



**Office of Inspector General
City of New Orleans**

**Follow-Up Report: “A Performance Audit of the Municipal
Court’s Remittances to the City”**

AR12FOL001

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Follow up # 1: The Municipal Court remitted money to the Finance Department on a monthly basis in accordance with state law.

Follow up # 2: The Court developed detailed identification of all fines and fees indicating which agency received the fees.

Follow up # 3: The Municipal Court obtained an annual audit in compliance with state law.

Follow up # 4: The Municipal Court reconciled its escrow account and properly transferred unclaimed bonds to the Judicial Expense Fund after one year of disposition.

Follow up # 5: The Municipal Court developed and implemented a reimbursement policy and properly approved its expenses based on sufficient supporting documentation.

Follow up # 6: The Court properly classified and paid its employees through the established payroll system; however, the Court did not instruct the City to amend its payroll tax returns.

Follow up # 7: The Municipal Court developed and implemented procedures to approve services performed by contract employees.

Follow up # 8: The Municipal Court developed and implemented a reimbursement policy and properly approved its expenses based on sufficient supporting documentation.

EXECUTIVE SUMMARY

The Office of Inspector General conducted a performance audit of the Municipal Court's remittances to the City for the period January 1, 2009 through December 31, 2009. A report titled "*A Performance Audit of the Municipal Court's Remittances to the City*" was issued on January 13, 2011 (the 2011 Report).

The follow-up report revealed that the Municipal Court resolved 7 recommendations noted in the 2011 Report and partially resolved recommendation # 6. The Municipal Court remitted money to the Finance Department on a monthly basis in accordance with state law and maintained detailed identification of all fines, fees, and agencies designated to receive them. The Municipal Court also obtained an annual audit as required by state law.

The Municipal Court reconciled its escrow account. It also transferred the unclaimed bonds from its escrow account to the Judicial Expense Fund after one year of disposition.

The Municipal Court developed and implemented a reimbursement policy and properly approved its expenses. All expenses were supported and appeared to be business related as outlined in the policy. The Municipal Court properly classified and paid its employees through the payroll system, and it developed and implemented its procedures to approve services performed by contract employees.

The Municipal Court did not instruct the City to amend its tax returns as stated in recommendation # 6.

The City of New Orleans was in the process of considering revisions to the City Code provisions pertaining to Municipal Court, so the auditors were not able to determine the City's implementation of its corrective actions of Findings #1, 3 and 4.

I.OBJECTIVE, SCOPE, AND METHODOLOGY

The purpose of this follow-up was to determine if the corrective actions in the 2011 Report were adopted and if the controls were operating effectively. The procedures performed were related to the eight recommendations and corrective actions identified in the 2011 Report.

The scope of this follow-up was limited to the Municipal Court and the City's corrective actions to the eight recommendations¹ addressed in the 2011 Report.

The audit methodology was developed in accordance with the *Principles and Standards for Offices of Inspector General* (the Green Book)², and included the following:

- Conducted interviews with personnel to gain an understanding of the current processes and controls in place; and
- Evaluated the Municipal Court's responses to the 2011 Report to determine if the recommendations were adopted and effectively implemented.

Computer-processed data was provided and relied on, which provided information on the Municipal Court and the City for the period of the follow-up. A formal reliability assessment of the computer-processed data was performed, and the auditors determined that hard copy documents reviewed were reasonable and agreed with the information contained in the computer-processed data. No errors were found that would preclude the auditors from using the computer-processed data to meet the follow-up objectives or that would change the conclusions in this report.

¹ Findings #1, 3 & 4 related to the City's responsibilities.

² Association of Inspectors General, 2004.

II. FOLLOW-UP: “A PERFORMANCE AUDIT OF THE MUNICIPAL COURT’S REMITTANCES TO THE CITY”

Finding #1: “The Municipal Court did not remit fines, fees, penalties, costs or forfeitures collected in 2009 to the City’s Department of Finance at any time during 2009.”

