

Audit Report

**Office of the Register of Wills
Montgomery County, Maryland**

October 2009



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

-
- This report and any related follow-up correspondence are available to the public through the Office of Legislative Audits at 301 West Preston Street, Room 1202, Baltimore, Maryland 21201. The Office may be contacted by telephone at 410-946-5900, 301-970-5900, or 1-877-486-9964.
 - Electronic copies of our audit reports can be viewed or downloaded from our website at <http://www.ola.state.md.us>.
 - Alternate formats may be requested through the Maryland Relay Service at 1-800-735-2258.
 - The Department of Legislative Services – Office of the Executive Director, 90 State Circle, Annapolis, Maryland 21401 can also assist you in obtaining copies of our reports and related correspondence. The Department may be contacted by telephone at 410-946-5400 or 301-970-5400.
-



Karl S. Aro
Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Bruce A. Myers, CPA
Legislative Auditor

October 20, 2009

Delegate Steven J. DeBoy Sr., Co-Chair, Joint Audit Committee
Senator Verna L. Jones, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have audited the Office of the Register of Wills for Montgomery County, Maryland for the period beginning April 11, 2006 and ending April 16, 2009. The Office oversees the administration of decedents' estates within Montgomery County and assists individuals who administer estates.

Our audit disclosed that the Office paid a fitness instructor to provide training to the Office's employees. We question the use of public funds for this purpose since such services are not routinely budgeted nor procured by State government agencies. Furthermore, this procurement was not competitively bid, a contract was not executed, and approval was not obtained from the Comptroller of Maryland, as required.

The Office's response to this audit is included in Appendix A to this report. Auditor comments related to the Office's response can be found in Appendix B. We wish to acknowledge the cooperation extended to us by the Office during the course of this audit.

Respectfully submitted,

Bruce A. Myers, CPA
Legislative Auditor

Background Information

Agency Responsibilities

The Office of the Register of Wills is a public office established under the Constitution of Maryland. An office is established in each of the 24 Maryland subdivisions. These offices oversee the administration of decedents' estates within their jurisdictions and provide assistance (such as providing the proper forms) to individuals administering estates. The offices collect inheritance taxes and other fees as provided by law. These fees, as well as the commissions earned by an office on inheritance tax collections, are generally used to finance that office's operating expenses. Inheritance tax collections (less the applicable commissions) and any fees and commissions in excess of operating expenses are remitted to the State's General Fund. On a collective basis, the offices' fees and commissions that exceed their operating expenses are retained by the General Fund. In the event that an individual office's fees and commissions are not sufficient to finance its operating expenses, the difference is paid from the General Fund.

Financial Information

According to the Office's records, the Office's fiscal year 2009 gross receipts totaled \$20,669,979. These receipts were distributed in the following manner:

- \$14,165,006 in inheritance tax collections was remitted to the General Fund;
- \$6,504,973 in fees and commissions was disbursed for operating expenses and refunds, or remitted to the General Fund.

The Office's fiscal year 2009 operating expenses totaled \$2,845,908.

Findings and Recommendations

Procurement

Finding 1

The Office paid \$35,500 to a fitness instructor to provide training for the Office's employees. We question the use of public funds for this purpose.

Analysis

The Office paid \$35,500 during the audit period to a fitness instructor to provide training for the Office's employees, after normal business hours. We question the use of public funds for this purpose since such services are not routinely budgeted nor procured by State government agencies. Additionally, this procurement was not competitively bid, a contract was not executed, and the purchase was not submitted to the Comptroller of Maryland for approval, as required by State Procurement Regulations and the *Procurement Procedures for Registers of Wills* issued by the Office of the Comptroller. We were advised by Office management that, despite the requirement that all procurements exceeding \$2,500 receive approval from the Comptroller, the procurement for this service was not submitted to the Comptroller for review and approval because the payments were individually less than \$2,500 (generally \$1,000 per month). However, the value of the services under this arrangement dictate whether approval is needed, not the individual payment amounts.

Recommendation 1

We recommend that the Office disclose the aforementioned payments to the Comptroller and discontinue any future payments for this purpose.

Audit Scope, Objectives, and Methodology

We have audited the Office of the Register of Wills for Montgomery County, Maryland for the period beginning April 11, 2006 and ending April 16, 2009. The audit was conducted 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.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine the Office's financial transactions, records and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations. The areas addressed by the audit included cash receipts, cash disbursements, bank accounts, and administration of estates.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of the Office's operations. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives. Data provided in this report for background or informational purposes were deemed reasonable, but were not independently verified.

The Office's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

Our audit did not disclosed any conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect the Office's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. This report includes a finding regarding a significant instance of noncompliance with applicable laws, rules, or regulations.

The Office's response to our finding and recommendation is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise the Office regarding the results of our review of its response.

APPENDIX A



STATE OF MARYLAND REGISTER OF WILLS FOR MONTGOMERY COUNTY, MARYLAND

JOSEPH M GRIFFIN
REGISTER OF WILLS
www.registers.state.md.us

ROOM 322
50 MARYLAND AVENUE
ROCKVILLE, MARYLAND 20850-2397

TELEPHONE
(240) 777-9600
FAX (240) 777-9602

October 13, 2009

Mr. Bruce A. Myers, Legislative Auditor
Department of Legislative Services
Office of Legislative Audits
Maryland General Assembly
301 West Preston St., Rm. 1202
Baltimore, Maryland 21201

Re: Findings and Recommendations of Legislative Audit

Dear Mr. Myers:

I would like to take this opportunity to provide a written response to your Findings and Recommendations of our recent Legislative Audit.

