



THE STATE OF FLORIDA  
**JUSTICE ADMINISTRATIVE COMMISSION**

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January 31, 2020

The Honorable Jason Fischer, Chair  
Joint Legislative Auditing Committee  
Claude Pepper Building, Room 876  
111 West Madison Street  
Tallahassee, Florida 32399-1400

Dear Chair Fischer:

Enclosed please find the Six Month Status Report responding to findings contained within the Auditor General Report No. 2020-008, with regard to the Offices of State Attorney, (Second Judicial Circuit); Offices of Public Defender (Third and Fourth Judicial Circuits); Offices of Criminal Conflict and Civil Regional Counsel (Second, Third, Fourth, and Fifth Regions); the Statewide Guardian ad Litem Program; Capital Collateral Regional Counsel, Northern Region; and the Justice Administrative Commission.

If we may be of further assistance, please do not hesitate to contact me.

Sincerely,

Alton L. "Rip" Colvin, Jr.

Enclosures

## Six Month Status Report – Auditor General Operational Audit 2020-008

### **Finding No. 1: Business Office Management System (BOMS)**

**Recommendation:** *The JAC and the applicable judicial agencies should: (1) take appropriate steps to ensure that, upon implementation of the new State accounting system, duplication of accounting efforts is limited and BOMS maintenance expenses are reduced; and (2) establish business continuity and disaster recovery plans.*

#### **Follow-up Action Taken:**

##### Justice Administrative Commission

No further follow-up is needed.

##### Office of the State Attorney, Second Judicial Circuit

Currently, waiting on implementation of the new State accounting system to take action.

##### Office of Criminal Conflict and Civil Regional Counsel, Second Region

We have discussed with JAC a reconciliation method for the two programs and to record the variance in a report to be viewed on an as needed basis.

##### Office of Criminal Conflict and Civil Regional Counsel, Third Region

RC3 maintains that BOMS is of critical need to the operations of its administrative duties. RC3 is committed to working with JAC and is open to any recommendations made in order to ensure no duplication of efforts occur. RC3 has recently migrated all system to off-site cloud based operations- allowing for access to all systems and programs in the event that the office is made inaccessible due to disaster.

##### Office of Criminal Conflict and Civil Regional Counsel, Fourth Region

RC4 remains committed to work cooperatively with the JAC to minimize duplication of accounting efforts and will implement any procedural changes the JAC may identify as limiting duplication, whether such changes are to BOMS or will be a incorporated into the new accounting system (“Florida PALM”) once it is online. RC4 defers to JAC regarding business continuity and disaster recovery plans specifically as to BOMS records hosted by JAC. RC4 utilizes cloud-based data storage suitable for disaster recovery purposes for its own records, and RC4 is positioned to maintain work continuity under emergency circumstances or other situations disruptive to the normal work environment.

##### Office of Criminal Conflict and Civil Regional Counsel, Fifth Region

RC5 has implemented an independent disaster recovery plan.

## Six Month Status Report – Auditor General Operational Audit 2020-008

### Florida Statewide Guardian ad Litem Office

The Florida Guardian ad Litem no longer uses BOMS software for accounting purposes. A draft plan for continuity of business operations is developed and is in the review process. A final plan will be issued before June 30.

### **Finding No. 2: Internal Audit Function**

**Recommendation:** *We recommend that the Legislature consider whether the JAC and the other judicial agencies should employ, or otherwise provide for, an internal auditor with the qualifications and duties prescribed in State law for State agency directors of auditing. We also recommend that the JAC consider requesting the necessary positions and funding from the Legislature to implement an internal audit function.*

### **Follow-up Action Taken:**

#### Justice Administrative Commission

As recommended, JAC has requested the necessary positions and funding to implement an internal audit function for JAC.

#### Office of the State Attorney, Second Judicial Circuit

The Florida Legislature took no action on this issue during the 2019 Regular Legislative Session.

#### Office of the Public Defender, Third Judicial Circuit

None.

#### Office of Criminal Conflict and Civil Regional Counsel, Second Region

We have hired an internal auditor to oversee functions that have been implemented. They will create a yearly report to be seen upon request of auditing committee. In addition, our internal auditor and other RC2 personnel have been working with McHale P.A., a forensic accounting practice, regarding implementation of controls for fraud monitoring and prevention, improvements in accounting processes for better monitoring and control of record keeping, and Agency work papers. Together, we have developed an analysis of the Agency's potential areas and levels of risks, which lead us to determine the areas that need additional monitoring and the appropriate tasks to reduce these risks within the Agency.

#### Office of Criminal Conflict and Civil Regional Counsel, Third Region

No action has taken place on this recommendation to date.

## Six Month Status Report – Auditor General Operational Audit 2020-008

### Office of Criminal Conflict and Civil Regional Counsel, Fourth Region

None required, per the recommendation, for this agency.

### Office of Criminal Conflict and Civil Regional Counsel, Fifth Region

RC5 continues to have no comment on finding number 2.

### Florida Statewide Guardian ad Litem Office

Should the Legislature determine to establish an internal audit function within the Justice Administrative Commission, the Guardian ad Litem Program will support and cooperate fully with this function.

