

**STATE OF FLORIDA
AUDITOR GENERAL**



*OPERATIONAL AUDIT
OF THE*

*OFFICE OF THE PUBLIC GUARDIAN
SECOND JUDICIAL CIRCUIT*

For the Period February 1, 1998, Through January 31, 1999

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CHARLES L. LESTER, CPA
AUDITOR GENERAL

STATE OF FLORIDA
AUDITOR GENERAL
TALLAHASSEE

July 8, 1999

The President of the Senate, the Speaker of the
House of Representatives, and the
Legislative Auditing Committee

Pursuant to the provisions of Section 11.45, Florida Statutes, and as part of the
Legislature's oversight responsibility for operations of State agencies, I have directed that an
operational audit be made of the

***OFFICE OF THE PUBLIC GUARDIAN,
SECOND JUDICIAL CIRCUIT,***

For the Period February 1, 1998, Through January 31, 1999.

The results of the audit of the Office of the Public Guardian are presented herewith.

Respectfully submitted,

A handwritten signature in cursive script that reads "Charles L. Lester".

Charles L. Lester
Auditor General

Audit supervised by:
Ben H. Cox

Audit made by:
Robert Fleischer

**OPERATIONAL AUDIT
OF THE
OFFICE OF THE PUBLIC GUARDIAN
SECOND JUDICIAL CIRCUIT
For the Period February 1, 1998, Through January 31, 1999**

Par.
No.

BACKGROUND

Authority

- (1) Pursuant to Chapter 86-120, Laws of Florida, the Legislature established the Public Guardianship Act, codified in Part IX of Chapter 744, Florida Statutes. The Legislature's stated intent in this Act was to establish the Office of the Public Guardian for the purpose of providing guardianship services for incapacitated persons when no private guardian is available. The purpose of the Act is to provide a public guardian only to those persons whose needs cannot be met through less drastic means of intervention.
- (2) Pursuant to Section 744.703(1), Florida Statutes, the Chief Judge of the judicial circuit may establish, within a county in the judicial circuit or within the judicial circuit, an Office of the Public Guardian. The Public Guardian is to be appointed by the Chief Judge of the judicial circuit for a term of four years, after which the appointment must be reviewed by the Chief Judge of the circuit, and the Public Guardian may be reappointed.
- (3) Effective October 1, 1999, Chapter 99-277, Laws of Florida, creates a Statewide Public Guardianship Office, within the Florida Department of Elderly Affairs, with oversight responsibilities for all of the public guardian offices in the State. This law also provides for a type two transfer, as defined by Section 20.06(2), Florida Statutes, of all powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds relating to the public guardianship program under Chapter 744, Florida Statutes, from the Circuit Courts of the State to the Department.

Organizational Structure

- (4) Hugh T. Handley has served as the Public Guardian for the Second Judicial Circuit since December 1986. An organizational chart of the Office of the Public Guardian, Second Judicial Circuit, is presented as Exhibit C.

- (5) The administrative operations of the Office of the Public Guardian, Second Judicial Circuit, were funded entirely from an allotment of General Revenue appropriations made to the Circuit Courts of the State. The allotment was determined by the Office of the State Courts Administrator based on funding requested by the Public Guardian through the Chief Judge of the Second Judicial Circuit. The Office of the State Courts Administrator maintains accounting records and other administrative records for the Office of the Public Guardian. The Public Guardian maintains records and files on the wards (persons receiving guardianship services) and their property.
- (6) A comparison of the funds allotted to the Office of the Public Guardian with actual expenditures and commitments for the 1997-98 fiscal year is presented as Exhibit A. The purpose of this budgetary comparison is to provide information useful to an understanding of the administrative operations of the Office of the Public Guardian. The Exhibit was prepared by us from Office records and was reviewed by the Office of the State Courts Administrator.
- (7) The objectives of this audit did not include the expression of an opinion on the comparison of budgeted with actual expenditures and commitments, which is presented on the basis specified in Chapter 216, Florida Statutes, and includes several elements and accounts relating to the Office's administrative operations. Therefore, an independent auditor's report on the budgetary comparison, as contemplated by *AU Section 263, Special Codification of Statements on Auditing Standards*, is not included herein.

Public Guardian Program

- (8) Sections 744.704 through 744.709, Florida Statutes, describe the powers, duties, and responsibilities of a Public Guardian. Pursuant to Section 744.704(2), Florida Statutes, the Public Guardian is vested with all the powers and duties of a guardian under Chapter 744, Florida Statutes, the Florida Guardianship Law.
- (9) A Public Guardian may serve as a guardian of a person adjudicated incapacitated under the provisions of Chapter 744, Florida Statutes, if the person: (1) has no family member or friend, other person, bank, or corporation willing and qualified to serve as guardian; and (2) meets the assets and income limit requirements set by Section 744.704(1)(b), Florida Statutes. Once the Public Guardian is appointed, the person becomes a ward of the Public Guardian and the ward's right to control his or her affairs may be removed as defined by the Court. Oversight of

actions taken and decisions made by the Public Guardian for the ward is the responsibility of the Circuit Court. Annually, the Public Guardian must report to the Court an accounting for the guardianship of each ward's person and property.