First, I would like to clarify the figures listed in the background information, specifically the Financial Information received from the Department of Legislative Services. The total gross receipts for this office covering a three year period; fiscal years 2007, 2008 & 2009 were \$51,926,629.93. The amount listed in your report was \$20,669,979.07 and was only from the most recent year. The questioned expense in the amount of \$36,000.00 was a cumulative figure for the entire three year audit period with a breakdown of \$12,000 per year. The total office expenses which include the expense in question for the three year fiscal period was \$1,213,585.07 this represents only .02% of the offices total gross receipts. The total amount of the expense in question is .0007% of the offices total gross receipts.

Under the Findings and Recommendations report submitted in the area of Procurement, you have outlined that this office paid a fitness instructor to provide training for the office employees and you have stated that such services are not routinely budgeted nor procured by State government agencies. You further stated that this procurement was not competitively bid, a contract was not executed and the purchase was not submitted to the Comptroller of Maryland for approval as required by State Procurement Regulations.

As stated in our previous response to your Discussion Notes, we would like to point out the following regarding the use of public funds. Health and exercise classes for State employees are actually encouraged through Club Maryland, a program started by the State of Maryland as a wellness initiative. Under Club Maryland, state agencies could receive worksite wellness grants for equipment and health exercise classes as well as provide discounts at health and fitness centers throughout Maryland. The information for Club Maryland was provided by the Department of Budget and Management for the State of Maryland and was located in their brochure for State employee benefits.

Letter to Mr. Bruce Myers
October 13, 2009
Page 2

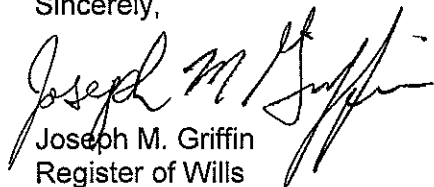
This expense was competitively bid, based on telephone bids in compliance with the Procurement Procedures for Register of Wills issued by the Office of the Comptroller as understood by this office. Further in compliance with State of Maryland's Records Retention Schedule, the records recording the telephone bids as required were kept for a period of three years and the audit requirements having been met by the completion of the previous audit were destroyed. I would point out that the expense that is now in question was not questioned during the previous audit.

After first contacting the Department of Budget and Management to inquire about starting an exercise program for my employees and being assured that I could, an agreement was entered into with the trainer on a month to month basis allowing for participation to rule the necessity of renewal. Procurement procedures for Register of Wills state that each Register of Wills has been granted the authority to procure goods and services without approval from the Comptroller's Office if the total purchase amount is \$2,500 or less. As per conversations with the Comptroller's Office and the Senior Legislative Auditor, it is apparent that there was a misunderstanding as to the need for approval by the Comptroller for expenses under \$2,500.00 that may accumulate over a year period beyond this amount. I emphasize may accumulate since the cost was based on a monthly amount that was or was not renewable on a monthly basis.

I would also like the opportunity to address the Financial Information that was sent to us by email from Heather Warriner, Senior Auditor as it was not included in the Discussion Notes and subsequently not addressed. The financial information you reported is in error in the amount of \$187,446.00. The \$6,504,973.00 amount in fees and commissions disbursed for operating expenses and refunds or remitted to the general fund included office expenses in the amount of \$187,445.63 paid from the checking account. The Office's fiscal year 2009 operating expenses totaling \$2,845,908.00 also included this amount paid from the checkbook resulting in a duplication of this figure. This error was previously pointed out to the auditors, however; it was not changed for the official report.

Since the completion of the Legislative Audit I have discussed the procurement policies with the Comptroller's Office and this office is in full compliance with any requirements regarding procurement procedures. I trust that my response has fully addressed any of the findings from the Legislative Audit.

Sincerely,



Joseph M. Griffin
Register of Wills

Enclosure

Cc: Delegate Steven J. DeBoy Sr., Co-Chair, Joint Audit Committee
Senator Verna L. Jones, Co-Chair, Joint Audit Committee

APPENDIX B

Auditor's Comments on the Office's Response

The Office disagreed with certain information in its response (Appendix A) to the audit report. We continue to believe that the information in the report is valid. Auditor's comments are presented below about the Office's responses to certain information in this report.

Financial Information: The Office's response states that the financial information included in this report is incorrect because office expenses totaling \$187,446 were included in both the "fees and commissions disbursed for operating expenses," and in the Office's "operating expenses." While the office expenses are, in fact, included in both amounts, this presentation is correct. Specifically, the first presentation (fees and commissions disbursed for operating expenses) discloses how the Office's fees and commissions collections were used, in part, to fund the Office's operating expenses. The second presentation is strictly that of the Office's fiscal year 2009 operating expenses; therefore, the inclusion of the Office's expenses is also appropriate.

Finding 1: In response to our comment, which questions the use of public funds for fitness classes for employees, the Office asserted that health and exercise classes for State employees are encouraged through Club Maryland. However, according to management personnel from the State's Department of Budget and Management, Club Maryland has not been a funded program since fiscal year 2005.

AUDIT TEAM

Joshua S. Adler, CPA, CFE
Audit Manager

Heather A. Warriner
Senior Auditor

Matthew D. Straw
Staff Auditor