### **Finding No. 3: Policies and Procedures**

**Recommendation:** *The GAL, SA2, PD3, PD4, RC2, RC3, RC4, RC5, and CCRC-N should establish and implement comprehensive policies and procedures.*

### **Follow-up Action Taken:**

#### Office of State Attorney, Second Judicial Circuit

Written annual inventory policies were implemented and followed during the course of the annual physical inventory for FY 18/19. New hire forms include verification of employment history and are now in place.

#### Office of Public Defender, Third Judicial Circuit

Additional policies and procedures are under consideration for implementation.

### Office of Criminal Conflict and Civil Regional Counsel, Second Region

RC2 has implemented a bid process for each contract with the approval process. We have also reviewed case progress (WIP) to billings. Any anomalies have been reported and can be viewed upon request for documents.

### Office of Criminal Conflict and Civil Regional Counsel, Third Region

RC3 has created and implemented an Administrative Procedures Manual.

### Office of Criminal Conflict and Civil Regional Counsel, Fourth Region

See the “follow-up action taken” sections with respect to Finding No. 8 and Finding No. 9 (re annual physical inventory) and Finding No. 14 (re verifying education and work experience requirements), below.

## Six Month Status Report – Auditor General Operational Audit 2020-008

### Office of Criminal Conflict and Civil Regional Counsel, Fifth Region

RC5 has created an administrative manual of policies and procedures for physical inventory.

### Florida Statewide Guardian ad Litem Office

Policies and procedures have been updated in accordance with recommendations from the audit report.

### **Finding No. 4: Anti-Fraud Policy**

**Recommendation:** *The JAC and the other judicial agencies should enhance their anti-fraud policies and procedures to allow individuals to anonymously report policy violations and known or suspected fraud.*

### **Follow-up Action Taken:**

#### Justice Administrative Commission

JAC has amended its fraud policy to document the anonymous reporting options available to report policy violations as well as known or suspected fraud. The amended policy was covered during agency-wide employee training on November 6, 2019. Additionally, the policy was distributed to all employees via email and is posted to the agency's internal website.

#### Office of State Attorney, Second Judicial Circuit

Draft copies of changes to our anti-fraud policies are currently being reviewed by management.

#### Office of Public Defender, Third Judicial Circuit

The addition of an anonymous policy is still under consideration consistent with our previous response.

#### Office of Criminal Conflict and Civil Regional Counsel, Second Region

RC2 is in the process of implementing an anonymous email "hotline" that reports directly to the Joint Auditing Committee. RC2 is also in the process of also placing notice at each location where to contact this anonymous hotline in the staff commonplace area.

#### Office of Criminal Conflict and Civil Regional Counsel, Third Region

No action has taken place on this recommendation to date.

## **Six Month Status Report – Auditor General Operational Audit 2020-008**

### Office of Criminal Conflict and Civil Regional Counsel, Fourth Region

RC4 is in receipt of JAC’s newly revised anti-fraud policies and procedures which were updated in Section E (“Other Reporting Methods”) of the JAC document; RC4’s director, administrative director, and managing circuit attorneys will review the new anonymity components to JAC’s policies and procedures and will implement similar policies and procedures customized to RC4.

### Office of Criminal Conflict and Civil Regional Counsel, Fifth Region

RC5 adopts the policies and procedures of JAC for Anti-Fraud.

### Florida Statewide Guardian ad Litem Office

The Guardian ad Litem Anti-Fraud Policy has been updated and will be executed and distributed to all staff within the next month. The revised policy includes a provision for anonymous reporting. All staff will be required to sign the policy to indicate their receipt and understanding of the policy requirements.

### **Finding No. 5: Direct-Support Organization**

#### **Follow-up Action Taken:**

**Recommendation:** *The GAL should continue efforts to ensure that a written contract with the Foundation is maintained in accordance with State law.*

### Florida Statewide Guardian ad Litem Office

This action has been completed. A contract is currently in place and a new contract will be executed before July 1, 2020.

### **Finding No. 6: Separation of Duties**

**Recommendation:** *The PD3, RC2, SA2, and CCRC-N should provide for an adequate separation of duties to the extent possible with existing personnel or implement compensating controls.*

#### **Follow-up Action Taken:**

### Office of State Attorney, Second Judicial Circuit

No further action required at this time.

### Office of Public Defender, Third Judicial Circuit

See previous response.

## **Six Month Status Report – Auditor General Operational Audit 2020-008**

### Office of Criminal Conflict and Civil Regional Counsel, Second Region

RC2's internal auditor has matched active personnel to payroll. They have also reviewed employee addresses for duplicate vendor addresses.

### **Finding No. 7: Enhance Procedures to Ensure JAC's Court-Appointed Reports are Timely Provided to Appropriate Parties**

**Recommendation:** *The JAC should enhance procedures to ensure that the specified reports are timely provided to the appropriate officials as required by State law.*

### **Follow-up Action Taken:**

#### Justice Administrative Commission

No further follow-up is needed.

### **Finding No. 8: Annual Physical Tangible Personal Property Inventory and Records**

**Recommendation:** *Judicial agencies should ensure that complete physical inventories of TPP are timely conducted and all required physical inventory information is maintained in accordance with DFS rules.*

### **Follow-up Action Taken:**

#### Office of State Attorney, Second Judicial Circuit

No further action required at this time.

