# Nicole R. Galloway, CPA

**Missouri State Auditor**

# Adair County

**June 2015**

**Report No. 2015-043**

**http://auditor.mo.gov**

**Nicole R. Galloway, CPA**
**Missouri State Auditor**

# CITIZENS SUMMARY

## Findings in the audit of Adair County

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|---|---|
| County Management Procedures | The county does not always follow established policies for reimbursements to employees for personal cell phones, meal expenses, or leave accruals and maximum leave balances. The County Commission and the Presiding Judge did not solicit bids for renovations to the third floor courtroom hallway, and the County Commission approved payment for some of the renovation costs before the work was performed. Support for salaries that are paid from mulitple funds was not sufficient. The county does not have written contracts with 3 attorneys that provide legal services for the county Juvenile Court, and the Court Services Administrator entered into 4 written contracts without discussing them with the County Commission. The county incurred the cost of fuel for providing a county-owned vehicle to a state-employed deputy Circuit Court clerk, and the county reimbursed a state-employed court reporter 10.5 cents per mile while the court reporter was also reimbursed 37 cents per mile by the state. |
| County Controls | The county has not documented the property tax levy reduction required for a percentage of sales taxes collected per Section 67.505, RSMo. The county's main account has numerous old outstanding checks and the County Treasurer has not established procedures to periodically reissue or dispose of these checks. The Public Administrator, Recorder of Deeds, Prosecuting Attorney, and County Collector have not established adequate password controls to reduce the risk of unauthorized access to office computers and data. |
| Sheriff Controls and Procedures | The Sheriff does not have procedures in place to properly identify month-end liabilities and compare these liabilities to the reconciled bank account balance for the general fee account. Also, the Sheriff's office does not account for the numerical sequence of receipt slips, compare receipt amounts to deposits, or maintain an accurate computerized accounts receivable list. |
| County Collector's Commission | The County Collector, as noted in our prior audit, is improperly withholding and personally retaining an additional 1.5 percent commission on railroad and utility taxes pertaining to cities. For taxes distributed in Feburary 2014, this commission totaled $1,225. |
| County Assessor's Receipting Procedures | The County Assessor does not always transmit receipts timely, properly account for the numerical sequence of receipt slips issued, or reconcile the composition of receipt slips to the monies transmitted to the County Treasurer. |
| Public Administrator's Receipts | The Public Administrator's deputy clerks do not issue receipt slips or maintain a log for monies received in the mail, and only issue manual receipt slips when an individual brings a payment to the office. A cash count performed on December 16, 2013, identified 12 receipts totaling $1,243 on hand that had not been receipted. |

| | |
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| Senate Bill 40 Board Real Estate Transactions | The Senate Bill 40 Board did not obtain a formal appraisal for the purchase of a building for use as a new administration headquarters or an updated appraisal for the sale of the Board's existing headquarters. As a result, there is no assurance the Board paid or received fair market value for these transactions. |
| Additional Comments | Because counties are managed by several separately-elected individuals, an audit finding made with respect to one office does not necessarily apply to the operations in another office. The overall rating assigned to the county is intended to reflect the performance of the county as a whole. It does not indicate the performance of any one elected official or county office. |

In the areas audited, the overall performance of this entity was **Fair**.*

*****The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

**Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.

**Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.

**Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.

**Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

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# Adair County
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# NICOLE R. GALLOWAY, CPA
## Missouri State Auditor

To the County Commission
and
Officeholders of Adair County

We have audited certain operations of Adair County in fulfillment of our duties under Section 29.230, RSMo. In addition, Nichols, Stopp & VanHoy, LLC, Certified Public Accountants, was engaged to audit the financial statements of Adair County for the 2 years ended December 31, 2013. The scope of our audit included, but was not necessarily limited to, the year ended December 31, 2013. The objectives of our audit were to:

1. Evaluate the county's internal controls over significant management and financial functions.

2. Evaluate the county's compliance with certain legal provisions.

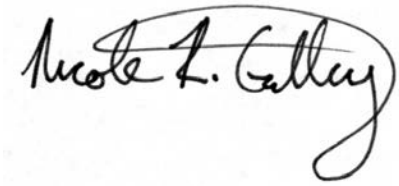
3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing minutes of meetings, written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the county, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the county's management and was not subjected to the procedures applied in our audit of the county.

