

Recorder of Deeds Response Technology and Archival Account Audit 2010-2014

As Recorder of Deeds, I requested that an audit be conducted in 2014 by the Comptroller's Office for the time period of July 1, 2010 through June 30, 2014. Within this Technology and Archival Account audit, I requested best practices advisory along with assistance in developing guidelines for a Recorder of Deeds RFP (request for proposal) process. The purpose of the review was to determine if the Recorder of Deeds effectively and efficiently managed these accounts.

Over the course of my 34 years as the Recorder of Deeds, I have requested financial audits similar to this to ensure we were meeting proper expectations and so that we could continually improve operations. Previous audits conducted by various governmental bodies have found that the Recorder of Deeds Office has been properly managed and issues identified in previous audits have been minor.

2010 - 2014 Technology and Archival Account Audit Observations

1. Questioned costs of \$130,274.08
2. Failure to maintain Recorders Fund account with City Treasurer
3. Inadequate bidding proves
4. Lack of segregation of duties
5. Outstanding checks

Recorder of Deeds Response

Background

In 1983, the Missouri State Legislature passed the bill authorizing a \$1.00 surcharge on recorded documents for the Secretary of State Archives and a \$2.00 surcharge for Recorder's Record Preservation in each of the 115 Recorder's offices in Missouri. This legislation was called the Recorder's Fund and was facilitated by then Missouri Secretary of State Roy Blunt. The Technology and Archival Account is a part of the Recorder's Fund.

The purpose of the Recorder's Fund is to provide a revenue source that allows the Recorder of Deed's Office to preserve official records and provide state-of-the-art service with no negative impact on general election funds. (As all Recorders will tell you, if citizens are given the choice to pay to re-cover an old book or fill a pot hole, they choose to fill the pot hole.) For more than 30 years, city general revenue has not been tapped by the Recorder of Deeds Office to pay for the preservation of records. The Recorder's Fund has paid for equipment, technology and preservation and allows the Recorder and staff to be informed of advances in all areas of the recording process.

The State Statute regarding the Recorders Fund account has been revised at least four times. Revisions were made to ensure the accounts did not become a part of county/city general revenue and to ensure the monies were utilized as directed, which they have been in this office. During these revisions, I served as co-chair of the Legislative Committee of the Recorder's Association of Missouri (RAM). The closing phrase of the statute "*including anything necessarily pertaining thereto*" allows for the expenses associated with continuing education, including travel, and anything that pertains thereto. This portion of the statute has been completely ignored in this current audit. As record preservation technology advances, each Recorder must participate in continuing education.

As with all statutes written that apply to government offices across the state, the statute is generically written for third-class counties, which dominate Missouri. In third-class counties, the Treasurer will establish and maintain separate checking accounts for the various county offices. This is not necessarily the case in large first-class counties like the City of St. Louis. In the City of St. Louis, separate accounts are registered with the Treasurer's Office. In St. Louis County, the Director of Revenue controls the account. Each of these options is acceptable under the Missouri State Statute.

1. **Questioned costs of \$130,274.08** – The Technology and Archival Account was properly used for office renovations, office supplies and reimbursements to employees for office activities pertaining to the preservation of records. Revised Missouri State Statute Chapter 59.319.1 allows the Technology and Archival Account to be used for these purposes.

The building modifications that were made in 2012, were conducted in areas that include access to and storage of birth records and marriage licensees; the record center where current records are scanned, microfilmed and preserved and microfilm dating back two centuries. Adjacent to that, is a small lunch room that is used by employees who preserve the records. The work conducted in that room was some painting and installation of floors to match the records rooms. This entire space was renovated consistent with state guidelines.

The use of this account is not strictly limited to the items listed by the auditor. That which is not provided for in the general revenue account, but are necessary to the Recorder's Office (i.e.-notary and bond insurance) RSMo.59.319 "and shall not be used to substitute or subsidize any allocation of general revenue for the operation of the recorder's office without the express consent of the recorder". That which is listed as Mayor's Open House Decorations is in fact frames for photos of the old Recorder's office to be hung in the main office as part of the renovation. Items purchased for the mandatory RAM meeting, fall under donation to a professional organization. Each county provides a donation as part of underwriting the cost of the state mandated training session.