#### Office of Public Defender, Third Region

A copy was provided and a printed inventory will be retained annually.

#### Office of Criminal Conflict and Civil Regional Counsel, Second Region

RC2 has hired an internal auditor to select two offices each quarter to visit and review all items on list for that office to verify that they comply with the DFS rules. They have also inspected and sample tested the newly placed inventory on the list to see if they have been properly authorized.

#### Office of Criminal Conflict and Civil Regional Counsel, Third Region

RC3 has created and implemented an Inventory protocol contained within the RC3 Administrative Procedures Manual consistent with the DFS rules.

## **Six Month Status Report – Auditor General Operational Audit 2020-008**

### Office of Criminal Conflict and Civil Regional Counsel, Fourth Region

RC4 developed a new document entitled “Tangible Personal Property Operating Guidelines” which memorializes the procedures in place for tracking all RC4 inventory.

### Office of Criminal Conflict and Civil Regional Counsel, Fifth Region

RC5 is in the process of entering into BOMSWEB all state class codes for inventory items.

### Florida Statewide Guardian ad Litem Office

The Guardian ad Litem Program is completing a review of the past seven fiscal years to ensure that all required information is included in the property record. We have completed the update for FY 13-14 through FY 18-19, and all remaining work will be completed by June 30, 2020.

### **Finding No. 9: Tangible Personal Property Records**

**Recommendation:** *Judicial agencies should ensure that property records include, for each TPP item, the information required by DFS rules and that property items are assigned distinct property numbers.*

### **Follow-up Action Taken:**

#### Office of State Attorney, Second Judicial Circuit

New inventory policies are currently being followed. Property purchases were properly accounted for according to policy and state law.

#### Office of Public Defender, Third Judicial Circuit

The State class codes will be added for the FYE 19-20 inventory listing.

#### Office of Criminal Conflict and Civil Regional Counsel, Second Region

RC2 has hired an internal auditor to conduct on-site surprise audits and review inventory records. Afterwards they will report their findings in their yearly report.

#### Office of Criminal Conflict and Civil Regional Counsel, Third Region

RC3 has created and implemented an Inventory protocol contained within the RC3 Administrative Procedures Manual consistent with the DFS rules.

#### Office of Criminal Conflict and Civil Regional Counsel, Fourth Region

RC4 has developed a new document entitled “Tangible Personal Property Operating Guidelines” which memorializes the procedures in place for tracking all RC4 inventory.



## Six Month Status Report – Auditor General Operational Audit 2020-008

### Office of Criminal Conflict and Civil Regional Counsel, Fifth Region

RC5 is in the process of ensuring that all inventory items have a property number and the statewide document numbers are entered into BOMSWEB.

### Florida Statewide Guardian ad Litem Office

The Guardian ad Litem Program is completing a review of the past seven fiscal years to ensure that all required information is included in the property record. We have completed the update for FY 13-14 through FY 18-19, and all remaining work will be completed by June 30, 2020.

### **Finding No. 10: Tangible Personal Property Disposals**

**Recommendation:** *The JAC should enhance controls to ensure authorization for TPP disposals is properly obtained and documented in accordance with DFS rules and prescribed agency procedures.*

### **Follow-up Action Taken:**

#### Justice Administrative Commission

No further follow-up is needed.

#### Office of State Attorney, Second Judicial Circuit

New inventory policies are currently being followed. Property purchases were properly accounted for according to policy and state law.

#### Office of Public Defender, Third Judicial Circuit

See previous response.

#### Office of Criminal Conflict and Civil Regional Counsel, Third Region

RC3 has created and implemented an Inventory protocol contained within the RC3 Administrative Procedures Manual consistent with the DFS rules.

#### Office of Criminal Conflict and Civil Regional Counsel, Fifth Region

RC5 has established a review board and has implemented a written procedure for disposing of inventory items.

### **Finding No. 11: Accountability for Property Items Valued or Costing Less Than \$1,000**

**Recommendation:** *The RC2 should identify property items that are not recorded in the property records, make a documented determination of whether any of those items require special attention*

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*as contemplated by GFOA guidelines, and maintain accountability for such items in a manner consistent with DFS rules.*

### **Follow-up Action Taken:**

Office of Criminal Conflict and Civil Regional Counsel, Second Region

RC2 has recorded, on said manual spreadsheet, all items valued more than \$600. This will continue to be updated remotely. The internal auditor will review and document when conducting surprise audits.

### **Finding No. 12: Motor Vehicle Records**

**Recommendation:** *PD3 and PD4 should ensure, for all motor vehicles, that vehicle usage records include sufficient details, including the purpose and departure and arrival times for each use. In addition, the PD3 should ensure that fuel costs are supported by appropriate documentation.*

### **Follow-up Action Taken:**

Office of Public Defender, Third Judicial Circuit

See previous response.

### **Finding No.13: Position Descriptions**

**Recommendation:** *The judicial agencies should develop position descriptions for all positions included in their classification and pay plans. Each position description should describe, at a minimum, the responsibilities to be performed and educational and work experience required.*

### **Follow-up Action Taken:**

Justice Administrative Commission

No further follow-up is needed.

