



## NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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December 17, 2020

Corey R. Steel, State Court Administrator  
Nebraska Supreme Court  
Nebraska State Capitol, Suite 1213  
Lincoln, Nebraska 68509

Dear Mr. Steel:

In planning and performing our audit of the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the State of Nebraska (State), as of and for the year ended June 30, 2020, 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, we have issued our report thereon dated December 17, 2020. In planning and performing our audit, we considered the State's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements of the State, but not for the purpose of expressing an opinion on the effectiveness of the State's internal control. Accordingly, we do not express an opinion on the effectiveness of the State's internal control.

In connection with our audit described above, we noted certain internal control or compliance matters related to the activities of the Nebraska Supreme Court (Supreme Court) or other operational matters that are presented below for your consideration. These comments and recommendations, which have been discussed with the appropriate members of the Supreme Court management, are intended to improve internal control or result in other operating efficiencies.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses. Given these limitations during our audit, we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Draft copies of this letter were furnished to the Supreme Court to provide management with an opportunity to review and to respond to the comments and recommendations contained herein. All formal responses received have been incorporated into this letter. Responses have been objectively evaluated and recognized, as appropriate, in the letter. Responses that indicate corrective action has been taken were not verified at this time, but they will be verified in the next audit.

The following are our comments and recommendations for the year ended June 30, 2020.

## 1. JUSTICE New User Access

The Judicial User System to Improve Court Efficiency (JUSTICE) application is the Supreme Court's case and financial management system for Nebraska trial courts. Employees of various State agencies, including the Supreme Court and the counties and cities across Nebraska, had access to the application during the fiscal year.

The Supreme Court lacked procedures to ensure the following: 1) new user access granted agreed to the access request form; and 2) any deviation from the access request form is documented adequately and supported. Four of five users tested were granted access that did not agree to the access request form. The following access was granted that was not supported by the request form:

- One user was given access to civil, criminal, and juvenile cases. The access request was to set up the employee's access similar to that of another employee. However, the Supreme Court could not provide support for the other employee's access, as he had since terminated and his access had been removed. Therefore, there was no support for the access provided to the employee tested.
- One user was granted access incorrectly to juvenile cases.
- One user was granted access incorrectly to small claims and traffic cases and was not granted access to adoption cases, which had been requested.
- One user received only civil case access when the access form had requested all public information in civil, criminal, juvenile, probate, small claims, and traffic case types.

Nebraska Information Technology Commission (NITC) Technical Standards and Guidelines, Information Security Policy 8-701 (July 2017), "Auditing and compliance; responsibilities; review," states the following, in relevant part:

*An agency review to ensure compliance with this policy and applicable NIST SP 800-53 security guidelines must be conducted at least annually.*

National Institute of Standards and Technology (NIST) Special Publication 800-53, Security and Privacy Controls for Federal Information Systems and Organizations, Access Control 6 (AC-6), Least Privilege, states, in part, the following:

*The organization employs the principle of least privilege, allowing only authorized accesses for users (or processes acting on behalf of users) which are necessary to accomplish assigned tasks in accordance with organizational missions and business functions.*

A good internal control plan requires procedures to ensure that new user access granted to JUSTICE agrees to the access request form, and any deviations from that form are documented adequately and supported.

Without such procedures, there is an increased risk of not only noncompliance with NITC standards but also inappropriate access to State assets and resources, as well as unauthorized processing of transactions.

We recommend the Supreme Court strengthen its procedures to ensure compliance with NITC and NIST Standards and Guidelines. Furthermore, we recommend the Supreme Court strengthen its procedures to ensure users are granted the JUSTICE access that is requested.

*Supreme Court Response: The Administrative Office of the Courts and Probation (AOCP) will review the procedures for granting new user access. Specifically, it will consider differentiating between requests for access to public information and requests for access to confidential or sealed information. In addition, it will work to improve tracking changes between access that has been requested and access eventually granted.*

## **2. JUSTICE Terminated User Access**

During testing of terminated employees of State and local entities, it was noted that three terminated State users, two terminated county users, and four terminated city users did not have their JUSTICE access removed in a timely manner, within three business days of termination.

When a user with JUSTICE access is terminated, it is the responsibility of the employee's management to notify the JUSTICE team immediately of the termination, so the former employee's access can be removed without delay. Of the nine terminated employees tested, however, the JUSTICE team was notified of only one termination, and access was removed five business days after her termination date.

