

**OFFICES OF THE
STATE AUDITOR OF MISSOURI
JEFFERSON CITY**

**OFFICE OF PUBLIC ADMINISTRATOR
CITY OF ST. LOUIS, MISSOURI
YEAR ENDED JUNE 30, 1988**

MARGARET KELLY, CPA



Report No. 89-121
December 20, 1989

OFFICE OF PUBLIC ADMINISTRATOR
CITY OF ST. LOUIS, MISSOURI

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STATE AUDITOR OF MISSOURI

JEFFERSON CITY, MISSOURI 65102

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Public Administrator
City of St. Louis, Missouri 63101

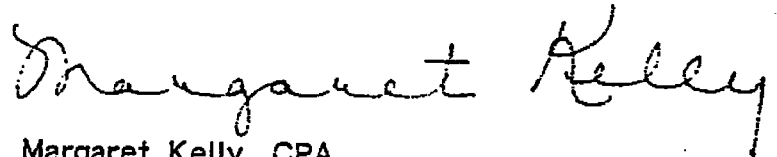
The State Auditor was petitioned under Section 29.230, RSMo 1986, to perform an audit of the city of St. Louis, Missouri. Accordingly, we have conducted a review of the Office of Public Administrator, city of St. Louis. Our review included, but was not necessarily limited to the city's fiscal year ended June 30, 1988. The purposes of our review were to:

1. Study and evaluate the Public Administrator's system of internal controls.
2. Perform a limited review of certain management practices to determine the efficiency and effectiveness of those practices.
3. Review probable compliance with certain constitutional provisions, statutes, administrative rules, attorney general's opinions, and city ordinances as we deemed necessary or appropriate.
4. Perform a limited review of the integrity and completeness of the Public Administrator's financial reporting system.
5. Perform procedures deemed necessary to evaluate petitioner concerns.

Our review was made in accordance with generally accepted government auditing standards and included such procedures as we considered necessary in the circumstances. In this regard, we reviewed the Public Administrator's financial records, expenditures, contractual agreements, and other pertinent procedures and documents; interviewed personnel of the Office of Public Administrator; and compiled the information in the appendices from the records and reports of the Public Administrator. The data presented in the appendices were not verified by us via additional audit procedures and, therefore, we express no opinion on them.

The accompanying History and Organization is presented for informational purposes. This background information was obtained from office management and was not subject to the audit procedures applied by us in our review.

Our comments on management practices and related areas are presented in the accompanying Management Advisory Report.

A handwritten signature in cursive script that reads "Margaret Kelly". The signature is written in dark ink and is positioned above the printed name and title.

Margaret Kelly, CPA
State Auditor

February 23, 1989

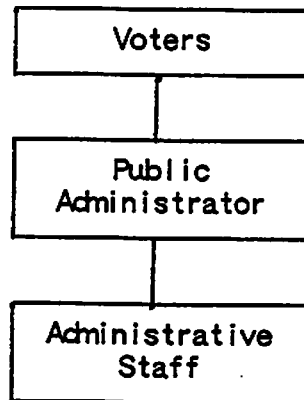
HISTORY AND ORGANIZATION

OFFICE OF PUBLIC ADMINISTRATOR
CITY OF ST. LOUIS, MISSOURI
HISTORY AND ORGANIZATION

The Office of Public Administrator is an elective office established under the provisions of Section 473.730, RSMo 1986. Mark L. Ostenfeld currently serves as the Public Administrator for the city of St. Louis. He has served in that capacity since his initial election in November 1976. He was subsequently reelected in November 1980, 1984, and 1988.

The Public Administrator is the ex officio public guardian and conservator in and for the city of St. Louis. At April 30, 1988, the Public Administrator had two full-time employees.

The organization chart for the Office of Public Administrator follows:



MANAGEMENT ADVISORY REPORT

OFFICE OF PUBLIC ADMINISTRATOR
CITY OF ST. LOUIS, MISSOURI
SUMMARY OF FINDINGS

1. Record-Keeping and Reporting Procedures (pages 9-12)
Record-keeping and reporting procedures were not adequate.
2. Annual and Final Settlements (pages 12-14)
 - A. Dates and dollar amounts recorded on settlements for transfers between investment accounts and the checking account did not always reflect the actual transfers made.
 - B. Settlements did not reflect all receipts and disbursements for the settlement period.
 - C. Settlements were not filed for estates having the same amount of receipts and disbursements each month.
3. Public Administrator Fees (pages 14-16)
 - A. Fees payable to the Public Administrator remained in the Public Administrator's official account for an extended period.
 - B. The Public Administrator withdrew fees from his official account totaling \$37,125 in excess of fees approved by the probate court.
 - C. Fees totaling \$857 were paid twice to the Public Administrator.
4. Checking Account Concerns (pages 16-20)
 - A. The checking account was not interest bearing.
 - B. Bank deposits were not made daily.
 - C. Cash disbursement functions were not adequately segregated.
 - D. The Public Administrator had outstanding checks dating back to 1982.
 - E&F. Estates had excessive balances or disbursements greater than the estate balances within the official checking account.
5. Investment of Estate Monies (pages 20-22)
 - A. Estate assets were not managed to obtain the highest possible return on investments.
 - B. An investment control ledger was not maintained.