Recommendation #1: “The Municipal Court and the City’s Department of Finance must comply with state law and the City Code by ensuring that all money collected by the Court is remitted to the City’s Department of Finance daily where required.”

Municipal Court Response #1: “...the Court has developed an informal tacit agreement with the executive and legislative branches that maintained the Court’s operations in light of the deficiency in funding of the Court by the City as required by State law....the Court has already requested that the separate branches of city government convene a working group to study these issues and make recommendations relative to amending and/or repealing existing law so as to recognize the current operations of government and to move toward implementing increased efficiency and best practices.”

City Response #1: “The Department of Finance, Bureau of Treasury, will work with Municipal Court in 2011 to ensure money collected by the Municipal Court is remitted to the City.”

Follow-up #1: The Court maintained detailed identification of all fines and fees and which agency³ received the fees. The Municipal Court also remitted money to the Finance Department on a monthly⁴ basis in accordance with the revised State law.⁵

Finding #2: “Neither the Court’s accounting records nor the Court’s Case Chronology Reports could be properly audited to determine whether the appropriate fees and costs were imposed. Fees and costs were added to fines and included in the total amounts that defendants were ordered to pay to the Court. In cases involving multiple offenses, there was no breakdown to indicate the amount of the fine for each offense.

A certain cost designed to defray the Court’s operating expenses (La. R.S. 13:2500.2) did not seem to be collected at all by the Court.⁶

³ The Municipal Court collected the Building Fee on bond forfeitures. City Code Section 50-149 only allows this fee to be collected on convictions. Total cash bonds and/or surety bonds collected totaled 249 for the period of October 1 – December 31, 2011 and resulted in a total reclassification of \$1,245 from the Building Fund Account to the Judicial Expense Fund. The OIG issued a separate letter to the Municipal Court discussing the impact of this fee.

⁴ The Court, however, erroneously coded all State misdemeanor cases as a speeding violation. As a result of this error, the Court did not retain its court costs and all funds were remitted to the City of New Orleans from the beginning of 2010 to March 16, 2012. Based on the Municipal Court’s analysis, 1,936 State misdemeanors were flagged to omit court costs. The Court’s estimate of the total amount overpaid to the City of New Orleans was \$31,523.50. The OIG issued a separate letter to the Municipal Court discussing the impact of this coding error.

⁵ La. R.S. 13:2501 states, “Each judge of the municipal court of New Orleans shall see to it that all fines imposed by him are collected and remitted monthly to the city treasurer of New Orleans.” This statute was passed in 2011, after the initial report and supersedes the current City Ordinance that requires daily remittals.

The Court's records did not reflect any imposition or collection of the Bail Bond Fee imposed by La. R.S. 13:2500.3, which was also designed to defray the cost of the Court's operations.⁷

Recommendation #2: "The Municipal Court should provide a detailed identification of all fines, fees, and costs assessed within the Court's Case Chronology and Revenue Reports, as well as, an indication that a cost or fee is suspended or waived when it is not imposed."

Municipal Court Response #2: "...the Court agrees with the Inspector General's recommendation and is presently working with our IT contractor to provide a more detailed identification of all fines, fees and costs assessed within the Court's case chronologies and revenue reports. Usually the suspension of fines, fees and court costs are entered into the court record, in instances where this is not being done, it will be corrected."

Follow-up #2: The Court developed detailed records of all fines and fees with the respective recipients identified. The Municipal Court also consistently collected the court costs as required by La. R.S. 13:2500.2⁸ and imposed, collected and identified the Bail Bond Fee imposed by La. R.S. 13:2500.3.⁹

Finding #3: "The City did not audit the Municipal Court in 2009."

Recommendation #3: "The Department of Finance must conduct quarterly audits of the Municipal Court's collection of fines, its cash bond records and an annual audit of the Municipal Court's Judicial Expense Fund, as mandated by the City Code. The Court should maintain sufficient detail in its Case Chronology Report and accounting records for proper identification of fees and costs."

Municipal Court Response #3: "...the Court stands ready to work with the other branches of city government to fashion a new legislative scheme that conforms to modern technologies and achieves maximum efficiency and best practices. We will accommodate the City's requests as to any updated format that they may want us to employ and we welcome their audits at any time."