For the areas audited, we identified (1) deficiencies in internal controls, (2) noncompliance with legal provisions, and (3) the need for improvement in management practices and procedures. The accompanying Management Advisory Report presents our findings arising from our audit of Adair County.



Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this report:

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|---|---|
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## Background

The purpose of this section is to explain the relationship between Adair County and the Adair County Circuit Court and various issues that pertain to both the county and the circuit court, and the handling of those issues by the State Auditor's office (SAO). The same information is being included in Report No. 2015-043, *Adair County*, and Report No. 2015-044, *Second Judicial Circuit, Adair County*.

The Second Judicial Circuit consists of Adair County as well as Knox and Lewis Counties. The Second Judicial Circuit consists of one circuit judge and three associate circuit judges. The circuit judge hears cases in all three counties in the circuit and the associate circuit judges hear cases in their respective counties. The scope of our audit only includes the operations of the Second Judicial Circuit, Adair County. The circuit court operation is funded both with state and county resources and operations are managed utilizing both state and county employees.

The Office of the State Courts Administrator (OSCA) is responsible for providing administrative, business and technology support services to the courts. The OSCA conducts periodic Judicial Information System (JIS) reviews of circuit courts. It most recently conducted a review of the Adair County Circuit Court during 2012 (report issued February 29, 2013), and a follow up of that review in November 2013. The review identified numerous procedural and control problems, and the follow up determined the majority of the recommendations were either not implemented or partially implemented, with only a few recommendations implemented.

The SAO has authority to conduct court audits. In conjunction with the regularly scheduled audit of Adair County for calendar year 2013, the SAO also conducted an audit of the Adair County Circuit Court. The SAO completed the audits and met with county and court officials in October 2014 to discuss the draft audit reports and obtain auditee responses for inclusion in the audit reports.

Disputes exist between the counties in the circuit and the Presiding Judge, resulting in the need for outside parties to evaluate arrangements and make rulings, settlements, and judgments to guide/govern the budgetary arrangements and operations of the Adair County Circuit Court. Disputes also exist within the court regarding appointing authority responsibilities and administrative functions of the court. There continues to be ongoing legal proceedings involving current and former court personnel and officials.

On February 12, 2014, the County Commissioners of Adair and Lewis Counties (as part of the Second Judicial Circuit) filed a petition for review with the Judicial Finance Commission (JFC) regarding the 2014 budgeted operational costs of the court, as allowed by Section 50.640, RSMo. The

parties disputed the reasonableness of budget requests by the Circuit Court for the drug court, the juvenile justice center, court administration, the Circuit Clerk's budget, and the budget for the circuit's court reporter. The JFC concluded "the dispute had been exacerbated by poor relationships and lack of trust between the parties, but that it would be best for all concerned to resolve this protracted and expensive litigation through settlement." After several rounds of mediation, further disputes and disagreements about the wording of the settlement agreement led the parties to submit post-hearing filings with the JFC on September 10, 2014.

In an October 2014 decision, the JFC determined the Circuit Court budget request to be unreasonable. Many of the matters raised by the counties in their filings were outside the scope of the JFC, such as the classification of certain employees as state employees rather than county employees, and the JFC declined to consider them. The JFC found that all but one component of the Circuit Court's budget request were reasonable. However, because the JFC does not consider the individual budget requests in isolation, the JFC ruled the Circuit Court's budget request in its entirety to be unreasonable. The JFC found that because the Circuit Court asked that money be appropriated from the general revenue of the counties to fund fringe benefits for state employees, when another source of funding was available, the entire budget request of the Circuit Court was unreasonable. The Presiding Judge appealed that decision. The Adair County Commission and the Presiding Judge then engaged in further mediation under the supervision of a specially appointed Court, and reached a settlement agreement resolving all but one issue in dispute between the parties, resulting in the voluntary dismissal of the Presiding Judge's appeal of the JFC's decision.

