and receipts relating to trust funds are shown as additions to assets and as an increase in the related liability when received. Likewise, disbursements are shown as deductions to assets and a decrease in the related liability when a check is written. This differs from Generally Accepted Accounting Principles (GAAP) which requires the accrual basis of accounting. Under GAAP, Agency Funds would be reported in the Statement of Net Assets. Agency Funds are not reported in the Statement of Changes of Fiduciary Net Assets. Agency Funds are used to report resources held by the reporting government in a purely custodial capacity. Agency Funds typically involve only the receipt, temporary investment, and remittance of fiduciary resources to individuals, private organizations, or other governments.

2. Deposits and Investments

Funds held by the County Court are deposited and invested in accordance with rules issued by the Supreme Court as directed by Neb. Rev. Stat. Section 25-2713 R.R.S. 1995. Funds are generally consolidated in an interest-bearing checking account; however, the Court may order certain trust funds to be invested separately. Any deposits in excess of the amount insured by the Federal Deposit Insurance Corporation are required by Neb. Rev. Stat. Section 77-2326.04 R.R.S. 2003 to be secured either by a surety bond or as provided in the Public Funds Deposit Security Act.

ADAMS COUNTY COURT
NOTES TO FINANCIAL STATEMENT
(Continued)

2. Deposits and Investments (Concluded)

The carrying amounts and bank balances of total deposits, consisting of a checking account and savings accounts, were as follows:

| | Total Cash and Deposit <u>Carrying Amount</u> | <u>Cash Amount</u> | Deposit <u>Carrying Amount</u> | <u>Bank Balance</u> |
|---------------|---|--------------------|-----------------------------------|---------------------|
| June 30, 2004 | \$ 212,186 | \$ 530 | \$ 211,656 | \$ 215,984 |

However, funds were entirely covered by federal depository insurance or by a single financial institution collateral pool, in which a financial institution pledged to the County Court participation in a pool of collateral against all the public deposits held by the financial institution.

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ADAMS COUNTY COURT REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

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We have audited the financial statement of Adams County Court as of and for the year ended June 30, 2004, and have issued our report thereon dated April 27, 2005. The report was modified to emphasize that the financial statement presents only the Agency Funds of Adams County Court prepared on the basis of cash receipts and disbursements. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Adams County Court's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statement and not to provide an opinion on the internal control over financial reporting. However, we noted a certain matter involving the internal control over financial reporting and its operation that we consider to be a reportable condition. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect Adams County Court's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statement. A reportable condition is described in the Comments Section of the report as Comment Number 1 (Segregation of Duties).

A material weakness is a reportable condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe the reportable condition described above is a material weakness.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether Adams County Court's financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain additional matters that we reported to the management of Adams County Court in the Comments Section of this report as Comment Number 2 (Unclaimed Property), Comment Number 3 (Overdue Balances), Comment Number 4 (Nonwaiverable Court Costs), and Comment Number 5 (Witness Fee Fund Authorization).

This report is intended solely for the information and use of the Court and the appropriate Federal and regulatory agencies. However, this report is a matter of public record and its distribution is not limited.

April 27, 2005



Deputy State Auditor