- C. Investment documents were not adequately secured.
6. Balances in Closed Estates (pages 22-23)
- A. Closed estates had a balance of \$94,376 remaining at August 24, 1988.
- B. The Public Administrator distributed assets totaling \$1,527 more than total assets received for eleven closed estates.
7. Public Administrator's Bond (pages 23-25)
- A. The Public Administrator's bond was inadequate at August 24, 1988, by approximately \$1,900,000.
- B. Monies to pay the Public Administrator's annual bond premium were not withheld equitably from all estates.
- C. The listing of bond premiums assessed to estates, but not yet paid to the bonding company was incomplete.
8. Record Retention (page 25)
- Estate ledger sheets and savings account passbooks were discarded after estates were closed.
9. Facsimile Signature Stamp (pages 25-26)
- The facsimile signature stamp used to sign Public Administrator checks was not registered with the Secretary of State.
10. Heir Distributions (page 26)
- Heir distributions were made prior to the probates court's approval of the distribution amounts.

OFFICE OF PUBLIC ADMINISTRATOR
CITY OF ST. LOUIS, MISSOURI
MANAGEMENT ADVISORY REPORT

As part of our review of the Public Administrator, city of St. Louis, for the year ended June 30, 1988, we studied and evaluated the internal accounting control system to the extent needed to evaluate the system as required by generally accepted government auditing standards. For the purpose of this report, we have classified the significant internal accounting controls as cash, revenues, and expenditures. Our study included each of these control categories. Since the purpose of our study and evaluation was to determine the nature, timing, and extent of our audit procedures, it was more limited than would be needed to express an opinion on the internal accounting control system taken as a whole.

It is management's responsibility to establish and maintain the internal control system. In so doing, management assesses and weighs the expected benefits and related costs of control procedures. The system should provide reasonable, but not absolute, assurance that assets are safeguarded against loss, and that transactions are carried out as authorized by management and are recorded in a manner that will permit the subsequent preparation of reliable and proper financial reports.

Because of the inherent limitations in any internal control system, errors or irregularities may still occur and not be detected. Also, projection of any evaluation of the system to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the degree of compliance with the procedures may deteriorate.

Our study and evaluation was made for the limited purposes described in the first paragraph and, thus, might not disclose all material weaknesses in the system. Accordingly, we do not express an opinion on the internal accounting control system of the city taken as a whole. However, our study and evaluation disclosed certain conditions that we believe are material weaknesses and these findings are presented in this report.

We reviewed probable compliance with certain constitutional provisions, statutes, ordinances, and attorney general's opinions as we deemed necessary or appropriate. This review was not intended to provide assurance of full compliance with all regulatory provisions and, thus, did not include all regulatory provisions which may apply. However, our review disclosed certain conditions that may represent noncompliance and these findings are presented in this report.

During our review, we identified certain management practices which we believe could be improved. Our review was not designed or intended to be a detailed study of every system, procedure, and transaction. Accordingly, the findings presented in this report should not be considered as all-inclusive of areas where improvements may be needed.

The State Auditor was petitioned under Section 29.230, RSMo 1986, to audit the city of St. Louis. We included those procedures necessary in our judgment to evaluate the petitioner concerns and those concerns requiring corrective action are addressed in this report.

The period of review for the purposes stated included, but was not limited to, the period covered by the financial statements for the year ended June 30, 1988.

1. Record-Keeping and Reporting Procedures

The Public Administrator's record-keeping and reporting procedures were inadequate. Many of the conditions noted in this report are the direct result of inadequate record keeping and reporting. We noted the following deficiencies in record keeping and reporting:

- A. Records of fees payable to the Public Administrator apparently did not include \$212,877 approved by the probate court.
- B. Fees totaling \$857 were paid twice to the Public Administrator.
- C. The Public Administrator had outstanding checks dating back to 1982. No records existed to document the checks' payees or the estate to which the individual checks applied.
- D. Estates had excessive balances, or disbursements greater than estate balances in the official checking account. Estate financial information was not arranged in a manner to allow periodic analysis of balances and transactions to determine necessary investment transfers.
- E. Closed estates had a balance of \$94,376 in undistributed monetary assets at August 24, 1988, and \$1,527 more assets were distributed than received for eleven estates. The accounting records were not sufficiently detailed to allow for a timely analysis of balances in closed estates to be distributed.
- F. Settlements were not prepared and filed timely with the probate court. The Public Administrator did not maintain a record of filing dates.
- G. Settlements filed did not reflect all receipts and disbursements for the settlement period.
- H. The bond premium listing of amounts withheld, but not paid to the bonding company was incomplete.

The size, complexity, and number of estates assigned to the Public Administrator has increased through the years. Accounting records should be accurate, complete, and organized to allow efficient, effective, and timely recording and monitoring of financial data.

WE RECOMMEND the Public Administrator take necessary steps to reorganize the record keeping in his office to ensure records are complete and accurate and required reports are filed on a timely basis.

AUDITEE'S RESPONSE

- A. The Public Administrator makes every effort to maintain a complete and current list of all fees approved by the probate court and payable to the Public Administrator. The list is regularly updated as settlement statements are approved by the probate court. The Public Administrator is in the process of reviewing its records to verify the information furnished by your office regarding the fees approved by the probate court and payable to the Public Administrator. The Public Administrator will update its list of fees payable to the Public Administrator to include any such fees that have been approved by the probate court but not yet paid to the Public Administrator.
- B. The Public Administrator has personally repaid to the appropriate accounts the \$857 erroneously paid to the Public Administrator.
- C. The Public Administrator has canceled all checks outstanding as of September 24, 1989, that were issued on or before December 31, 1988. The amount of each check has been credited to the appropriate estate or will be distributed to the appropriate beneficiaries if the estate has been closed. In the future, the Public Administrator will cancel all checks outstanding six (6) months after the date of issuance. If the Public Administrator is unable to locate a payee of any check within seven (7) years after the date of issuance, then the Public Administrator shall distribute the proceeds of any such check to the State Treasurer for deposit into the Abandoned Fund Account per Sections 447.532 and 447.543, RSMo 1986.

Contrary to the finding made in the report, the Public Administrator does maintain records of the payees of all checks issued by the Public Administrator and the name of the estate to which each check applies.