- (10) The Public Guardian receives and maintains funds on behalf of wards, and an account ledger is maintained to separately account for each ward's assets. The wards' assets are to be used to pay for the wards' care and to satisfy the wards' financial obligations. The Public Guardian is not responsible for satisfying outstanding obligations if the ward no longer has funds available. None of the wards' assets or income may be used to pay for the costs of administration of the Office of the Public Guardian. According to Office records, the number of wards and the amounts of wards' assets as of January 31, 1999, were as follows:

Number of Wards	Cash	Burial Contracts	Other Property	Total
113	\$ 281,585.51	\$ 60,937.78	\$ 160,422.70	\$ 502,945.99

- (11) The Public Guardian is responsible, subject to the oversight of the Circuit Court, for establishing an organizational structure and hiring personnel necessary to carry out the duties prescribed by law. For the 1997-98 fiscal year, the expenditures and other commitments of current allotments totaled \$284,102.40.

Year 2000 Compliance

- (12) The Office of the Public Guardian is responsible for assessing the effects of the Year 2000 compliance issue on its significant information technology systems and processes and taking appropriate remedial action. Generally, the Year 2000 compliance issue arises from concerns that information technology systems and processes will not be Year 2000 compliant at January 1, 2000. Year 2000 compliant information technology systems and processes are those that are capable of successfully processing year-date data beyond the year 1999. In May 1999, the Leon County Management Information System (MIS) Group performed an inventory and Year 2000 assessment of the Office's information technology resources, which include six personal computers. The Group concluded that because the Office of the Public Guardian was not connected to the Leon County MIS, remedial measures were not necessary for the Office as a user of the Leon County MIS. However, the Group did identify several Office personal

computers and software that were Year 2000 sensitive and would need to be replaced. The Public Guardian indicated that the Office's mission-critical computers and related software would be upgraded and/or replaced by July 1999.

- (13) Because of the unprecedented nature of the Year 2000 issue, its operational effects and the success of related remediation efforts will not be fully determinable until the Year 2000 and thereafter. Accordingly, we do not provide assurance with regard to the representations made by Office management relative to Year 2000 compliance status. Further, we do not provide assurance that the Office is or will be Year 2000 ready, that the Office's Year 2000 remediation efforts will be successful in whole or in part, or that parties with which the Office does business will be Year 2000 ready.

Related Audits

- (14) Our audit did not extend to an examination of the Office of Public Guardian's financial statements. On February 17, 1999, this Office issued audit report No. 13393, with accompanying general purpose financial statements of the State of Florida as of and for the fiscal year ended June 30, 1998. The Office of the Public Guardian is an integral part of the reporting entity of the State of Florida. The financial information relative to the Office of the Public Guardian was included by the State Comptroller in the general purpose financial statements that accompany that report. A similar audit of the general purpose financial statements of the State of Florida for the fiscal year ended June 30, 1999, will be the subject of a separate audit report.



CHARLES L. LESTER, CPA
AUDITOR GENERAL

STATE OF FLORIDA
AUDITOR GENERAL
TALLAHASSEE

July 6, 1999

REPORT ON COMPLIANCE AND INTERNAL CONTROL

- (15) Office of the Public Guardian, Second Judicial Circuit, management is responsible for administering its operating units, programs, activities, functions, and classes of transactions in accordance with governing provisions of laws, administrative rules, and other guidelines. Additionally, the proper administration of public funds requires that management establish and maintain a system of internal control to provide reasonable assurance that specific entity objectives will be achieved. The Auditor General, as part of the Legislature's oversight responsibility for operations of State agencies, makes operational audits to determine the extent to which management has fulfilled those responsibilities.
- (16) The scope of this audit focused primarily on the administration of guardianship services and related transactions. For each of these areas, our audit included examinations of various transactions (as well as events and conditions) during the period February 1, 1998, through January 31, 1999.
- (17) We conducted our audit in accordance with generally accepted auditing standards and applicable standards contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Our audit objectives for the operating units, programs, activities, functions, and classes of transactions within the scope of audit were:
- To evaluate the Office's performance in administering its assigned responsibilities in accordance with applicable laws, administrative rules, and other guidelines.
 - To determine the extent to which the Office's system of internal control, and selected relevant controls, promotes and encourages the achievement of management's objectives in the categories of compliance with applicable laws, administrative rules, and other guidelines; the economic and efficient operation of the Office; the reliability of financial records and reports; and the safeguarding of assets.