Office of State Attorney, Second Judicial Circuit

The Board members of the Florida Prosecuting Attorneys Association tasked the Executive Directors to amend the Classification and Pay Plan at the Board meeting in July 2019. The Executive Directors are currently drafting changes to be voted on by the Board in the next coming months.

Office of Public Defender, Third Judicial Circuit

We now have a job description of Assistant Public Defender.

## **Six Month Status Report – Auditor General Operational Audit 2020-008**

### Office of Criminal Conflict and Civil Regional Counsel, Second Region

RC2's will continue to provide position descriptions for newly hired staff, as well as update all existing employees/contracts to match their duties performed.

### Office of Criminal Conflict and Civil Regional Counsel, Third Region

RC3 is waiting for a final decision to be made as to the amending of the class descriptions for all attorney positions contained with the RC pay plan.

### Office of Criminal Conflict and Civil Regional Counsel, Fourth Region

RC4 will propose a draft of a position description for "Assistant Regional Counsel" at the next meeting of the Regional Counsels/agency directors of the five Offices of Criminal Conflict and Civil Regional and will initiate a discussion to amend the RC's joint classification and pay plan to include such a description.

### Office of Criminal Conflict and Civil Regional Counsel, Fifth Region

RC5 cannot adjust its own pay plan independently.

### **Finding No. 14: Verification of New Employees' Education and Work Experience**

**Recommendation:** *The judicial agencies should establish procedures for verifying and documenting in the personnel records that, prior to hire, applicants meet the minimum experience and education requirements of the applicable positions.*

### **Follow-up Action Taken:**

#### Office of Public Defender, Third Judicial Circuit

New hires meet the minimum requirements and that is reflected in their personnel files.

#### Office of Criminal Conflict and Civil Regional Counsel, Third Region

RC3 has created a pre-hire checklist to verify and document all potential applicant's experience and education.

#### Office of Criminal Conflict and Civil Regional Counsel, Fourth Region

RC4 has established a checklist form to be included in the files for newly hired attorneys and has made the documentation of the verification performed for all new hires, in general, more uniform and readily apparent.

## Six Month Status Report – Auditor General Operational Audit 2020-008

### Florida Statewide Guardian ad Litem Office

The Guardian ad Litem has a checklist for ensuring that all required materials are documented in an employee's personnel file.

### **Finding No. 18: Other Personal Service Time Sheets**

**Recommendation:** *The RC5 should enhance payroll procedures to ensure that recorded hours worked on OPS employee time sheets are correctly calculated and that time sheets are reviewed and approved by applicable supervisors.*

### **Follow-up Action Taken:**

#### Office of Criminal Conflict and Civil Regional Counsel, Fifth Region

OPS employees are now on BOMSWEB timesheets. The time and the pay are automatically calculated by BOMSWEB and verified by the Administrative Director.

### **Finding No. 19: PCard Charges for Due Process Expenditures by JROs**

**Recommendation:** *The JAC should establish procedures to obtain and review documentation supporting due process costs in accordance with state law, including those costs paid using PCards.*

### **Follow-up Action Taken:**

#### Justice Administrative Commission

JAC Accounting Staff have been fully trained to utilize PCard works, including the review of all supporting documentation prior to approving transactions, to verify the transactions are in accordance with state law.

### **Finding No 20: Contract Procurement**

**Recommendation:** *The GAL and PD4 should enhance policies and procedures to ensure the use of a documented competitive selection process for procuring contractual services.*

### **Follow-up Action Taken:**

#### Florida Statewide Guardian ad Litem Office

As a best practice, the Guardian ad Litem Program now ensures that contract files include documentation of procurement actions and decisions.

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### **Finding No. 21: Travel Expenditures**

**Recommendation:** *The RC3 should enhance controls over travel expenditure to ensure that travel reimbursement requests are accompanied by supporting receipts or, if a receipt is not available, traveler certification with detailed information about the reimbursement requested. Also, PD4 should ensure that all travel is reasonable, economical, and supported by documentation evidencing that the travel serves a public purpose related to PD4 duties.*

### **Follow-up Action Taken:**

#### Office of Criminal Conflict and Civil Regional Counsel, Third Region

RC3 has begun a greater scrutiny of travel requests by and through the implementation of the Travel Request Form being submitted prior to the travel taking place. Additionally, reimbursements without receipts are held for processing until the traveler remits the proper supporting documentation.

**Public Defender  
4th Judicial Circuit of Florida**



**Office of the Public Defender**  
**Fourth Judicial Circuit of Florida**  
Serving Duval, Clay & Nassau Counties

**Charlie Cofer**  
Public Defender

January 17, 2020

**Lewis H. Buzzell III**  
Chief Assistant

The Honorable Jason Fischer, Chair  
Joint Legislative Auditing Committee  
Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1400

RE: Six-Month Status Report in Response to Findings within Report No. 2020-008  
Operational Audit of the Office of the Public Defender, 4<sup>th</sup> Judicial Circuit

Dear Representative Fisher:

The following is a six-month status report responding to the findings contained in the operational audit conducted by the State of Florida Auditor General for the period of July, 2015 through December, 2016 (Report Number 2020-008, issued July, 2019). This response relates to the operation of the Office of the Public Defender for the Fourth Judicial Circuit of Florida (PD4) during the term of Public Defender Matt Shirk.