NITC Technical Standards and Guidelines, Information Security Policy 8-701 (July 2017), "Auditing and compliance; responsibilities; review," states the following, in relevant part:

*An agency review to ensure compliance with this policy and applicable NIST SP 800-53 security guidelines must be conducted at least annually.*

NIST Special Publication 800-53, Security and Privacy Controls for Federal Information Systems and Organizations, Access Control 6 (AC-6), Least Privilege, states, in part, the following:

*The organization employs the principle of least privilege, allowing only authorized accesses for users (or processes acting on behalf of users) which are necessary to accomplish assigned tasks in accordance with organizational missions and business functions.*

A good internal control plan requires procedures to ensure that access to the JUSTICE application is disabled timely upon termination of the user's employment.

Without such procedures, there is an increased risk of inappropriate access to State assets and resources, as well as unauthorized processing of transactions and changes.

A similar finding was noted during the previous audit.

We recommend the Supreme Court implement procedures to ensure access to the JUSTICE application is removed timely upon termination of the user's employment. Additionally, we recommend the Supreme Court inform counties and city departments of the responsibility to notify immediately the JUSTICE team upon termination of an employee with access to the application.

*Supreme Court Response: For Judicial Branch staff, the AOCF continues to work on preparing information for supervisors on terminating employee access.*

*For non-state entities, a user agreement must be signed to obtain JUSTICE access. It contains an obligation for those entities to notify the Supreme Court of employee terminations. The Supreme Court IT Division continues to contact entities regarding the obligation. For example, a recent presentation at a Clerks of the District Court conference included a reminder.*

*Note that since a former employee would no longer have access to a computer authorized to connect to the state network, the AOCF continues to contend that the risks from improper access are significantly reduced. JUSTICE is not accessible from outside the state firewall.*

## **3. Court Remittances to State**

In March 2020, the Nebraska State Court Administrator's office made a change to the process of how county and district courts (courts) across the State remit money to the State Treasurer. The prior process included a check or ACH transaction initiated by the county or district court payable to the State Treasurer. The new process includes the courts approving a payment in the courts accounting system – JUSTICE. JUSTICE then prepares a summary report of the total dollar amount to be remitted to the State, per each court that has been posted, which is sent to the

State Treasurer. Then the State Treasurer pulls the money electronically from the courts' bank accounts based on the approved payment processed prior to the fourth day of the month and deposits, records, and posts the information into the State's Accounting System (E1). If the courts do not complete the posting process prior to the fourth day of the month, the payment will wait until the following month or months.

During testing of the new process, we noted that courts were not processing the payment by the fourth day of the month, resulting in payments to the State Treasurer being late. We tested the April 7, 2020, and June 5, 2020, remittances to the State Treasurer, representing collections in March 2020 and May 2020, respectively. We noted the following 31 late payments:

<b>Court</b>	<b>Amount</b>	<b>Month Fees were Collected</b>	<b>Date Remitted to the State Treasurer</b>
Polk County Court	\$ 3,448	February	April 7, 2020
Frontier County Court	\$ 1,692	February	April 7, 2020
Blaine County Court	\$ 331	February	April 7, 2020
Polk District Court	\$ 179	February	April 7, 2020
Stanton District Court	\$ 843	February	April 7, 2020
Banner District Court	\$ 96	February	April 7, 2020
Frontier District Court	\$ 93	March	May 5, 2020
Polk County Court	\$ 1,479	April	June 5, 2020
Merrick County Court	\$ 5,700	April	June 5, 2020
Frontier County Court	\$ 1,133	April	June 5, 2020
Garfield County Court	\$ 752	April	June 5, 2020
Blaine County Court	\$ 354	April	June 5, 2020
Adams District Court	\$ 11,867	April	June 5, 2020
Clay District Court	\$ 403	April	June 5, 2020
Polk District Court	\$ 383	April	June 5, 2020
Nemaha District Court	\$ 864	April	June 5, 2020
Webster District Court	\$ 94	April	June 5, 2020
Merrick District Court	\$ 1,536	April	June 5, 2020
Howard District Court	\$ 451	April	June 5, 2020
Stanton District Court	\$ 1,028	April	June 5, 2020
Johnson District Court	\$ 1,263	April	June 5, 2020
Sarpy District Court	\$ 25,552	April	June 5, 2020
Frontier District Court	\$ 370	April	June 5, 2020
Dawes District Court	\$ 932	April	June 5, 2020
Perkins District Court	\$ 117	April	June 5, 2020
Sioux District Court	\$ 20	April	June 5, 2020
Keya Paha District Court	\$ 20	April	June 5, 2020
Banner District Court	\$ 73	April	June 5, 2020
Arthur District Court	\$ 21	April	June 5, 2020
Hooker District Court	\$ 96	April	June 5, 2020
Gosper District Court	\$ 20	May	October 2020
<b>Total</b>	<b>\$ 61,210</b>		

Neb. Rev. Stat. § 33-106.02 (Reissue 2016) requires the clerk of the district court to account for and pay any fees, revenue, perquisites, or receipts no later than the fifteenth day of the month following the calendar month in which such fees, revenues, perquisites, or receipts were received to the State Treasurer.