No vendors meetings were held or attended. The meetings cited were meetings of the legislative committee of RAM, or specific educational programs presented by the

University of Missouri (the educational arm of IACREOT), the FBI, Homeland Security, etc.

- 2. Allegations of Nepotism** - As the Recorder of Deeds at the time of this action, I am accountable for this violation. I misinterpreted the law regarding nepotism, and I properly resigned my position when I learned of my error. As part of our personnel policy, the Recorder will establish a policy that complies with the State Constitution to ensure that this action is clearly outlined and never happens again.

The recommendation to recoup the money paid to my great nephew for legitimate and valuable work was made by the previous Recorder of Deeds and not the auditor. This is an unusual suggestion since, in the decades of my employment with the City of St. Louis, repayment has never been considered before. This includes times when an elected and /or appointed official, has been found to have people on payrolls that have not come to work yet have received pay.

- 3. Failure to maintain Recorders Fund Account with City Treasurer** - The Recorders Fund was properly managed and registered with the City Treasurer within the law. As cited above, in the City of St. Louis, separate accounts are registered with the Treasurer's Office. In St. Louis County, the Director of Revenue controls the account. Each of these options is acceptable under the Missouri State Statute. The check book continues to reside in the Recorder's Office. .

One of the primary reasons the office requested this audit was to seek assistance in developing an RFP to secure a new banking institution for this account. I discovered that the bank services being charged were not in compliance with the agreement the Recorder of Deeds Office had established. This account was originally established with Mercantile Bank and Trust. Over the years through new bank ownership, the new owners honored the terms of the original banking agreement until recently. The bank modified the terms of agreement without proper notification to this office. The new terms were not acceptable. Recommendation for pursuing an RFP for new banking services were not made by the audit. The office will pursue recommendations and establish a formal policy.

- 4. Inadequate Bid and Procurement Process** - The auditor omitted from the report the fact that virtually all purchases in the Recorder of Deeds obtained a minimum of three bids and records are kept for each check written. There are items for which bids would not be required (notary renewal, etc.) In one instance bid procedures anticipated by the Recorder were not followed. No improprieties were found. A written policy regarding all expenditures from this fund will be produced and fund expenditures will secure three bids whenever possible.
- 5. Lack of Segregation of Duties** - In the future, the policy on expenditures from the Recorder's fund will include a definitive segregation of duties section and payees on any check will not be allowed to also sign the check.

6. **Outstanding Checks** – The Recorder of Deeds Office will make every effort to contact the individual or organization that receives a check and does not cash the check. When checks are sent and not returned to the Recorder, there must be a presumption that the payee has received the check. The Office will implement a procedure to follow up on uncashed checks. We cannot force individuals to deposit such checks. After an appropriate amount of time, we will contact the state treasurer to reconcile any remaining funds.

Conclusion

The Recorder's Account has been in compliance with Missouri State Statute since the day the account opened. All information pertaining to this account has been a part of the City Treasurer's list of independent accounts. This account has been previously audited by the City Treasurer, Comptroller's Audit Division and the Missouri State Auditor on a number of occasions.

In my letter, I also asked for assistance in doing an RFP for banks, for this account. I was most unhappy with fees and services. While, I am sure our current bank is providing the proper service for the account, I would still ask for your assistance in setting up a bid process. Therefore, I would be grateful for your continued assistance

Finally, to put the questioned expenditures in perspective, the percentage of the Recorder's Fund expended is as follows:

1. Renovation – 11.97% of total fund - (first renovation in more than 40 years)
2. Temporary Employment- 1.27% of total fund
3. Travel, Education & Legislation – 2.28% of total fund

Respectfully submitted

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City of St. Louis Recorder of Deeds