**Finding No. 1: Business Office Management System**

***Recommendation:*** *The JAC and the applicable judicial agencies should:*

- *Take appropriate steps to ensure that, upon implementation of the new State accounting system, duplication of accounting efforts is limited and BOMS maintenance expenses are reduced.*
- *Establish business continuity and disaster recovery plans.*

**Response:** Upon implementation of the new State accounting system, PD4 will follow any solution developed by JAC to reduce the duplication of accounting efforts and BOMS maintenance expenses.

PD4 already has an established Continuity of Operations (COOP) plan which is reviewed and updated annually. We presently do a tape back-up on a daily basis of our BOMS data. We are in the process of purchasing a dedicated server that will back-up our BOMS data on a long-term basis, and plan on housing it at an off-site location. The server will likely be located in the city of Jacksonville's dedicated data center. An alternative location will be the Nassau County Emergency Services Department.

**Follow-up Action Taken:**

PD4 has now purchased a dedicated server to back-up our BOMS data on a long-term basis. It is housed off-site at the City of Jacksonville's data center, which provides a significant layer of disaster protection.

**Finding No. 2: Internal Audit Function**

***Recommendation:*** We recommend that the Legislature consider whether the JAC and the other judicial agencies should employ, or otherwise provide for, an internal auditor with the qualification and duties prescribed in State law for State agency directors of auditing. We also recommend that the JAC consider requesting the necessary positions and funding from the Legislature to implement an internal audit function.

**Response:** PD4 would defer to the Legislature's decision in this matter. However, we note that providing a position and funding for an internal auditor in an agency the size of PD4 would probably not be cost-effective.

**Follow-up Action Taken:**

PD4 will defer to any decision of the Legislature regarding this issue.

**Finding No. 3: Policies and Procedures**

***Recommendation:*** The GAL, SA2, PD3, PD4, RC2, RC3, RC4, RC5, and CCRC-N should establish and implement comprehensive policies and procedures.

**Response:** As noted in the findings, PD4 has already adopted policies and procedures for conducting an annual physical inventory of tangible personal property.

**Follow-up Action Taken:**

PD4 has adopted policies and procedures regarding the annual physical inventory of tangible personal property, and will review those policies annually to ensure continued compliance with applicable rules and regulations.

**Finding No. 4: Anti-Fraud Policies and Procedures**

***Recommendation:*** The JAC and the other judicial agencies should enhance their anti-fraud policies and procedures to allow individuals to anonymously report policy violations and known or suspected fraud.

**Response:** PD4 has maintained a written policy against fraudulent, unethical and other dishonest acts since September, 2011 (see pdf copy). Each employee is required to read the policy and sign an acknowledgement that they understand the policy. This acknowledgement is placed into their personnel file.

As recommended, PD4 has now amended its 2019 Office Manual to provide additional information to employees on how they can anonymously report known or suspected fraud through the State Inspector General's Office hotline.



**Follow-up Action Taken:**

Since the time of the preliminary audit, PD4 has amended its Office Manual to provide information to employees on how they can anonymously report known or suspected fraud through the State's Inspector General's Office hotline.

**Finding No. 8: Annual Physical Tangible Personal Property Inventory and Records**

**Recommendation:** *Judicial agencies should ensure that complete physical inventories of TPP are timely conducted and all required physical inventory information is maintained in accordance with DFS rules.*

**Response:** The electronic inventory records of PD4 already include the condition of the tangible personal property (TPP) items at the date of inventory (see the pdf screenshot of our office's "green screen"). The downloaded spreadsheet provided from the database during the audit did not include the field which contained that information. This was our error.

**Follow-up Action Taken:**

The electronic inventory records of PD4 include the condition of the tangible personal property (TPP) items at the date of inventory.

**Finding No. 9: Tangible Personal Property Records**

**Recommendation:** *Judicial agencies should ensure that property records include, for each TPP item, the information required by DFS rules and that property items are assigned distinct property numbers.*

**Response:** PD4 agrees with the recommendation and will adjust our practices to comply.

**Follow-up Action Taken:**

PD4 has adjusted its practices to comply with DFS rules regarding tangible personal property items.

**Finding No. 10: Tangible Personal Property Disposals**

**Recommendation:** *The SA2, PD3, and RC5 should establish a review board to examine and make recommendations regarding surplus TPP. The JAC, PD4, and RC3 should enhance controls to ensure authorization for TPP disposals is properly obtained and documented in accordance with DFS rules and prescribed agency procedures.*

**Response:** Shortly after taking office in January, 2017, I was alerted by office administrative staff that accepted procedures for the surplus of tangible personal property had not been followed during the last days of the prior administration. This related to the surplus/donation of nine firearms and a number of computers. It is my understanding that the former Public Defender did not consult with administrative staff on the surplus of the firearms, and over-ruled staff concerns regarding the surplus of the computers. After reviewing the matter, it was my determination that the firearms and computers had residual value to the office, and that it was inappropriate to surplus any of them.

The firearms had been donated to a private group that was not a charitable organization. A member of that group had resigned from the office shortly before the change in administrations. After negotiations with the former employee, the firearms were recovered and returned to the office inventory.