The remaining issue in dispute was the classification of 6 Juvenile Office/Juvenile Court employees. On December 16, 2014, in Case No. 14AR-CV00603, Judge Gary Oxenhandler rendered a judgment approving the settlement agreement between the County Commission and the Presiding Judge, and holding the 6 employees at issue are to be classified and designated as employees of the county for the purposes of the payment of salary, health insurance, retirement plan, and fringe benefits. The Presiding Judge has since filed a motion to enforce the settlement agreement, and a hearing has been set for June 17, 2015. It was during the timeframe the SAO was working with county and court officials to obtain responses and finalize the audit reports, that these various rulings, settlements, and judgments became available. Because finding number 1 in the county audit report pertains to both the county and the court, responses were obtained from multiple county and court officials.

In addition, issues addressed in the county and court audit reports include the period of time during which the Presiding Judge amended the court consolidation agreement. The Presiding Judge, Associate Circuit Judge, and

Circuit Clerk entered into a consolidation agreement effective June 1, 2008, giving appointing and administrative authority to the Circuit Clerk. On May 2, 2013, the Presiding Judge amended the consolidation agreement of the clerical functions of the Adair County Circuit Court. The changes included relieving the Circuit Clerk of her appointing authority and giving the Presiding Judge sole authority to hire, discipline, discharge, or terminate deputy clerks in the Circuit Clerk's office. In addition, other changes included the Presiding Judge becoming responsible for the establishment and implementation of policies and procedures for the operation of the clerical and all other functions of the Circuit Clerk's office, maintaining control over the funds budgeted for the offices of the Circuit Clerk and judges, and having the discretion to assign authority to a duly appointed representative. Effective April 1, 2014, the Court en Banc amended the consolidation agreement to shift these responsibilities from the Presiding Judge to the Adair County Associate Circuit Judge. As a result, appointing and administrative authority over the Circuit Court has shifted from the Circuit Clerk to the Presiding Judge to the Adair County Associate Circuit Judge during the audit period and over the course of the audit process. The changes in appointing and administrative authority over the Circuit Court made it appropriate to obtain responses from multiple court officials.

Because various rulings, settlements, and judgments discussed earlier resolved some issues addressed in finding number 1 in the county audit report, recommendations are no longer needed. These findings identify important concerns and relevant corrective actions and remain in the report; however, recommendations are not provided and the associated responses from various county and court officials are omitted. Also, responses provided to the SAO for county audit report findings number 1 and 2 and Circuit Court audit report findings number 1 through 4 were voluminous and came from multiple officials. The responses were largely unresponsive to the specific recommendations, did not clearly convey plans for corrective action, and inappropriately comment on other officials and/or the audit process as opposed to focusing on remedies. Thus, auditee responses have been modified to present portions specifically addressing recommendations and to omit portions evaluated as ineffective for inclusion - those commenting on other officials or the audit process, or providing additional information not specific to the findings. However, full auditee responses without edit, including those pertaining to now deleted recommendations, are presented in the audit report appendix.

# 1. County Management Procedures

We found significant weaknesses in county management procedures and controls over personnel policies, contracts, bidding, disbursements, and vehicles.

## 1.1 County policies

The county does not always follow established policies for reimbursements to employees or leave accruals and maximum balances.

### Cell phones

The county reimbursed some employees for using personal cell phones for county purposes, but had no formal reimbursement policy on file to support amounts paid. The County Commissioners indicated the county's informal policy was to reimburse a maximum of $40 each month for the use of an employee's personal cell phone. County records showed the Presiding Judge's secretary was reimbursed with county funds a total of $1,085 for 8 months during 2013 (approximately $136 per month), or $765 more than the maximum allowed by the county's informal policy. The other 8 employees that received cell phone reimbursements were reimbursed $40 per month. The county discontinued reimbursing for personal cell phone use effective January 2014.

In addition, during our review of invoices for the use of electronic tablets we noted the county incurred $70 in overage charges and $30 in late payment fees for the year ended December 31, 2013. Service plans have not been periodically reviewed to ensure the most appropriate plan for the amount of usage is utilized. The County Commissioners indicated bills were not always provided to the county by the Court Services Administrator to allow for timely payment. The Court Services Administrator could not explain reasons for the late payments.

