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Probation Services Fund Audit

(Fund 270)

Background

705 ILCS 105/27.3a Fees for automated record keeping, probation and court services operations, and State and Conservation Police operations.

In summary, the statute allows for the Circuit Clerk to charge and collect a court automation fee. By administrative order from the chief judge of the circuit or the presiding judge of the county, the circuit clerk imposing a court automation fee shall also charge and collect an additional \$10 operations fee for probation and court services department programs. This additional fee is paid by the defendant in any felony, traffic, misdemeanor, local ordinance, or conservation case upon a judgment of guilty or grant of supervision, except such fee shall not be charged and collected in cases governed by Supreme Court Rule 529 in which the bail amount is \$120 or less. Such monies collected shall be disbursed from the fund only at the direction of the Chief Judge of the circuit or another judge designated by the Chief Circuit Judge in accordance with the policies and guidelines approved by the Supreme Court.

730 ILCS 110/15.1

In summary, monies spent from the probation and court services fund:

- Shall be appropriated by the county board.
- Shall not be used for the payment of salaries of probation and courts services personnel, except in any State fiscal year that the appropriation for reimbursement (Probation Salary Reimbursement sub dept 37080) is less than the amount appropriated to the Supreme Court for State Fiscal Year 2002, adjusted

3% per year, and continued when the State reimbursement to counties is regularly delayed more than 4 months.

- Shall be used to supplement, not supplant, county appropriations for probation and court services.

Below is a summary of total revenue and significant expenses (actuals for fiscal years 2010 through 2014 and amended budget for fiscal year 2015):

	<u>FY10</u>	<u>FY11</u>	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>	<u>FY15 Amended Budget</u>
Total Revenue	724,756	894,214	1,046,073	1,149,885	1,095,972	1,179,555
Expenses						
Personnel Services - Salaries & Wages	-	-	1,417	-	-	-
Contractual Services						
Contractual/Consulting Services*	159,051	128,171	246,680	179,603	9,534	50,000
Legal Services	-	-	-	53,647	14,115	25,000
Psychological/Psychiatric Srvs	10,373	111,702	146,550	198,985	231,312	200,000
Software Licensing Cost**	500	-	1,910	91,375	192,992	347,500
Polygraph Testing	13,900	13,050	18,250	16,750	12,550	15,000
Juvenile Board and Care	-	-	306,549	393,822	377,076	400,000
Security Services	59,589	55,356	55,139	56,523	62,594	55,000
Repairs and Maint- Buildings	-	-	6,168	-	60,429	-
Conferences and Meetings	1,971	7,876	8,963	12,233	732	12,000
Employee Training	424	24,231	9,068	8,167	28,570	10,000
Other Contractual*	228,406	257,998	203,924	106,866	32,057	39,755
Total Contractual Services	474,214	598,384	1,003,201	1,117,971	1,021,961	1,154,255
Commodities	10,847	39,802	62,508	27,328	3,019	25,300
Capital	28,932	29,566	29,810	12,949	18,100	-
Transfer to other funds	433,669	-	201,809	229,440	94,357	-
Total Expenses	947,662	667,752	1,298,745	1,387,688	1,137,437	1,179,555
Net Rev/(Expenses)	(222,906)	226,462	(252,672)	(237,803)	(41,465)	-

* Expenses previously coded to “Contractual/Consulting Services” and “Other Contractual” have been allocated out to more specific line items (e.g., Juvenile Board and Care).

** Capita Technologies is the new probation case management system. Cost of the project is being expensed to “Software Licensing Cost” and is the sole expense in this category for 2013 and 2014. \$207k has been spent June YTD with Capita in FY15.

Summary of Procedures Performed

The Probation Services Fund was tested in conjunction with the overall audit of Court Services.

- Document procedures, policies and controls.
- Obtain annual filing by Treasurer to the State for the Probation Services Fund for compliance with 730 ILCS 110/15.1.
- Perform fluctuation analysis of YTD April 2015 vs Amended Budget (prorated).
- Trace revenue from supporting documentation to actual receipt.
- Select sample of invoices and test for quotes/contracts, g/l coding, approval and supporting documentation.

Recommendations and Management Response

Recommendation 1 – Capita Technologies is a large contract at an original total price of \$817k, plus up to \$300k in potential enhancements, plus annual maintenance of \$55k. Capita software is a probation case management solution. The project is being paid for through the Probation Services Fund with \$491k being expensed thus far (through June 2015).

- The contract was authorized by the Chief Judge.
- A change order for \$207k of enhancements was not signed by either party.
- No purchase order was entered in NWS in order to track spending against contracted price.
- The project qualifies as capital, but has not yet been capitalized.

In the interest of transparency and best purchasing practices, recommend an RFP for purchases equal to or greater than \$30k be presented to the Board, change orders be signed, and a PO be entered into NWS. Further, Court Services and the Finance Department should work together in order to capture the costs as capital.

Management Response – The RFP was done though the Purchasing Department and the IT Department helped to score the vendor products which were submitted to the RFP as a result. Because the project is being paid through the use of probation fees, the Chief Judge was the signing authority on the contract as the County Board Chairman has no statutory authority to spend monies from the probation fee fund.

In order to maintain transparency, this project is and has been a standing agenda item, listed as “STATUS OF COURT SERVICES CMS,” and is discussed at every meeting of the Judicial and Public Safety Technology Commission which has had several county board members present as well as the County Board Chairman

himself in attendance. The minutes are found on the county's website and pulling from them the below is offered as a representation of our commitment to discussions about this project at county meetings:

June 27, 2013 – “Fahnestock provided an update on the Court Services RFP and contract noting that Aust from Court Services was handling the negotiations with the vendor and that he had been reviewing the technical requirements noting that data conversion is a big issue with regard to time and materials for that process. Fahnestock noted that the high and low budget estimates for that process are being discussed currently. It was noted that that would be incorporated into the contract.”