- D. The report states that several estates had "excessive balances". It is the policy of the Public Administrator to invest any balances in excess of \$1,000. To ensure that this policy is carried out, the Public Administrator will review each estate on a regular basis (not less than quarterly) to determine whether excess funds are available for investment from the official checking account.

The report also notes that at times disbursements exceeded balances in the official checking account for certain estates. The Public Administrator will review on a regular basis (not less than quarterly) the balance of each estate, and if a deficiency exists in the official checking account a transfer will be made from an investment account of such estate. The Public Administrator has in the past advanced fees approved by the probate court and payable to the Public Administrator to pay the expenses of an estate with an insufficient cash balance in the official checking account.

The Public Administrator only advances such funds when an estate has sufficient assets located in other accounts to satisfy the cash deficiency in the official checking account. For example, if an estate has a certificate of deposit (CD) that does not mature for another two weeks, the Public Administrator advances his own funds from the official checking

account until the CD matures. Thus, the estate is not required to pay a penalty for the early withdrawal of the CD. In addition, the Public Administrator does not charge interest on any such funds advanced. Accordingly, the practice of advancing funds to an estate with an insufficient cash balance in the official checking account results in a benefit to the estate because the estate earns interest on its assets in investment accounts, yet the estate is not required to pay interest to the Public Administrator for the amounts advanced to the estate from the Public Administrator's fees. The Public Administrator will continue this practice on a limited basis only when sufficient assets exist to repay the funds advanced by the Public Administrator from the official checking account because the Public Administrator believes that such practice is beneficial to the estates he administers.

All disbursements from and income to each estate are posted monthly. Accordingly, the Public Administrator may review the balances of each estate on a periodic basis to determine if any estate has a balance in excess of \$1,000, which can be transferred to an investment account.

- E. The Public Administrator is in the process of reviewing its files to determine the source of the \$94,376 that remains in closed estates. Based upon a preliminary review, it appears that the assets that remain in most of these closed estates are fees approved by the probate court and payable to the Public Administrator. The Public Administrator will remove such fees that are properly payable to the Public Administrator. Any assets that remain in closed estates and which are not attributable to the fees earned by the Public Administrator will be distributed to the appropriate heirs.

The Public Administrator will personally repay to the official checking account \$1,527 mistakenly overpaid to beneficiaries of eleven estates.

- F. The Public Administrator makes every effort to timely file all settlements with the probate court. If the Public Administrator is unable to file an annual settlement statement on the anniversary date of the date that the Public Administrator is appointed, the Public Administrator may request the probate court for a continuance. Pursuant to Section 473.540, RSMo 1986, the probate "... court may, in its discretion, for good cause shown, extend the time for filing any intermediate or final settlement . . . without penalty. . ." Any settlement statement filed prior to the expiration of the continuance is timely filed. The Public Administrator believes that all settlement statements have been timely filed on the dates prescribed by law (as such dates may be extended from time to time by the probate court).

Pursuant to Section 473.557, RSMo 1986, the probate court notifies the Public Administrator forty (40) days in advance of the date a settlement is due. The Public Administrator has in the past maintained a record of the filing dates based on these notices. As noted above, the Public Administrator believes that all settlement statements have been timely filed and that the current system employed by the Public Administrator has worked well in the past. The Public Administrator, however, will consider maintaining a master list of the filing dates of all settlements filed with the probate court to ensure that all annual settlement statements are being timely filed in the future.

- G. Every effort is made by the Public Administrator to file complete and accurate settlement statements that reflect all receipts and disbursements during the period covered by the settlement statement. If an error is discovered in a settlement statement, the error is corrected on the next settlement statement filed with the probate court.
- H. Every effort is made by the Public Administrator to maintain a complete and current master list of all bond premiums withheld from each estate, but not yet paid to the bonding company. This list is updated on a regular basis.

AUDITOR'S COMMENT

- C. We requested information from the Public Administrator and his staff and on February 23, 1989, the Public Administrator acknowledged in writing that all canceled checks and bank statements were not available. If these records were available, they were not provided to the State Auditor's office.
- D. The Public Administrator was reviewing the individual estates only when a settlement was completed to determine if excess funds are available for investment.
- F. As noted in Management Advisory Report (MAR) No. 2., not all settlements were filed on a timely basis with the probate court.

2. Annual and Final Settlements

Section 473.540, RSMo 1986, requires every personal representative, including the Public Administrator, to file with the probate court an annual settlement detailing all estate receipts, disbursements, and balances for each assigned estate. Personal representatives are also required to file a final settlement detailing estate receipts, disbursements, and balances related to estates of deceased persons. Our review of annual and final settlements filed by the Public Administrator revealed the following weaknesses:

- A. Dates and dollar amounts recorded on settlements for transfers between investment accounts and the checking account did not always reflect the actual transfers made.

The Public Administrator recorded transfers on the settlements in advance of the actual transfers being made. Between the settlement date and the actual transfer date, additional estate transactions affecting the transfer amount may have occurred. Because of the interim period transactions, the amount actually transferred also changed.

Adjustments necessary to correct settlement transfer amounts were not always reflected on subsequent settlements. Thus, the Public Administrator did not provide the probate court with an accurate account of estate assets during his administration of the estate.

Inaccurate reporting of transactions results in decreased accountability over assets and could lead to misappropriation of assets.

Section 473.543, RSMo 1986, requires that settlements contain a just and true account of all monies invested including the investment amount. Unless the Public Administrator records the actual investment balance on the settlement, he has not complied with the law and has not provided the probate court with a true accounting of estate assets.