### County employee meals

Even though the County Commissioners had concerns regarding noncompliance with established policies, the county reimbursed 2 county employees for meal expenses at the state per diem rate instead of the county rate. County policy states employees will be reimbursed for actual meal expenses not to exceed $40 per day, and must have receipts for verification. However, the county reimbursed employees at the state per diem rate without requiring receipts to support the reimbursement claims. For example, the Drug Court Case Manager was reimbursed $45 a day for 4 days while attending a conference in Washington, D.C., from July 14, 2013, through July 17, 2013. The manager was reimbursed a total of $343 during 2013, using the state per diem rate and without the required meal receipts. Also, the Circuit Court Administrator was reimbursed $89 for meals during 2013, at the state per diem rate and without the required meal receipts. While amounts reimbursed do not vary significantly from county rates, the county should not reimburse expenses incurred without proper supporting documentation and in noncompliance with county policy.

**Vacation and sick leave**

Even though the County Commissioners had concerns regarding noncompliance with established policies, the county allowed some employees to earn vacation and sick leave at the state rate and accumulate leave balances in excess of amounts established by policy.

County employees earn vacation leave at a rate of 1.53 hours to 6.15 hours bi-weekly based on the years of service and sick leave is earned at a rate of 2.31 hours per pay period. A review of employee records identified 6 employees that incorrectly accrued vacation and sick leave time at the state leave accrual rates. These employees work for the Adult Drug Court and Juvenile Justice Center and are considered county employees by the County Commission. They are fully paid from county funds and receive other county benefits, such as health insurance coverage and participation in the county's retirement plan. Our calculation determined as of March 14, 2014, that by accruing vacation and sick leave at the state rates, these employees have earned 1,273 vacation hours and 2,392 sick leave hours more than would have been accrued using county rates. In addition, 2 of the 6 employees had accumulated vacation leave and 3 of the 6 employees had accumulated sick leave that exceeded the county's allowable maximum by a total of 307 hours and 1,152 hours, respectively, as of March 14, 2014.

**Conclusion**

The County Commission and Presiding Judge disagreed regarding the level of funding the county should provide toward court operational costs. The County Commission had expressed uncertainties regarding when to apply county versus state reimbursement rates and leave accrual rates, and potential problems due to inconsistent application of policies among county employees. The uncertainty seemed to occur because some employees working for the Adult Drug Court and Juvenile Justice Center were classified and paid as county employees, but considered part of the court system by the Presiding Judge. In some cases the Presiding Judge directed the county as to what expenses were to be paid from the county's General Revenue Fund and the Presiding Judge or Juvenile Justice Center Administrator directed the county as to what leave rates to apply.

Compliance with established county policies is necessary to ensure reimbursements for expenses by county employees are applied consistently and to avoid potential future conflicts. Also, incurring additional charges as a result of exceeding service plan limits can be avoided by periodically reviewing usage and selecting the most appropriate service plan. Further, timely payments to vendors eliminates late charges and ensures taxpayer monies are used efficiently.

## 1.2 Hallway renovation

The Presiding Judge, who initiated the project, and the County Commission did not solicit bids for renovations to the third floor courtroom hallway. Also, the County Commission paid some of the renovation costs before the work was performed. In December 2012, the county paid a vendor $3,260 (for demolition) and $3,030 (for renovation) for work not started until June 2013. The Circuit Clerk, at the request of the Presiding Judge, submitted the demolition and renovation estimates to the County Clerk for payment. The County Clerk did not approve the payment because the work had not been completed. According to the County Clerk and documents provided, the same estimates were later re-submitted by the Circuit Clerk with "estimate" covered using correction fluid and the payment was approved by the County Commission.

The county paid this vendor $14,192, which is $7,902 more than the original estimate of $6,290. The County Commission, Presiding Judge, and Circuit Clerk all indicated they were unaware bids had not been solicited for the work to be performed. Further, the Presiding Judge stated he submitted the invoices for payment prior to the work being performed because the project was originally included in the 2012 budget. The project was completed in September 2013 at a total cost of $17,183. The amount paid on this project during 2013 ($10,893) exceeded the budgeted amount of $5,000.

In addition, the Presiding Judge indicated vendor estimates for the demolition and restoration of the hallway were likely split into 2 separate estimates to avoid bidding requirements or avoid questions regarding the lack of bids by making the related payments for each $4,500 or less.

