



AUDITOR GENERAL

William O. Monroe, CPA



OFFICE OF THE PUBLIC GUARDIAN SECOND JUDICIAL CIRCUIT OPERATIONAL AUDIT

SUMMARY

The Statewide Public Guardianship Office¹ (SPGO) (administratively housed within the Department of Elder Affairs) oversees the care of incapacitated persons and the management of their assets when private guardians are unavailable. To facilitate this mission, Offices of the Public Guardian (OPGs) are established and funded by the State and local governments. Incapacitated individuals that meet specified asset and income limits and do not have a private guardian may become court-ordered wards of the OPGs.

Our audit of the Office of the Public Guardian, Second Judicial Circuit (OPG 2nd) included the period July 2000 through January 2002. Generally, the OPG 2nd had established policies and procedures to ensure prudent management of ward assets, and compliance with applicable guardianship laws. However, the terms and conditions of bank accounts containing cash belonging to wards should be analyzed and competitively renegotiated to provide interest earnings for the benefit of the wards. The average monthly balance of ward cash in non-interest bearing accounts during the audit period totaled in excess of \$170,000.

¹ Chapter 744, Part IX, Florida Statutes.

INTRODUCTION

Ward assets and income may only be used to pay expenses on behalf of the ward. The Office of the Public Guardian, Second Judicial Circuit (OPG 2nd) maintains records for each ward to account for the assets, income, expenses, and guardianship services provided. As of January 31, 2002, the OPG 2nd was responsible for the care of 107 wards and the management of the following ward assets:

Cash in Bank	\$ 241,626
Burial Contracts	53,659
Tangible and Real Property	150,242
Other Assets	14,862
Total	\$ 460,389

The OPG 2nd staff included the Public Guardian, three full-time case managers, one part-time case manager, an administrative assistant, and a fiscal assistant. For the period July 1, 2000, through January 31, 2002, the OPG 2nd expended:

Salaries and Benefits	\$ 434,668
Other Personal Services	27,917
Communication and Freight	11,773
Travel	17,410
Office Supplies	7,764
Building Rental	15,614
Other Expenditures	12,919
Total	\$ 528,065

*OFFICE OF THE PUBLIC GUARDIAN
SECOND JUDICIAL CIRCUIT*

FINDING AND RECOMMENDATIONS

Finding No. 1: The business checking accounts used to process ward financial activity did not provide interest earnings.

In managing ward assets, the OPG 2nd places non-cash assets in safekeeping and deposits cash and recurring income into bank accounts for payment of ward expenses. At January 31, 2002, the following four bank accounts existed:

Type	Function	Check Writing	Account Balance	Interest Earnings	Regular Activity
Business	Operations	Yes	\$53,701	No	Yes
Business	Operations	No	\$100,000	No	No
Money Market	Burial	Yes	\$92,078	Yes	Yes
Special Needs	Trust	No	\$3,663	No	No

Prior to 1997, bank fees were waived if sufficient earning credit existed based on the available cash balances maintained in the account. In April 1997, a former Public Guardian approved changes in the terms and conditions for the bank accounts, whereby maintaining compensating balances (as of March 22, 2002, \$3,000 minimum daily balance and \$5,000 average monthly balance) prevented assessment of bank fees.

While the average monthly cash balance of the two business checking accounts was \$170,693, the accounts did not earn any interest. Additionally, a trust account established for the special needs of one ward had a \$3,663 balance since July 1996, with no interest earned on the account. The burial account is a money market account that earned interest totaling \$2,751.69 (2.93%) during the audit period on an average cash balance of \$93,918.

As guardian of the wards' financial well being, the Public Guardian has a fiduciary responsibility to ensure ward assets are prudently managed, including maximizing interest earnings to the extent income and asset thresholds for public assistance are not compromised. Additional interest income, though generally small for each individual, could assist in payment of ward expenses including burial costs.