- B. Settlements did not reflect all receipts and disbursements for the settlement period. For example, a settlement dated March 20, 1986, included disbursements on March 19, but did not include disbursements on March 1, 10, 14, and 17. Apparently, the Public Administrator's staff overlooked disbursements when preparing the settlements. These disbursements were recorded on the next settlement filed. By not recording all receipts and disbursements for the settlement period on each settlement prepared, the Public Administrator unnecessarily increased the risk that estate assets could be misstated permanently.

Section 473.543, RSMo 1986, states that each settlement filed should contain a just and true account of all monies received and disbursed during the settlement period. The Public Administrator should comply with the law by ensuring each settlement reflects all receipts and disbursements for the settlement period.

- C. We noted one estate where the Public Administrator had not filed settlements since April 1983. The receipts and disbursements were equal each month leaving the estate with no balance at the end of the month. The Administrative Assistant stated that because the Public Administrator did not take any fees from the estate and there was no balance at the end of each month, no settlement was necessary. Because the Public Administrator did not file a settlement, the probate court was not able to monitor estate transactions.

Section 473.540, RSMo 1986, says every personal representative shall annually or at other times as directed by the court file a settlement. The Public Administrator should file settlements annually or as directed by the probate court for all estates.

WE RECOMMEND the Public Administrator:

- A. Record all investment and checking account transfers on the settlements as they occur.
- B. Ensure all receipts and disbursements related to the settlement period are properly recorded.
- C. File settlements annually or as directed by the probate court for all active estates.

AUDITEE'S RESPONSE

- A. The Public Administrator has complied with the requirements of Section 473.543, RSMo 1986. The report states that transfers among accounts were sometimes recorded on an annual settlement statement in advance of the actual transfer. For example, if an unforeseen disbursement or receipt occurs after the date the settlement statement is prepared but before the actual transfer is made, an adjustment in the actual transfer amount is made. The Public Administrator makes any necessary adjustments on the next annual settlement statement filed with the probate court to reflect the actual amount transferred between accounts. These cases only arise when an unexpected receipt or disbursement occurs. The Public Administrator will make every effort in the future to limit the cases in which this arises. It should be noted, however, that no injury or damage is suffered by any estate by reason of this practice.
- B. The Public Administrator makes every effort to file accurate and complete settlement statements in accordance with Section 473.543, RSMo 1986. Any error discovered in a settlement statement has been and will continue to be promptly reported on the next settlement statement filed with the probate court.
- C. The Public Administrator is not required to file annual settlement statements for the estate referred to in paragraph 2.C. of the report pursuant to an order of the probate court.

AUDITOR'S COMMENT

- B. As noted in MAR No. 3.B., it appears the Public Administrator received fees in excess of what was approved by the probate court. One of the causes for this was that investments were not closed as recorded on the annual settlement and additional interest was earned. This interest was retained by the Public Administrator. The practice of not recording the actual transactions on the annual settlement allows these problems to occur.
- C. Based on our discussions with the probate court, any estate which receives funds or makes disbursements is required to file settlements. This would also apply to estates which receive and disburse the same amount each month. Further discussions with the probate court indicated the Public Administrator requested order of no further process and stated that no income was being received by the estate; however, the Public Administrator does receive income each month.

3. Public Administrator Fees

Sections 473.153, 475.265, and 475.435, RSMo 1986, establish the fee structure from which the Public Administrator is compensated. During our review of amounts deducted from estate balances as Public Administrator fees and amounts paid to the Public Administrator, we noted the following areas of concern:

- A. The Public Administrator did not remove his fees from the official bank account on a timely basis. At irregular intervals, the Public

Administrator withdrew from his official bank account only a portion of fees payable to him. As a result, at August 24, 1988, the Public Administrator's official bank account contained approximately \$390,485 in fees due to the Public Administrator according to case fee sheets. The Public Administrator's internal listing of fees payable to him totaled \$175,608 on the same date. It appeared the causes of the \$214,877 difference may have been either fees payable were not recorded on the Public Administrator's fee listing or fees taken had not been recorded on case fee sheets. Allowing payable fees to accumulate for an extended period with official monies is not appropriate and weakens controls over official monies. If the Public Administrator had kept an accurate listing of fees payable to him, this situation might not have occurred. The Public Administrator should stop allowing fees payable to accumulate with official monies in the official account, maintain an accurate listing of fees due him, and periodically take all fees payable.

- B. From May 1, 1986, through October 17, 1988, the Public Administrator withdrew from individual estates fees of \$37,125 in excess of amounts approved by the probate court. The monies were available in his official bank account for two reasons:
- 1) Savings accounts were not closed prior to making final heir distributions. The interest that subsequently accrued to the savings accounts was deposited into the Public Administrator's official bank account.
 - 2) All interest earned from savings accounts was not recorded on settlements filed with the probate court. As a result, the final heir distribution amount may have been understated. Because of the commingling of the Public Administrator's personal monies with his official monies, we did not determine whether the Public Administrator or estates he administered were entitled to the funds paid to the Public Administrator.

Section 473.153, RSMo 1986, requires the probate court to approve fees of personal representatives (including the Public Administrator). Monies taken from the official account as fees should be approved by the probate court prior to their removal from the account.

- C. We noted the Public Administrator was paid duplicate fees totaling \$857 from two estates. As a result, the balances of the estates involved were inappropriately depleted. The duplicate fees were not approved by the probate court. Section 473.153, RSMo 1986, requires all fees taken by personal representatives to be approved by the court.

We did not find any additional duplicate payments. However, the Public Administrator could not locate certain records which might have identified additional duplicate payments. The Public Administrator should repay the duplicate fees taken to the appropriate estates and distribute the monies as appropriate.