Section 50.660, RSMo, requires the advertisement for bids for any purchases of $4,500 or more, from any one person, firm, or corporation during any period of 90 days. Advertisement for bids is also required in the case of contracts or purchases involving an expenditure of $6,000 or more. Routine use of a competitive procurement process for major purchases ensures the county has made every effort to receive the best and lowest price and all interested parties are given an equal opportunity to participate in county business. Documentation of the various proposals received, and the county's selection process and criteria should be retained to demonstrate compliance with applicable laws or regulations and support decisions made. In addition, payments should not be made prior to receipt of goods or performance of services.

## 1.3 Allocation of salaries

Support for salaries paid from multiple funds was not sufficient.

- The Juvenile Services Administrator was assigned additional duties associated with the Adult Drug Court in August 2010 resulting in his title changing to Court Services Administrator. In May 2013 more duties were added, which include overseeing the Circuit Clerk's office. Despite performing multiple duties for different departments, the Court

Services Administrator's entire salary continues to be paid from the Juvenile Justice Fund. The Court Services Administrator completes a timesheet, but does not track time spent on different duties. He estimated he works 75 percent of the time for the Juvenile Justice Center and 25 percent of the time as Court Services Administrator. County records show he was paid $61,239 for the year ended December 31, 2013.

- The county does not ensure salaries paid for work performed is properly documented and supported by contract terms. The Prosecuting Attorney contracted with an individual, beginning July 1, 2012, to work as the Adult Drug Court Case Manager. The case manager's salary is paid from the county Prosecuting Attorney's Administration Fund using drug court grant monies transferred from the General Revenue Fund and other monies transferred from the Juvenile Justice Fund. The contract provides for $22,653 to be paid for drug case management services; however, the Adult Drug Court Case Manager is paid an annual salary including benefits of $48,333. This individual also performs work for the Juvenile Justice Center; however, the contract does not address services to be performed or compensation to be paid associated with these duties. In addition, the case manager's timesheet does not document hours worked for the Adult Drug Court and/or the Juvenile Justice Center. The difference between the annual salary and the amount provided for in the contract of $25,680 is paid from monies transferred from the Juvenile Justice Fund.

To ensure the accuracy of hours worked, time recorded should be documented for each job performed. In addition, the county should allocate expenditures to county funds based upon specific criteria, such as the number of hours worked by each employee, and retain documentation to support these allocations. In addition, employment contracts should contain sufficient documentation of job duties to be performed.

## 1.4 Contracts

We noted the following issues concerning contracts:

- The county does not have written contracts with 3 attorneys chosen to provide legal services for indigent parents with children in the county Juvenile Court. According to county records, the attorneys were paid a total of $18,830 for the year ended December 31, 2013.

- The Court Services Administrator entered into 4 written contracts without discussing them with the County Commission. The contracts are with attorneys that provide legal services to indigent parents of children in Juvenile Court. Two of the current County Commissioners stated they did not authorize the Court Services Administrator to enter into the 3 contracts that were executed since they were elected to the commission. The other contract began before the election of any of the

current commission members. The total paid to attorneys for the 4 contracts was $106,166 during the year ended December 31, 2013. These payments are made from the county's Juvenile Justice Fund; thus, it is important the county be made aware of the obligations for budgetary purposes.

Written contracts, signed by the parties involved, should specify the services to be rendered and the manner and amount of compensation to be paid. Written contracts are necessary to ensure all parties are aware of their duties and responsibilities and to prevent misunderstandings. Further, the County Commission should review and approve contracts that impact county funds and related budgets.

## 1.5 Fuel expenses

The county incurred the cost of fuel for providing a county-owned vehicle to the Juvenile Justice Center for a state-employed deputy Circuit Court Clerk to travel to another county. A deputy Circuit Court clerk was sent periodically to Monticello in Lewis County to provide assistance at that county's court. The round trip mileage from Kirksville to Monticello is approximately 105 miles. Court records indicated the court clerks made 28 trips for a total of 2,940 miles during the year ended December 31, 2013. This practice ended in 2014.

Paying for the transportation costs of state employees that perform work unrelated to Adair County is not a prudent and necessary use of taxpayer monies by the county. Further, neither the county or juvenile vehicle policies provides for use of county-owned vehicles by state employees.

## 1.6 Court reporter mileage

The county reimbursed the court reporter, a state employee, 10.5 cents per mile while the court reporter was also reimbursed 37 cents per mile by the state. The county could not provide an explanation as to why the extra amount was paid. The county's policy reimburses employees 50 cents per mile and does not include reimbursements to state employees. Per county records the court reporter received mileage reimbursement of $526 from the county during the year ended December 31, 2013.