City Response #3: "The practice in recent years of collecting fines in Municipal Court has not included the use of receipt books as assumed in City Code 50-105 and reconciliation was undertaken as part of the annual citywide audit."

⁶ However, the Traffic Court has been collecting its portion of the cost under La. R.S. 13:2500.2 and remitting these funds to the Municipal Court. The Municipal Court did not remit these amounts to the department of finance in 2009.

⁷ The Administrative Judge stated that, though there was no Court rule on the matter, the Court had not been imposing the Bail Bond Fee because several attorneys had objected to it and challenged the legality of the fee. The Administrative Judge did not know whether the issue had been litigated or if the fee had been ruled illegal.

⁸ La. R.S. 13:2500.2 states, "In all cases over which the Municipal Court of New Orleans has jurisdiction, there shall be taxed as costs against every defendant who is convicted after trial or after he pleads guilty or who forfeits his bond a nonrefundable sum of fifteen dollars..."

⁹ La. R.S. 2500.3 states, "In all cases over which the Municipal Court and Traffic Court of New Orleans have jurisdiction, there is hereby imposed a fee on each bail bond issued...the fee shall be two percent of the face value of the bond or fifteen dollars, whichever is the greater amount."

In 2011, with Municipal Court funds being remitted directly to the City, reconciliations will be undertaken on a frequent basis (likely monthly) to ensure all revenues are accounted for.”

Follow-up #3: In 2011 La. R.S. 13:2496.4 was revised and requires the judges to conduct an annual audit of the Judicial Expense Fund and its books and accounts and to file the audit with the Legislative Auditor. The Municipal Court obtained an annual audit of the Financial Statements as of December 31, 2010 and December 31, 2011 and was in compliance with La. R.S. 13:2496.4.

Finding #4: “The Municipal Court did not transfer the unclaimed cash bonds from its escrow account for remittance to the Department of Finance for crediting to the Judicial Expense Fund in accordance with the City Code. The Court also failed to transfer forfeited bonds to the City for crediting to the JEF.”

Recommendation #4: “The Municipal Court must comply with the City Code by remitting forfeited bonds to the Department of Finance to be credited to the JEF and notifying the City of the forfeiture. The Court should reconcile the escrow bank balance to its detailed listing on a monthly basis in order for unclaimed bonds to be timely transferred from the escrow account.”

Municipal Court Response #4: “The Municipal Court has taken corrective action with regard to the reconciliations of the bond accounts. Working with the Court’s contracted CPA the Court made the necessary accounting adjustments to reconcile the accounts. In addition the court now reconciles the cash bond forfeitures and unclaimed bond accounts on a monthly basis.

In regard to the remittance of these bond forfeitures to the finance department, we again suggest that these ordinances need to be amended to account for modern accounting practices. Bond forfeitures are reinstated on a daily basis. To remit these forfeitures to the City on a daily basis only to have the City transfer the funds back to the Court when they are reinstated is unnecessarily time consuming and bureaucratically burdensome.”

Follow-up #4: The Municipal Court properly reconciled the escrow account. Once the bond remained unclaimed for more than one year, the Municipal Court transferred the unclaimed bond from its escrow account to the Judicial Expense Fund within approximately two weeks of disposition. The Municipal Court credited bond forfeitures to the Judicial Expense Fund.¹⁰

Finding #5: “The Municipal Court permitted the purchase of items that could create an appearance of improper and wasteful spending.”

Recommendation #5: “The Court should evaluate and determine the necessary business purpose for its purchases.”

¹⁰ The Municipal Court collected the Building Fee on bond forfeitures. City Code Section 50-149 only allows this fee to be collected on convictions. Total cash bonds and/or surety bonds collected totaled 249 for the period of October 1 – December 31, 2011 and resulted in a total reclassification of \$1,245 from the Building Fund Account to the Judicial Expense Fund. The OIG issued a separate letter to the Municipal Court discussing the impact of this fee.