The computers had been donated to a charitable organization. That organization readily agreed to their return when contacted and the situation was explained to them. When the computers were returned, they did not contain hard drives. It is the belief of the present administration that the hard-drives had been removed from the computers prior to their donation to the charity. It is believed that the removal of the hard drives was part of a concerted effort by the prior administration to delete e-mails and other documents in violation of public records laws.

In response to the recommendation, PD4 has adopted a written inventory procedure that follows the surplus and disposal guidelines which are set forth in Chapter 273, Florida Statutes, and Chapter 69I-72, Florida Administrative Code (copy attached to pdf copy). However, it is difficult to successfully enhance controls to ensure the proper approval of TPP disposals if the head of the agency directs subordinates to violate those controls.

The present administration is committed to following the written procedures to ensure that TPP disposals are properly approved and documented in accordance with the written procedures.

**Follow-up Action Taken:**

The elected Public Defender for PD4 is committed to following the rules and written procedures for the disposal of tangible personal property set forth by DFS and the office to ensure that all disposals are properly approved and documented.

**Finding No. 12: Motor Vehicle Records**

***Recommendation:** The PD3 and PD4 should ensure, for all motor vehicles, that vehicle usage records include sufficient details, including the purpose and departure and arrival times for each use. In addition, the PD3 should ensure that fuel costs are supported by appropriate documentation.*

**Response:** PD4 agrees with the recommendation.

PD4 has already modified its vehicle log to provide the reason for the vehicle's use and the times of departure and arrival. All vehicles owned by PD4 now have such logs (see pdf copy of sample log).

Under the previous administration, office vehicles were assigned to both the elected Public Defender and the Chief Assistant Public Defender on a full-time basis. I discontinued that practice upon taking office in January, 2017. Office vehicles are used by me and my Chief Assistant only for travel which is directly related to operation of the office.

**Follow-up Action Taken:**

PD4 has modified its vehicle log to provide the reason for the vehicle's use and the times of departure and arrival. All vehicles owned by PD4 now have such logs, and they are regularly reviewed by the Chief Investigator for the office. Office vehicles are no longer permanently assigned to the elected Public Defender or his Chief Assistant.

### **Finding No. 13: Position Descriptions**

**Recommendation:** *The judicial agencies should develop position descriptions for all positions included in their classification and pay plans. Each position description should describe, at a minimum, the responsibilities to be performed and educational and work experience required.*

**Response:** PD4 agrees with the recommendations. PD4 adopted a comprehensive Office Manual in early 2019. That manual has been updated to set forth the minimum requirements of Assistant Public Defenders (APD) and Certified Legal Interns (CLI). Since Assistant Public Defenders practice law, they must be admitted to the Florida Bar. The pertinent portion of the PD4 Office Manual now states:

**Applicants for legal positions should submit a resume with references, a writing sample and a law school grade transcript. If a member of the Florida Bar, a certificate of good standing should be provided. Assistant Public Defenders must be members of the Florida Bar. Certified Legal Interns (CLI) must meet all of the requirements of Rule 11 of the Rules Regulating the Florida Bar.**

**Compensatory time and administrative leave must serve a public purpose related to the duties of the Public Defender.**

#### **Follow-up Action Taken:**

PD4 adopted a comprehensive Office Manual in early 2019. That manual was updated to set forth the minimum requirements of Assistant Public Defenders (APD) and Certified Legal Interns (CLI). Since Assistant Public Defenders practice law, they must be admitted to the Florida Bar, and CLI's must be qualify to practice under Rule 11 of the Rules Regulating the Florida Bar which have been approved by the Florida Supreme Court.

### **Finding No. 15: Compensatory Time and Administrative Leave**

**Recommendation:** *PD4 policies and procedures should be enhanced to specify that personnel are not permitted to earn compensatory time or be paid for administrative leave for volunteer activities that do not primarily serve a public purpose related to the duties of a public defender prescribed by State law.*

**Response:** PD4 agrees with the recommendation. After taking office in January, 2019, I severed all connections between PD4 and the nonprofit organization (Vision for Excellence, Inc.) which had been incorporated by my predecessor. I also notified the Division of Corporation that the nonprofit organization was no longer associated with the office. During my tenure, no compensatory or administrative leave has been granted to any employees related to that nonprofit.

The 2019 Office Manual provides examples of situations in which employees are permitted to earn compensatory time or utilize administrative leave. As a result of the recommendation, the Office Manual has been updated with the following language:

**Compensatory time and administrative leave must serve a public purpose related to the duties of the Public Defender.**

**Follow-up Action Taken:**

PD4 updated its Office Manual to make it clear that all compensatory time or administrative leave must serve a public purpose related to the duties of the Public Defender. This is monitored on an ongoing basis.

**Finding No. 16: Salary Increase Justifications**

**Recommendation:** *The PD4 should ensure that all salary increases are supported by a documented performance evaluation, or other written justification, maintained in the applicable employee personnel file.*

**Response:** PD4 agrees with the recommendation.

We wish to clarify that we did not provide performance evaluations for the 14 employees who received the salary increases after my predecessor's primary defeat, since no such records exist. Had such records existed, they would have been provided.

I have adopted the practice of conducting annual employee evaluations, and those evaluations are maintained in the applicable employee personnel file.