Neb. Rev. Stat. § 33-107.01 (Reissue 2016) states, in part, the following:

*A legal services fee of six dollars and twenty-five cents shall be taxed as costs in each case filed in each separate juvenile court and district court . . . . Such fees shall be remitted to the State Treasurer on forms prescribed by the State Treasurer within ten days after the close of each month for credit to the Legal Aid and Services Fund.*

Neb. Rev. Stat. § 33-107.03 (Reissue 2016) states, in part, the following:

*In addition to all other court costs assessed according to law, a court automation fee of eight dollars shall be taxed as costs for each filed in each county court, separate juvenile court, and district court . . . The fees shall be remitted to the State Treasurer on forms prescribed by the State Treasurer within ten days after the close of each month.*

A good internal control plan requires procedures to ensure that court fees are remitted timely to the State Treasurer.

Without such procedures, there is an increased risk of noncompliance with State statutes.

We recommend the State Court Administrator and the courts implement procedures to ensure fees are remitted to the State Treasurer in compliance with State statutes.

*Supreme Court Response: To reduce the number of untimely remittances, JUSTICE has been modified to allow more days for courts to process payments. The additional time is within statutory limits.*

#### **4. Unauthorized Bank Accounts**

During fiscal year 2015, the Auditor of Public Accounts (APA) performed a statewide review of bank accounts using the State's Federal Tax Identification Number (FTIN) without the documented approval of the Nebraska State Treasurer. During the most recent audit, the APA performed follow-up procedures and found 82 investment accounts using the State's FTIN without the approval of the State Treasurer. These bank accounts were for court cases that were yet to be settled, including cases involving the Nebraska Department of Transportation for land condemnation, and probate cases that were still pending an heir. The account balances at June 30, 2020, were \$9,901,578.

Neb. Rev. Stat. § 77-2301(1) (Reissue 2018), provides, as is pertinent, the following:

*The State Treasurer shall deposit, and at all times keep on deposit for safekeeping, in the state or national banks, or some of them doing business in this state and of approved standing and responsibility, the amount of money in his hands belonging to the several current funds in the state treasury.*

Likewise, Neb. Rev. Stat. § 77-2309 (Reissue 2018) says the following:

*It is made the duty of the State Treasurer to use all reasonable and proper means to secure to the state the best terms for the depositing of the money belonging to the state, consistent with the safekeeping and prompt payment of the funds of the state when demanded.*

In Op. Att'y Gen. No 15-010 (Aug. 10, 2015), the Nebraska Attorney General stated the following:

*A state agency is not permitted to contract for its own banking relationship; all such relationships are established through the State Treasurer.*

Neb. Rev. Stat. § 24-215 (Reissue 2016) states, in relevant part, the following:

*The Clerk of the Supreme Court shall, on the first day in January, April, July, and October of each year, pay into the General Fund of the state treasury all fees of every nature and description received by him or her during the preceding three months; and the State Treasurer shall issue his or her receipt for such fees.*

Good internal controls require procedures to ensure that the State's FTIN is not used without the express authorization of the State Treasurer.

Without such procedures, there is an increased risk of not only loss or misuse of State funds but also improper intrusion upon the statutory and inherent constitutional authority of the State Treasurer to oversee the State's banking relationships.

We recommend the Supreme Court obtain the formal approval of the State Treasurer before utilizing the State's FTIN.

*Supreme Court Response: Legislation was introduced in the 2021 session to address this issue. If passed, the AOCPC plans to implement an agreement with the State Treasurer to inform the Treasurer of all bank accounts related to specific court cases that utilize the State FTIN. Note that the AOCPC disagrees that "formal approval" is required.*

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Our audit procedures are designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use our knowledge of the Supreme Court and its interaction with other State agencies and administrative departments gained during our work to make comments and suggestions that we hope will be useful to the Supreme Court.

This communication is intended solely for the information and use of management, the Governor and State Legislature, others within the Supreme Court, Federal awarding agencies, pass-through entities, and management of the State of Nebraska and is not intended to be, and should not be, used by anyone other than the specified parties. However, this communication is a matter of public record, and its distribution is not limited.



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