WE RECOMMEND the Public Administrator:

- A. Stop accumulating fees in the official account for an extended period of time and maintain a complete and accurate listing of any fees that are due to the Public Administrator.
- B. Close investment accounts prior to filing final settlements, record actual interest earned on settlements, and consult legal counsel regarding the correct distribution of excess monies removed from the official account.
- C. Repay the duplicate fees taken and distribute the monies as appropriate.

AUDITEE'S RESPONSE

- A. The Public Administrator is in the process of reviewing the information supplied by your office regarding the fees approved by the probate court and payable to the Public Administrator. The Public Administrator will update its records to reflect such fees. Within the next several months, the Public Administrator intends to withdraw from the official checking account a significant portion of the fees approved by the probate court and payable to the Public Administrator. In addition, the Public Administrator will update more frequently the master list of all fees approved by the probate court and payable to the Public Administrator. Finally, in the future the Public Administrator will remove such fees from the official checking account on a regular basis (not less frequently than quarterly).
- B. The Public Administrator is in the process of reviewing its records to determine the source of the \$37,125 in fees withdrawn from individual estates and deposited into the official checking account. It appears from a preliminary review and investigation of this matter, that such fees were, at least in part, properly payable to the Public Administrator because such fees were due to accrued interest on the fees payable to the Public Administrator. The Public Administrator's independent accountant will determine the exact source of the fees, and an attorney retained by the Public Administrator will advise the Public Administrator with respect to the appropriate course of action to be taken with respect to such fees.
- C. See reply in Paragraph 1.B.

AUDITOR'S COMMENT

- B. It appears the Public Administrator believes that he is due interest for advancing the estates funds from his undistributed fees. However, the official checking account, which contains those undistributed fees, is not invested or interest bearing.

4. Checking Account Concerns

The Public Administrator maintained one checking account to pay daily operating expenses for all estates. We noted the following areas of concern related to the Public Administrator's checking account:

- A. The checking account was not interest bearing. Since the average daily account balance, excluding Public Administrator fees, averaged \$579,500, the Public Administrator failed to earn, at an interest rate of 5.5 percent, approximately \$32,500 during the audit period.

The Missouri Court of Appeals ruled in Estate of Wenzlick, 715 SW2d 262 (1986), executors could be surcharged for interest they would have accrued on estate funds had the funds been prudently invested rather than left idle.

Even though the Public Administrator currently has all estate monies that are not invested in one checking account, interest earned if the monies were invested could be distributed to all estates. To ensure he is not surcharged for interest on monies not invested, the Public Administrator should invest all estate monies. Interest earned should be periodically distributed to the estates.

- B. The Public Administrator did not make daily bank deposits. Deposits were made approximately three working days apart and averaged \$40,800. The range of deposit amounts varied because Social Security Administration and retirement benefit payments were received at the beginning of each month making deposits at the beginning of each month larger than deposits at other times. Bank deposits should be made daily.

- C. Cash disbursement functions were not adequately segregated. The bookkeeper wrote all checks, recorded the checks written in a cash disbursements journal, and posted the disbursements to individual estate ledger sheets. The lack of segregation was further complicated because the Public Administrator did not review checks written together with supporting documentation prior to issuance of the checks.

Because cash disbursement functions were not segregated and no independent review of checks written and supporting documentation was conducted, the risk of misappropriation of monies was increased. Although the Public Administrator's office staff is small, the Public Administrator has the authority to increase the staff size if an increase is required to provide adequate safeguards over assets including cash. The cash disbursement functions could be segregated to reduce the risk of misappropriations. As part of the segregation, the Public Administrator should review checks written together with supporting documentation to ensure all checks written are proper.

- D. At August 24, 1988, the Public Administrator had outstanding checks dating back to 1982. The outstanding checks should be canceled and replacement checks should be issued or the estate balances should be adjusted to reflect the checks that did not clear. Checks outstanding longer than seven years for which the Public Administrator cannot locate the payee should be distributed to the state treasurer for deposit into the Abandoned Fund account per Sections 447.532 and 447.543, RSMo 1986.

- E. At August 24, 1988, we noted estates appearing to have excessive balances in the official bank account. The Public Administrator's policy is to invest all funds in excess of \$1,000. We determined that 143 estates had account balances greater than \$1,000. The account balances exceeding \$1,000 totaled \$347,218. This situation occurred because the Public Administrator only reviewed individual estate balances within the checking account annually when settlements were prepared. Transfers from or to investment accounts were made at that time to adjust the estate balances in the official bank account.

As a result of the Public Administrator's procedures, estates having excessive balances in the checking account may have lost interest income because the checking account was not interest bearing.

Section 473.333, RSMo 1986, states that excessive estate balances not shortly required for estate expenses shall be invested.

To ensure that all estate monies are adequately and properly invested, the Public Administrator should review estate balances on a monthly basis. Transfers to or from investment accounts should be made monthly.

- F. The Public Administrator did not periodically review the adequacy of individual estate balances within the official checking account. As a result, at August 24, 1988, sixty-six estates had negative cash balances. Total disbursements from these individual estates exceeded revenues by \$206,018.

Because the estate balances were not periodically monitored, the Public Administrator increased the risk that other estate assets would be insufficient to cover the estate's cash shortage. Since transfers between the checking account and the other asset groups, such as savings accounts, were only made annually near the annual settlement date, the checking account shortage could become large if unexpected expenses occurred.

To ensure individual estate balances within the checking account are adequate, the Public Administrator should evaluate the adequacy of individual estate balances within the checking account monthly and make necessary monetary transfers for each estate.

WE RECOMMEND the Public Administrator:

- A. Maintain operating monies in an interest-bearing checking account and periodically distribute interest earned to the individual estates.
- B. Make bank deposits daily or when receipts total \$100.
- C. Segregate cash disbursement functions. The Public Administrator should review all checks written together with supporting documentation prior to issuance of the checks to ensure all payments are proper.