July 25, 2013 – “Aust updated the committee on the status of the Court Services RFP. It was noted that they are in the final stages of contract negotiations and that Fahnestock was able to save about \$100,000 in costs for data conversion.”

August 29, 2013 – “...That the contract with Capita had been reviewed by ITD Dir. Fahnestock and the Civil Division and forward to the Chief Judge for final review and signing.”

Etc.

Agreed that we will request that the Finance Department capture the software costs and computer equipment costs as capital.

Recommendation 2 – Noted spend of \$55,770 with Interiors for Business for coatings, floor prep and installation in FY 2014, and no quotes/RFP and/or contracts could be located at the time of the audit.

In the interest of transparency and best purchasing practices, recommend that Court Services follow the County's Purchasing Policy as follows:

- Procurement of materials, services, supplies, equipment, etc. that are less than \$5k may be awarded by Department Heads (without competitive quotes).
- Procurement of materials, services, supplies, equipment, etc. that are at least \$5k and less than \$30k may be awarded by Departments Heads where there has been a competitive price quotation process and at least three quotations obtained.
- Procurement of materials, services, supplies, equipment, etc. that equal or exceed \$30k shall be awarded after a competitive selection process that includes a Request for Proposal. Spend equal to or greater than \$30k should be presented to the Board.

However, it is understood that Court Services utilizes certain professional services based upon court order and/or professional qualifications. In these instances, quotes would not be obtained, but it would be in the best

interest of the County to have formal agreements with these vendors. Utilizing the County's Purchasing Department will insure proper documentation is in place, such as certificate of insurance, prevailing wage rate, contractor disclosure, etc.

Additionally, the Probation Services Fund annually covers approximately 30% of residential placement fees. Please see the Court Services audit report for recommendation to present the selected residential placement vendors and anticipated annual spend to the Board and to establish umbrella contracts for these vendors to expedite future placements.

Management Response – The expense related to Interiors for Business as noted above was for work done at the Juvenile Justice Center. Kane County is responsible for the maintenance of the physical building. In late 2013 the Kane County Purchasing Department issued an RFP for the grinding of paint off of the floors and walls as well as obtaining paint bids. Because the building is under the control of the county (and not the judicial branch), at no time did Court Services issue competing bids or RFP's against the county. All of the bids and RFPs issued should be on file with the Purchasing Department. From searching the Purchasing Department's web page, it was located "Bid 10-015 JJC Painting Project." We are unable to locate the other bids through the website, but have a bid response forwarded in late 2013 by Jim Hinkle from the Purchasing Department. All records should be kept on file by the department issuing the RFP's and bids, which is the Purchasing Department.

As for following the procedures as outlined above and in the county's financial procedures, Court Services does follow it when possible, however, there are many times when the needs of the court are such that services may be needed from a sole provider or from a professional expert and bidding for these professional services at the lowest performance and cost does not seem prudent, such as for a licensed psychologist to complete a court ordered evaluation. We have always tried to issue RFP's for services that are anticipated to cost over \$30,000. There have been times when contractual services have exceeded \$30,000 in cases where we did not expect them to. We are working on an internal financial policy to lower the threshold to \$20,000 for contracts needing an RFP within Court Services to try to get ahead of the impact of unanticipated contractual needs.

In cases where contracts of a substantial size are needing to be entered into, we do bring resolutions on them to the county board. However, because the Chief Judge retains authority over the spending of probation fees, the county board has no authority to grant the Chairman signing authority on them.

Court Services is under the control of the Chief Judge's office, which is an elected position, and so Court Services must abide by the rules of the presiding Chief Judge, which may be different than the county's strict limits on purchasing by Department heads, some of this was explained in a memo from the Court Administrator to the Deputy Auditor, dated July 14, 2015. We are working on revising and setting out internal financial policies to clarify the department's position under an elected official with respect to county policy and the needs of the Judiciary. Copies will be forthcoming to the Auditor's office once the policy has been finalized.

The Diagnostic Center Director previously submitted a written response on the issue of having placement contracts in place at the time of sentencing for juvenile offenders. A partial copy of her response is here below;

Although the least restrictive environment is always considered when determining the level of care for juveniles, there are situations where a juvenile cannot safely reside in a community setting nor can their treatment needs be adequately addressed in an outpatient setting. Juveniles that are considered for residential placement undergo a psychological evaluation to determine whether a mental health disorder exists, the severity of such disorder and the necessary level of care that must be provided in order to treat any mental illness, behavioral disorders that stem from mental health issues or sexually problematic behaviors. A recommendation from this psychological evaluation is made for residential placement, MST or community treatment. The Court then considers the opinion of the psychological evaluation and makes the final determination of what level of care is needed, whether that be residential placement, MST or community services. Thus, all juveniles that are placed in residential placement or MST are through court orders.

Because it is difficult to predict what type of juvenile offenders come into the criminal justice system, and of those offenders, how many will have mental health issues, it is challenging to predict what service providers will be required, for how long services would be used, and how the budget for juvenile custody would be subsequently allotted per provider. Although the residential placement costs have been fairly consistent throughout the past years with respect to *sum total*, court services is unable to plan for which residential placements will be utilized, for what purposes and what the length of stay would be. This can only be done retrospectively as these factors vary from case to case. Thus, the recommendation to submit resolutions for contracts greater than \$30K cannot be done in advance as this is neither accurately foreseeable and thus any resolution submitted would likely be speculative at best.

The Auditor's Office would like to thank Court Services, especially the Executive Director and Finance Manager, for their time and cooperation in the audit.



Terry Hunt – Kane County Auditor



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