Our general practice is to set forth the justification for any salary increase on the Personnel Action Report (PAR) when the increase is approved by me. We will continue to place a copy of each PAR into the employee's personnel file.

**Follow-up Action Taken:**

PD4 now conducts annual employee evaluations which are maintained in the employee's personnel file. Justification of salary increases are noted on the Personnel Action Report (PAR) when approved by the elected Public Defender.

**Finding No. 17: Unpaid Debts to the State**

**Recommendation:** *The PD4 should continue efforts to seek reimbursement from the former PD4 Public Defender and take other appropriate actions, including submittal of the required reports, in accordance with State law.*

**Response:** PD4 agrees with the recommendation and will submit the required reports to the President of the Senate, the Speaker of the House of Representatives, and Chief Financial Officer as required by Section 17.20(4), Florida Statutes on or before October 1st.

In my view, the failure of the former Public Defender to reimburse the office for his unpaid debts is a violation of the Rules Regulating the Florida Bar. I have drafted a complaint to the Florida Bar concerning these and other matters, and intend to submit it to the Bar upon receipt of the final audit report. In my view, referral of this matter to the Florida Bar is the most likely means to obtain payment of these debts to the State.

**Follow-up Action Taken:**

The former Public Defender has repaid his debt to PD4 for that portion of his personal use of an office vehicle that was requested. PD4 has filed a Complaint with the Florida Bar regarding the former Public Defender's failure to reimburse the office for his retirement contribution and a motor vehicle accident. That Complaint is still pending.

## **Finding No. 20: Contract Procurement**

**Recommendation:** *The GAL and PD4 should enhance policies and procedures to ensure the use of a documented competitive selection process for procuring contractual services.*

**Response:** PD4 agrees with the recommendation.

During the election campaign, I became aware that the office had contracted with a software provider for a new office case management system. After the primary, I met with my predecessor in his office. He advised me that the contract called for a fee for the development and implementation of the case management system, and that the provider would be charging a fee of \$1.00/case for data storage.

When I took office, I was advised by the office Administrative Director that the former Public Defender had entered into the contract without consulting with her. I reviewed the “contract” (which was essentially a signed proposal devoid of standard contract provisions), and learned that the data storage fee was actually \$2.25/case. Based upon the number of cases handled annually by the office, I made the determination that the case-management system was cost-prohibitive, and that the “contract” did not contain acceptable protections for the office. The existing system has functioned adequately, and is cost-effective since it was developed in-house. I contacted the provider, and they agreed to a termination of the agreement without further cost to the office.

The present administration of PD4 is committed to procuring services through the use of a competitive selection process, whether it be through the use of a formal bid process where required, or by simply obtaining multiple quotes to obtain the best possible price during the regular procurement process. The Administrative Director (a Florida Certified Contract Manager) provides oversight of our procurement services to ensure that the procurement procedures of the Department of Management Services are followed.

### **Follow-up Action Taken:**

PD4 is committed to procuring services through the use of a competitive selection process, whether it be through the use of a formal bid process where required, or by simply obtaining multiple quotes to obtain the best possible price during the regular procurement process. The Administrative Director (a Florida Certified Contract Manager) provides oversight of our procurement services to ensure that the procurement procedures of the Department of Management Services are followed.

## **Finding No. 21: Travel Expenditures**

**Recommendation:** *PD4 should ensure that all travel is reasonable, economical, and supported by documentation evidencing that the travel serves a public purpose related to PD4 duties.*

**Response:** PD4 agrees with the recommendation.

PD4 also agrees that none of the post-primary election travel by the former Public Defender was reasonable or economical. The former Public Defender was not actively involved in the handling of DUI cases while at the office, and did not utilize the training received at the San Diego conference to train any of his assistants.

As also noted in the findings, PD4 does not engage in the practice of immigration law. Therefore, his attendance at the immigration law seminar in New York weeks just prior to leaving office was neither reasonable nor economical. The room-rate charged for his stay at the seminar far exceeded the accepted rate set for State travel. A significant portion of the former Public Defender's legal practice since leaving office focuses on immigration matters – therefore, it appears that State funds were used to prepare him for private practice.

PD4 agrees with the recommendation that all travel must be reasonable, economical and supported by documentation evidencing that it serves a public purpose related to PD4 duties. Authorization for out-of-state training has been limited to instances in which the training is essential and there is no comparable training in-state. Additionally, we regularly require that attorneys who have attended out-of-state training to provide in-house training to other attorneys upon their return.

**Follow-up Action Taken:**

The elected Public Defender for PD4 reviews all requests for travel to ensure that each is reasonable, economical, and supported by documentation evidencing that it serves a public purpose related to PD4 duties. Authorization for out-of-state training has been limited to instances in which the training is essential and there is no comparable training in-state. Additionally, PD4 regularly requires attorneys who have attended out-of-state training to provide in-house training to other attorneys upon their return.