In response to our inquiry, the Public Guardian indicated that initial inquiries regarding the possibility of expanding banking services were made, but the bank was not receptive

to the request. Given the length of time since the bank accounts were initiated, the available cash balances, and the changes in financial markets, we recommend the OPG 2nd perform an analysis and competitively negotiate new banking arrangements (e.g., a different mix of accounts, temporary investing of idle cash, etc.). As part of the analysis the OPG 2nd should:

- ◆ Solicit through the SPGO, information related to the banking practices used by other OPGs.
- ◆ Obtain quotes from several different banking and financial institutions for the level of services and interest earnings potential most beneficial to the wards.

SCOPE, OBJECTIVES, AND METHODOLOGY

Section 744.708, Florida Statutes, requires each public guardian to obtain an independent audit at least every two years. The scope of the audit focused on Public Guardianship administered by the Office of the OPG 2nd. Our objectives were to evaluate performance in administering assigned responsibilities and determine the extent management controls promoted the achievement of management objectives related to compliance with controlling laws, rules, and other guidelines; efficient and effective operations; reliability of program records; and safeguarding of assets.

In conducting our audit, we interviewed personnel, observed processes and procedures, performed tests of transactions and records, and performed various other procedures/tests as determined necessary. Our audit included examinations of various transactions (as well as events and conditions) occurring during the period July 2000 through January 2002. To provide a more comprehensive review, we examined some OPG 2nd records prior to July 2000 that were applicable to our audit tests.

*OFFICE OF THE PUBLIC GUARDIAN
SECOND JUDICIAL CIRCUIT*

AUTHORITY

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.

William O. Monroe

William O. Monroe, CPA
Auditor General

AUDITEE RESPONSE

In a letter dated May 10, 2002, the Public Guardian, Second Judicial Circuit, stated that the audit finding is fully accepted and the recommendations will be implemented as soon as practicable. The complete response can be viewed on the Auditor General's Web site.



To promote accountability in government and improvement in government operations, the Auditor General makes operational audits of selected programs, activities, and functions of State agencies. This operational audit was made in accordance with applicable *Government Auditing Standards* issued by the Comptroller General of the United States. This audit was conducted by Gail Wright and supervised by Larry Noda. Please address inquiries regarding this report to Marcia Maheu, Audit Manager, via E-mail at marciamaheu@aud.state.fl.us or by telephone at (850) 487-9038

This report and audit reports prepared by the Auditor General can be obtained on our Web site (<http://www.state.fl.us/audgen>); by telephone (850 487-9024); or by mail (G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450).



Karen P. Campbell

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Please Reply to:

May 10, 2002

Mr. William O. Monroe, CPA
Auditor General
G74 Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Mr. Monroe:

This letter is submitted in response to the preliminary and tentative findings resulting from your audit of the Office of the Public Guardian, Second Judicial Circuit.

First, allow me to express my appreciation for the thoroughness and professionalism of your staff. In particular, I would like to commend the work of Marcia Maheu, Gail Wright, Larry Noda, and Richard Moreira.

The sole finding and recommendation of the audit team is that the Office of the Public Guardian, Second Judicial Circuit should engage in an analysis of banking options and services with the objective of obtaining interest earnings on wards' operational accounts. This finding is fully accepted and will be implemented as soon as practicable.

The financial arrangements for ward accounts were made at the Office of the Public Guardian's inception in 1986. As the audit report points out, interest is currently earned and allocated to individual wards for the burial account (money market account). These banking arrangements mirror those in place in the larger public guardianship programs in Florida. One public guardianship program earns interest on the operational account of wards and that program does not allocate accrued interest to individual wards, after the pattern of the Florida Bar's IOTA trust accounts. At least one other public guardianship program handles interest in the same manner as an attorney's escrow account.

Our office will compile a list of criteria for the banking services we deem necessary for operations and then we will survey leading financial institutions in the area

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Mr. Monroe

to determine which financial institution offers the best package of services and interest earnings' options for wards. I will make the results of the analysis available to your office upon completion.

Again, thank you for the diligent review and attention given this office. The audit process has assisted this office in pursuing greater efficiency and continued effective operations.

Sincerely,

A handwritten signature in cursive script that reads "Karen P. Campbell". The signature is written in black ink and is positioned above the printed name.

Karen P. Campbell

KPC/ak

cc: John Petril
Judy Goodman, DOEA