D. Cancel all checks outstanding longer than six months and issue replacement checks. If any check has been outstanding longer than seven years and the Public Administrator cannot locate the payee, the Public Administrator should distribute the monies to the state Abandoned Fund Account.

E&F. Review all estate balances monthly to ensure checking account balances are not excessive or that individual estate disbursements do not exceed checking account receipts. Appropriate transfers from or to the checking account should be made monthly.

AUDITEE'S RESPONSE

A. The Public Administrator administers, on average, over 600 estates. The Public Administrator maintains an official checking account to pay the day to day operating costs and expenses of the estates. It is impractical and imprudent for the Public Administrator to establish a separate interest-bearing operating account for each estate. The administrative and transactional costs would outweigh the benefits for most of the estates. The official checking account is maintained at a federal savings bank that has agreed to waive administrative and transactional costs in lieu of paying interest on the official checking account. The Public Administrator believes that the majority of the estates that are administered by the Public Administrator receive an overall benefit by reason of this agreement. For example, an account with an average monthly balance of \$1,000 would earn \$55 if maintained in an interest-bearing account at 5.5 percent interest per annum. Many banks; however, would charge a minimum of \$5 (or \$60 per annum) per month such for an account. Accordingly, the estate would actually end up with less money if an interest-bearing account were opened. Of course, the Public Administrator is well aware that estates funds must be invested prudently, and the Public Administrator will make every effort to continue to do the same. It is important to note that the Public Administrator invests from the official checking account balances in excess of \$1,000, and that a significant majority of the assets administered by the Public Administrator are invested in interest-bearing investments.

B. The Public Administrator will continue to make bank deposits on a regular basis. The Public Administrator is not required by law nor does prudence dictate that deposits be made daily.

C. The Public Administrator will continue to review checks at random together with supporting documentation to ensure that payments are proper. Given the number of checks issued by the Public Administrator's office, it is impractical and imprudent for the Public Administrator to review every check issued and the supporting documentation therefore. The Public Administrator is not required to hire additional staff solely to segregate cash disbursement functions when the Public Administrator has never had a problem in the past with respect to misappropriations by an employee.

D. See reply to paragraph 1.C.

- E. See reply to paragraph 1.D.

AUDITOR'S COMMENT

- A. We are not recommending separate checking accounts for every estate, but to change the one official checking account to interest bearing and make a reasonable distribution of interest to the various estates. The analysis of the Public Administrator is based on the establishment of separate accounts and does not consider the dollar amounts contained in the combined official checking account. It would be advantageous for all the estates to have the account interest bearing. The Public Administrator would be able to utilize the dollar amount to possibly eliminate any administrative and transactional costs and still increase the investment income of the estates. Also, with the dollar amount retained in the account, higher yielding investment opportunities, in addition to saving accounts or negotiable order of withdrawal (NOW) accounts, would be available.

In addition, as noted in MAR No. 4.E., the Public Administrator did not comply with his policy concerning the investment of excess funds.

- C. We strongly disagree with the Public Administrator's conclusion that prudence does not dictate daily deposits when handling that amount of funds. Retaining receipts for several days just increases the risk of loss or misappropriation of those funds.
- D. The Public Administrator determines the number of his staff himself and does not require prior approval due to the fact that all costs of operation are paid from the fees approved by the probate court. The Public Administrator is responsible for the safeguarding of all assets of the estates assigned to him, this includes the establishment of adequate internal controls for the disbursement of those funds.

5. Investment of Estate Monies

The Public Administrator's policy is to invest estate monies not needed for daily expense purposes. As previously noted in Management Advisory Report No. 4.F., the need for transfers to or from investment accounts is determined at the settlement date. More than \$7,000,000 was invested in various investment vehicles at August 24, 1988. During our review of investments, we noted the following areas where improvements could be made:

- A. We noted estates with two investments where the smaller of the two investments was receiving the higher return. For example, one estate had a \$102,000 CD earning interest of 5.65 percent. This same estate also had a \$5,000 CD earning interest of 7.65 percent at a different bank. In some instances, it appeared the Public Administrator was leaving the investments in the accounts he received when he originally received the estate rather than moving the investments into higher paying investment options. Section 473.333, RSMo 1986, allows investments in various investment vehicles. The Public Administrator has a fiduciary responsibility to safeguard estate assets while earning the maximum interest

possible within statutory limits. Accordingly, the Public Administrator should continually evaluate investment options to ensure estates are receiving the highest return possible, given the statutory limitations of Section 473.333, RSMo 1986, and his responsibility to safeguard estate assets.

- B. The Public Administrator did not maintain an investment control ledger. Instead, at settlement filing dates, employees telephoned the financial institutions to obtain investment data. No centralized investment record was maintained. Without a centralized and continually updated control record detailing basic information for every investment, current actual investment data is not readily available for all estate investments. The Public Administrator should maintain a control record of estate investments listing account title, account number, estate number(s), date opened, date closed, initial investment amount, subsequent account activity, and current account balance. By maintaining updated investment data for all estates in one location, the Public Administrator could readily determine investment balances.
- C. The Public Administrator retained readily negotiable estate stock certificates and savings bonds loosely in the case files. We noted a \$1,000 savings bond in the files that had been endorsed by the owner and was, consequently negotiable. By retaining investment documents loosely in the case files, the Public Administrator increased the risk of loss or misappropriation of the investment documents. The Public Administrator should retain investment documents in a limited access, fireproof location.

WE RECOMMEND the Public Administrator:

- A. Continually evaluate investment options to ensure estate investments receive the highest return possible, subject to the limitations of Section 473.333, RSMo 1986, and his fiduciary responsibility to safeguard estate assets.
- B. Maintain an investment control ledger detailing all investment transactions and balances.
- C. Retain investment documents in a limited access, fireproof location.