- (18) As a part of our audit, we examined, on a test basis, evidence supporting transactions (as well as events and conditions) which occurred; performed analytical procedures; reviewed management's administrative constructions of law; and performed such other procedures as we considered necessary in the circumstances. Our objective was to evaluate management's compliance with significant provisions of laws, administrative rules, and other guidelines governing those operating units, programs, activities, functions, and classes of transactions within the scope of audit. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.
- (19) The results of our tests of compliance indicated that, with respect to the items tested, the Office had generally complied with the significant provisions of laws, administrative rules, and other guidelines governing those operating units, programs, activities, functions, and classes of transactions within the scope of audit.
- (20) In planning and performing our audit, we considered the Office's internal control relevant to those operating units, programs, activities, functions, and classes of transactions within the scope of audit. Our purpose in considering internal control was to determine the nature, timing, and extent of substantive audit tests and procedures necessary to the accomplishment of our audit objectives, not to provide assurance on internal control.
- (21) Our consideration of internal control would not necessarily disclose all matters in the Office's internal control that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that operating deficiencies, material in relation to the financial records and resources of the operating units, programs, activities, functions, and classes of transactions being audited, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the system of internal control and its operation that we consider to be material weaknesses.

(22) This report is intended for the information of the Legislative Auditing Committee, members of the Florida Senate and the Florida House of Representatives, and applicable management. Copies of this report are available pursuant to Section 11.45(7), Florida Statutes, and its distribution is not limited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles L. Lester". The signature is written in a cursive, flowing style.

Charles L. Lester, CPA
Auditor General

EXHIBITS

The following Exhibits are attached to and form an integral part of this report:

- [EXHIBIT - A](#)** *Comparison of Budgeted With Actual Expenditures and Commitments - By State Fund Type.*
- [EXHIBIT - B](#)** *Notes to Comparison of Budgeted With Actual Expenditures and Commitments - By State Fund Type.*
- [EXHIBIT - C](#)** *Organizational Chart.*

EXHIBIT – A
OFFICE OF THE PUBLIC GUARDIAN
SECOND JUDICIAL CIRCUIT
COMPARISON OF BUDGETED WITH ACTUAL
EXPENDITURES AND COMMITMENTS – BY STATE FUND TYPE
For the Fiscal Year Ended June 30, 1998

Fund Type/ Appropriation Category	Final Operating Budget	Actual Expenditures of Current Allotments	Other Commitments of Allotted Resources	Total Expenditures and Other Commitments of Current Allotments	Variance - Favorable (Unfavorable)
GENERAL REVENUE FUND					
Current:					
Salaries and Benefits	\$ 245,513.00	\$ 244,097.59	\$ -	\$ 244,097.59	\$ 1,415.41
Expenses	38,301.00	36,190.82	199.99	36,390.81	1,910.19
Operating Capital Outlay	<u>3,699.00</u>	<u>3,614.00</u>	<u>-</u>	<u>3,614.00</u>	<u>85.00</u>
TOTAL GENERAL REVENUE FUND	<u>\$ 287,513.00</u>	<u>\$ 283,902.41</u>	<u>\$ 199.99</u>	<u>\$ 284,102.40</u>	<u>\$ 3,410.60</u>

The accompanying notes to this Exhibit describe in more detail the information included in this comparison.

EXHIBIT – B
OFFICE OF THE PUBLIC GUARDIAN
SECOND JUDICIAL CIRCUIT
NOTES TO COMPARISON OF BUDGETED WITH ACTUAL
EXPENDITURES AND COMMITMENTS – BY STATE FUND TYPE
For the Fiscal Year Ended June 30, 1998

- (1) The following procedures are used in adopting, amending, and reporting budgets and budgetary data:
- The budget for the Office of the Public Guardian, Second Judicial Circuit, is prepared and included in the budget request for the Circuit Courts of the State. The Office of the State Courts Administrator submits the request to the Legislature and a copy to the Executive Office of the Governor in the form and manner prescribed by Chapter 216, Florida Statutes.
 - From appropriations made for the Circuit Courts, the Office of the State Courts Administrator determines an allotment for each applicable appropriation category for the Office of the Public Guardian. Allotment information for the Office of the Public Guardian is integrated into the State Courts System’s accounting system.
 - Allotments are a budgetary guide used by the Public Guardian for planning and making expenditures during the fiscal year.
- (2) Because the budgetary basis of accounting for operating categories described in Chapter 216, Florida Statutes, requires recognition of amounts which are in addition to those used to recognize and report expenditures in accordance with generally accepted accounting principles, the expenditures and commitments presented on Exhibit A have been shown on a basis comparable to the budget. To present these data on a basis comparable to the budget, accrual basis expenditures paid from or charged to 1997-98 fiscal year allotments have been shown in the “Actual Expenditures of Current Allotments” column. Additionally, encumbrances at June 30, 1998, which were approved for certification forward to be paid in the 1998-99 fiscal year are shown in the “Other Commitments of Allotted Resources” column.

EXHIBIT - C
OFFICE OF THE PUBLIC GUARDIAN
SECOND JUDICIAL CIRCUIT
ORGANIZATIONAL CHART
As of January 31, 1999