Municipal Court Response #5: “The Court en banc has adopted the following rules relative to the determination of the necessary business purposes for the purchases made for or on behalf of the judges. The judges are allowed to individually determine the business purpose for purchases up to \$50, subject to approval of the administrative judge for reimbursement. Purchases from \$50 to \$200 must be done by requisition approved by the administrative judge. Purchases above \$200 must be done with the approval of the court en banc.”

Follow-up #5: The Municipal Court developed and implemented a reimbursement policy. The Court properly approved its expenses, and all expenses tested were supported by proper documentation and appeared to be business related as outlined in the policy.

Finding #6: “The Municipal Court inappropriately classified employees as contractors. Employers were not required to remit a Form 1099 to contract employees who earn less than \$600 annually. Thus, the Municipal Court did not give two employees a Form 1099 because they earned less than \$600 as a ‘contract employee.’”

Recommendation #6: “The Municipal Court should pay all employees through the payroll process. Payroll tax forms 941, W-2, W-3, 1099 and 1096 for 2009 must be amended by the City¹¹ to reflect these erroneous 1099 payments.”

Municipal Court Response #6: “The Court has taken corrective action relative to this finding. The Court now pays all employees through the City’s payroll system, except contract employees who are independent of court authority....In the future those employees who train new employees will be paid through the payroll system.”

Follow-up #6: The Court properly classified and paid its employees through the payroll system; however, the Municipal Court did not instruct the City to amend the payroll tax forms to reflect the erroneous 1099s payments issued in 2009.

Finding #7: “The Municipal Court did not have a policy requiring timesheets and/or supporting documentation for hours worked by contract employees.”

Recommendation #7: “The Municipal Court should develop and enforce a policy requiring signed documentation of hours worked by contract employees.”

Municipal Court Response #7: “The Court has taken corrective action relative to this finding. The Court now requires signed time sheets by contract employees. The Court presently has three sets of contract service providers; an interpreter, court reporters and a contracted psychiatric doctor. The interpreter is a grant employee who is paid by an hourly wage determined in the grant. She submits timesheets to the Court’s Judicial Administrator who verifies the time and sends documentation to the grantor for reimbursement. The contract court reporters are paid \$75 per court session, which is well below the current market rates.

¹¹ The Court’s payroll is processed by the City of New Orleans.

The psychiatrist is contracted on a flat rate of \$3000 per month and he performs psychiatric evaluations on all defendants who the judges determine to have questionable mental capabilities.”

Follow-up #7: The Municipal Court developed procedures to approve services performed by contract employees. The Municipal Court followed the procedures developed and properly approved contract services performed.

Finding #8: “The Municipal Court lacked effective disbursement controls....The Court does not have a written reimbursement policy. In 2009, the Municipal Court made disbursements without requiring supporting documentation.”

Recommendation #8: “Each requisition should be properly approved prior to purchasing, as stated in the Municipal Court’s requisition policy. This ensures that purchases are authorized and budgeted prior to purchase. Employees should not be allowed to override existing controls.

The Municipal Court should require all supporting documentation, such as memos from the Louisiana Supreme Court stating per diem rates, continuing legal education, etc. to be submitted prior to approval.

Finally, the Court should establish a written reimbursement policy.”

Municipal Court Response #8: “The Court has taken corrective action relative to this finding. The Court now requires all purchases, except the one mentioned in Response to Finding #5, to be by written requisition approved by the judge of the requesting section of court or by the administrative judge for the Clerk of Court’s office and then signed and processed by the Judicial Administrator. Employees are not allowed to override existing controls.

Judges’ reimbursements are subject to written rule delineated in Response to finding #5. Supporting documentation is required in all instances and Louisiana Supreme Court memos pertaining to appropriate per diem reimbursements are required prior to approval.

The court has established, see Response to Finding #5, a written reimbursement policy.”

Follow-up #8: The Municipal Court developed and implemented a reimbursement policy. The Court properly approved its expenses, and all expenses tested contained supporting documentation and appeared to be business related as outlined in the policy.