AUDITEE'S RESPONSE

- A. The report notes that at least in one instance, an estate had two investments and the larger investment earned a lower rate of interest. A \$102,000 CD earned interest at 5.65 percent per annum, and another \$5,000 CD earned interest at 7.65 percent per annum. The difference in interest rates; however, is due to the fact that the CDs were purchased at different times and at different financial institutions. The interest rates of these deposits were competitive at the time the CDs were purchased. Of course, once a CD is purchased it generally cannot be withdrawn without penalty, which generally offsets any advantage that could be obtained by reinvesting the money into a new CD with a higher rate of return. The Public Administrator is well aware of his duty to preserve

and protect the assets of estates for the benefit of the beneficiaries, and will continue to prudently invest the moneys of all estates in investments permitted by Section 473.333, RSMo 1986. The Public Administrator believes the example cited in the report is misleading because it fails to disclose the fact that the CDs were purchased on different dates, and that such interest rates were competitive on the dates the CDs were purchased.

- B. The Public Administrator can readily determine where all investments are located, and can easily contact a representative of the relevant financial institution to determine the current value of any investment at any given time. The Public Administrator, however, will consult with his accountant to determine if the current system employed by the Public Administrator can be improved in a cost-effective manner, including the implementation of an investment control ledger.
- C. The Public Administrator will purchase a fireproof file cabinet to retain the investment documents of each estate. The investment documents for each estate will be retained in a separate envelope within the fireproof file cabinet. Access to the file cabinet will be limited to the Public Administrator and his employees. The file cabinet will be locked after office hours.

AUDITOR'S COMMENT

- A. The response of the Public Administrator clearly indicates the lack of monitoring done on the various investments maintained for the various estates.

Due to the increase in the yield on CDs noted in this finding, the individual estate could have earned significantly more interest even taking into the consideration the early withdrawal penalty.

6. Balances in Closed Estates

Closed estates are estates previously administered by the Public Administrator for which the Public Administrator has no further responsibility. All necessary heir distributions should have been made. The Public Administrator should have no remaining monies applicable to closed estates. To close an estate, the probate court must approve the final settlement and receive confirmation that all heir distributions were made. During our review of the Public Administrator's closed estates, we noted the following areas of concern:

- A. The Public Administrator had received additional assets totaling \$94,376 relating to previously closed estates. The probate court had not been requested to reopen some estates involved even though the Public Administrator had held the assets up to four years. The remaining assets in these estates resulted from assets located after the estates were originally closed or from assets in the estate when the estate was closed which were never distributed. These assets included cash, stock certificates, dividend receipts, and war bonds. Some of the estates with remaining assets have been closed up to five years. Because the Public

Administrator did not distribute these balances, heirs have not received their proper distribution of assets. The Public Administrator should determine the proper distribution of the monies, request the probate court reopen the estates, and distribute the monies as appropriate. The Public Administrator should distribute estate assets on a timely basis after estate assets are discovered for previously closed estates.

- B. The Public Administrator distributed assets totaling \$1,527 more than total assets received for eleven closed estates. The situation apparently occurred because invoices were received after the estates were closed and the Public Administrator paid the invoice amounts. The Public Administrator used assets from open estates to pay invoices of the closed estates. The Public Administrator has no statutory authority to pay expenses of one estate from the balances of other estates. Consequently, the Public Administrator should attempt to retrieve the funds from the overpaid estates. If this is not possible, the Public Administrator should personally forfeit any amounts not recovered.

WE RECOMMEND the Public Administrator:

- A. Request the probate court reopen the estates, and distribute the assets to heirs or the state as appropriate. The Public Administrator should also request the probate court reopen estates and distribute estate assets on a timely basis after estate assets are discovered for previously closed estates.
- B. Attempt to retrieve funds from the overpaid estates. If this is not possible, the Public Administrator should reimburse monies not recovered to his official account.

AUDITEE'S RESPONSE

- A. It appears from a very preliminary review and investigation of several of the closed estates that the assets which remain in the closed estates are fees approved by the probate court and payable to the Public Administrator. The Public Administrator will thoroughly review the information supplied by your office with respect to this matter. If the Public Administrator determines that any assets which remain in the closed estates are not attributable to the fees earned by the Public Administrator, the Public Administrator will distribute such assets to the appropriate heirs.
- B. The Public Administrator has personally repaid to the official checking account any amounts distributed to beneficiaries of estates in excess of receipts.

7. Public Administrator's Bond

Section 473.730, RSMo 1986, requires the public administrator to obtain a faithful performance bond prior to taking office. A faithful performance bond provides reimbursement to the city if the official misappropriates public or fiduciary funds. To pay for this bond, the Public Administrator

assessed bond premium amounts to each estate. During our review of the Public Administrator's operations, we noted several areas of concern related to his official bond:

- A. The Public Administrator had not filed an annual report of estate balances with the probate court since October 1986. As a result, the probate court had no basis to determine the adequacy of the Public Administrator's bond.

On August 24, 1988, assets held in trust by the Public Administrator exceeded \$8 million. The official bond was \$6.1 million. Because the annual report was not filed, the court was unable to evaluate the need for increased bonding. Section 473.730, RSMo 1986, requires an annual report of estate balances to be submitted to the probate court for the purpose of determining an appropriate bonding level.

The Public Administrator should annually file a report of estate balances with the probate court to allow the court to evaluate the adequacy of the bonding level.