Respectfully submitted,



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January 31, 2020

The Honorable Jason Fischer, Chair  
Joint Legislative Auditing Committee  
Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1400

Re: Six Month Status Report in Response to Findings within Report No. 2020-008, Operational Audit of the Capital Collateral Regional Counsel Northern Region

Dear Chair Fischer:

**Finding No. 1: Business Office Management System**

**Recommendation:** *The JAC and the applicable judicial agencies should:*

- *Take appropriate steps to ensure that, upon implementation of the State accounting system, duplication of accounting efforts is limited and BOMS maintenance expenses are reduced.*
- *Establish business continuity and disaster recovery plans.*

**Response:** CCRC-N recognizes the recommendation made regarding BOMS. Since the product did not meet CCRC-N's agency needs, our office exercised our right to terminate the BOMS maintenance agreement with Computer Information and Planning Inc. (CIP) on January 12, 2017. CCRC-N no longer has BOMS (CIP). At this time, the electronic accounting system used by CCRC-N allows business continuity taking into consideration disaster recovery.

**Follow-up Action Taken:**

No further follow-up needed.



## **Finding No. 2: Internal Audit Function**

**Recommendation:** *We recommend that the Legislature consider whether the JAC and the other judicial agencies should employ, or otherwise provide for, an internal auditor with the qualification and duties prescribed in State law for State agency directors of auditing. We also recommend that the JAC consider requesting the necessary positions and funding from the Legislature to implement an internal audit function.*

**Response:** CCRC-N will work with the Justice Administrative Commission (JAC) and will defer to the Legislature on this issue as it deals with both funding and policy which is within the Legislature's purview.

### **Follow-up Action Taken:**

CCRC-N defers to the 2020 Legislative session on this issue.

## **Finding No. 3: Policies and Procedures**

**Recommendation:** *The GAL, SA2, PD3, PD4, RC2, RC3, RC4, RC5, and CCRC-N should establish and implement comprehensive policies and procedures.*

**Response:** CCRC-N concurs with the recommendation and has taken and continues to take the necessary steps to ensure there are comprehensive written policies and procedures within the agency addressing travel and personnel issues, procurement, property control, and payroll processing.

### **Follow-up Action Taken:**

CCRC-N continues to strive to maintain this continuously on-going process.

## **Finding No. 4: Anti-Fraud Policies and Procedures**

**Recommendation:** *The JAC and the other judicial agencies should enhance their anti-fraud policies and procedures to allow individuals to anonymously report policy violations and known or suspected fraud.*

**Response:** CCRC-N concurs with the recommendation and its policies and procedures will be amended to allow individuals to anonymously report policy violations and known or suspected fraud.

### **Follow-up Action Taken:**

CCRC-N has taken steps to allow individuals to anonymously report policy violations and known or suspected fraud.

**Finding No. 6: Separation of Duties**

**Recommendation:** *The PD3, RC2, SA2, and CCRC-N should provide for an adequate separation of duties to the extent possible with existing personnel or implement compensating controls.*

**Response:** CCRC-N concurs with the recommendation made regarding Separation of Duties. However, during the audit period, due to the limited number of CCRC-N employees, the Office Staff Assistant and the Agency Head independently did walk-throughs of the agency to view property items, and both were aware of the physical inventory. The Agency Head did sign and date each annual inventory list submitted to JAC at fiscal year-end. CCRC-N continues to strive to ensure compatible Separation of Duties.

**Follow-up Action Taken:**

CCRC-N has implemented further Separation of Duties since the audit period.

**Finding No. 7: Reporting Requirements**

**Recommendation:** *The JAC and CCRC-N should enhance procedures to ensure that the specified reports are timely provided to the appropriate officials as required by State law.*

**Response:** CCRC-N is subsequently in compliance with Section 27.702 (4)(b), Florida Statutes, and is now providing quarterly reports to both the President of the Senate and the Speaker of the House.

**Follow-up Action Taken:**

No further follow-up needed.

**Finding No. 8: Annual Physical Tangible Personal Property Inventory and Records**

**Recommendation:** *Judicial agencies should ensure that complete physical inventories of TPP are timely conducted and all required physical inventory information is maintained in accordance with DFS rules.*

**Response:** CCRC-N concurs with the recommendation and strives to ensure the annual physical tangible personal property inventory is timely conducted and that all required physical inventory information is maintained in accordance with DFS rules.

**Follow-up Action Taken:**

CCRC-N continues to strive to maintain this continuously on-going process.

**Finding No. 9: Tangible Personal Property Records**

**Recommendation:** *Judicial agencies should ensure that property records include, for each TPP item, the information required by DFS rules and that property items are assigned distinct property numbers.*

**Response:** CCRC-N concurs with the recommendation and strives to ensure that property records include, for each inventoried item, the information required by DFS rules and that property items are assigned distinct property numbers as applicable.

**Follow-up Action Taken:**

CCRC-N continues to strive to maintain this continuously on-going process.

**Finding No. 14: Verification of New Employees' Education and Work Experience**

**Recommendation:** *The judicial agencies should establish procedures for verifying and documenting in the personnel records that, prior to hire, applicants meet the minimum experience and education requirements of the applicable positions.*

**Response:** CCRC-N concurs with the recommendation and strives to ensure that procedures are amended to verify and document, prior to hiring, that potential employees meet the experience and education requirements of the position in the personnel records.

**Follow-up Action Taken:**

CCRC-N has updated its procedures to ensure that Bar admission, education, references, and employment verifications are documented where appropriate.

Sincerely,



Robert S. Friedman  
Capital Collateral Regional Counsel – North

RSF/jph