- B. Monies to pay the Public Administrator's annual bond premium were not withheld equitably from all estates. Instead, the monies were withheld judgmentally based on the estate balance at the settlement date. Smaller estates paid a larger percentage of estate balances for bond premiums than larger estates paid. The judgmental method used did not take into account funds previously escrowed. As a result, at August 24, 1988, the Public Administrator had escrowed \$38,575, or \$20,275 more than the annual \$18,300 bond premium.

By equitably withholding monies to pay bond premiums, the Public Administrator could ensure each estate pays an appropriate bond premium amount.

- C. The Public Administrator did not maintain an accurate listing of bond premiums withheld from estates but not yet paid to the bond company. The listing at August 24, 1988, reflected \$1,756 in withheld bond premiums. The actual balance was determined to be \$38,575. The \$36,819 difference was due to bond premiums withheld but not added to the list. The Public Administrator should maintain a complete and accurate listing of amounts withheld, but not paid to the bonding company.

WE RECOMMEND the Public Administrator:

- A. Increase his bond coverage to cover all assets administered, and file an annual report of estate balances with the probate court as required by Section 473.730, RSMo 1986.
- B. Assess bond premiums in an equitable manner.
- C. Maintain a complete and accurate list of bond premiums withheld from estates, but not paid.

AUDITEE'S RESPONSE

- A. The Public Administrator is in the process of preparing an annual report to be filed with the probate court, and will continue to file such annual reports on a timely basis in the future.
- B. The Public Administrator is in the process of investigating methods in which the annual bond premium may be more equitably assessed against each estate. The Public Administrator will take such reasonable steps as are necessary and cost effective to accomplish this goal.
- C. The Public Administrator is in the process of updating its list of bond premiums withheld from estates, but not yet paid to the bond company. The Public Administrator will maintain a current and complete list of all bond premiums withheld from each estate, but not yet paid to the bond company.

8. Record Retention

The Public Administrator discarded estate ledger sheets and savings account passbooks after estates were closed. The fee sheets and savings passbooks provided the only financial records of closed estates. Because these records were unavailable, we were unable to obtain assurance that all transactions were proper. The Public Administrator should request guidelines on record retention from the probate court. The Secretary of State has established guidelines for county public administrators which could be used.

WE RECOMMEND the Public Administrator request record retention guidelines from the Missouri Secretary of State.

AUDITEE'S RESPONSE

The Public Administrator has requested record retention guidelines from the Missouri Secretary of State in connection with its evaluation of whether records should be retained longer than currently retained by the Public Administrator.

9. Facsimile Signature Stamp

The facsimile signature stamp used to sign Public Administrator checks was not registered with the Secretary of State as required by law. Sections 105.273 through 105.278, RSMo 1986, cited as the "Uniform Facsimile Signature of Public Officials Law," requires public officials to register signature stamps with the secretary of state. Doing so provides legal recourse in the event the signature stamp is used with the intent to defraud.

WE RECOMMEND the Public Administrator register the facsimile signature stamp with the Secretary of State as required by Sections 105.273 through 105.278, RSMo 1986.

AUDITEE'S RESPONSE

The Public Administrator will register its facsimile signature stamp with the Missouri Secretary of State in accordance with Section 105.274, RSMo 1986.

10. Heir Distributions

We noted seven cases where the Public Administrator paid heir distributions prior to approval of distribution amounts by the probate court. The distributions were made an average of four and one-half months prior to approval. If the probate court had not approved the distributions, the Public Administrator could have been liable for any unapproved payments. The total distribution for these seven cases was \$54,689. The Public Administrator should make heir distributions only after probate court approval of the distribution amounts.

WE RECOMMEND the Public Administrator make heir distributions only after probate court approval.

AUDITEE'S RESPONSE

In the past if no claims are pending against an estate, and the heirs of the estate request a distribution, the Public Administrator has made partial distributions to such heirs prior to approval of the final settlement statement with the probate court. The Public Administrator does not believe that such practice violates the law; however, the Public Administrator will in the future distribute assets to heirs only after approval by the probate court.

APPENDICES

Appendix A

OFFICE OF PUBLIC ADMINISTRATOR CITY OF ST. LOUIS, MISSOURI STATEMENT OF SOURCES, USES, AND BALANCES OF ESTATES YEAR ENDED APRIL 30, 1987

(U N A U D I T E D)

BEGINNING ESTATE BALANCES

\$ 5,360,376

Sources:

Social security	385,392
Insurance	61,783
Welfare	57,771
Interest	377,562
Veterans' Administration compensation	832,752
Civil service annuities	31,801
Miscellaneous	381,761

Total

2,128,822

Uses:

Support of ward	964,789
Public Administrator fees	127,945
Bond premium	18,040
Probate fees	15,626
Ward spending allowances	405,718
Medical charges	41,529
Legal fees	13,639
Distributions of estates	490,000
Miscellaneous	230,658

Total

2,307,944

ENDING BALANCES*

\$ 5,181,254

COMPOSITION OF ENDING ESTATE BALANCES

Cash in bank and on hand	\$ 486,254
Savings accounts	2,573,664
Certificates of deposit	1,994,399
Other	126,937

Total*

\$ 5,181,254

* The balance obtained at April 30, 1987, was determined by combining the ending estate balances from all settlements filed by the Public Administrator during the year ended April 30, 1987. At August 24, 1988, the Public Administrator held assets of \$8,036,420.

Appendix B

OFFICE OF PUBLIC ADMINISTRATOR
CITY OF ST. LOUIS, MISSOURI
SCHEDULE OF PUBLIC ADMINISTRATOR COMPENSATION
YEAR ENDED APRIL 30, 1987

(U N A U D I T E D)

Public Administrator fees withheld from estates	\$ 127,945
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Note: Fees are withheld from estates as allowed by Sections 475.435, 475.265, and 473.153, RSMo 1986. The Public Administrator pays salaries and other office expenses from fees retained.

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