Section 485.090, RSMo, requires that the reimbursement of necessary travel expenses for official court reporters of a judicial circuit shall be paid out of the state treasury. Additionally, the state court travel policy states "the state allowance represents full compensation for the costs of operating a vehicle."

# Recommendations

1.1, 1.3,
1.4, &
1.6 No recommendations are provided for reasons explained in the Background section.

The County Commission:

1.2 And Presiding Judge obtain bids in accordance with state law and discontinue prepaying for work not performed.

1.5 Consider requesting reimbursement from other entities for the use of county assets and revise vehicle policies to address usage by state employees.

## Auditee's Response

*The County Commission provided the following responses:*

*1.2 The County Commission will recommend the Presiding Judge obtain bids in accordance with State law and discontinue prepaying for work not yet performed.*

*1.5 The County Commission will consider requesting reimbursement from other entities for the use of County assets and revise vehicle policies to address usage by State employees.*

*The Presiding Judge provided the following responses:*

*1.2 The County Commission approved certain renovations on the third floor lobby area of the Courthouse, and the logistics of locating and engaging a contractor were conducted by the Circuit Clerk. Since the work was divided into phases encompassing demolition and construction components, each of which fell below the threshold requiring competitive bidding, no bids were required. Subsection 2 of Section 50.660, RSMo provides that "Notwithstanding the provisions of subsection one of this section to the contrary, advertising shall not be required in any county in the case of contracts or purchases involving an expenditures of less than six thousand dollars." The Circuit Clerk did submit bills for prepayment because the project had been included in her 2012 budget. These were paid by the County. Perhaps a better practice would have been to include it in the following year's budget, but prepayment is not an uncommon practice in the construction industry. Since this project involved renovations to a common area of the Adair County Courthouse, it probably should have been a project undertaken and supervised by the County Commission.*

*The Presiding Judge has complied with statutory bid requirements and any prepayment for work was made by the County at the request of the circuit clerk from the circuit clerk's budget.*

*1.5 The County is not incurring the cost of fuel nor providing a county-owned vehicle for deputy circuit clerks to travel to another county. At one time, deputy circuit clerks from Adair County were assigned*

*to Lewis County to assist the Lewis County Circuit Clerk with her workload since her office is understaffed. During that time, vehicles and fuel purchased solely from the operation revenue of the Circuit Court, which includes Lewis County, and not from county tax or general revenue, were used to transport those deputy clerks to and from Lewis County. Further, for the reason discussed above, use of these vehicles is not controlled by County policy.*

*The Circuit Court has not used County assets for any other entities. Vehicles used by Court employees, whether paid by the Circuit Court or by the State, have been purchased by the Circuit Court solely from the Court's operational revenue, and not from County general revenue.*

*The Circuit Clerk provided the following response:*

*1.2 In the fall of 2012-the Presiding Judge approached the Circuit Clerk and requested that I contact the vendor. The Presiding Judge indicated that he wanted to talk with the vendor concerning removing the ceiling panels from the hallway outside the Division One courtroom. I called the vendor and asked him to come by and talk with the Presiding Judge. The vendor came to my office in the Adair County Courthouse in late October or early November 2012 and I escorted him to the Presiding Judge's office and returned to my office.*

*The middle of December 2012, the vendor delivered to my office two documents numbered 1675 and 1676 for amounts totaling $6,290. I took those documents to the Presiding Judge and he directed me to take those documents to be submitted to Adair County for payment from the Circuit Clerk's budget. The end of December, Adair County Clerk Sandy Collop personally returned those documents to my office and said the county wasn't going to make payments from documents titled Estimates. I took those same documents to the Presiding Judge and he ordered me to "white-out" the word Estimates, place my initials and date at the top of each document and resubmit them to the county for payment from the 2012 budget.*

*The county then issued the checks to the vendor and delivered the checks to my office. I took the checks to the Presiding Judge and he told me to call the vendor to pick up the checks.*

*At no time did I have any conversation with the vendor on the work to be completed at the courthouse. The project, bids, amount of material, etc. was between the vendor and the Presiding Judge and/or the Court Services Administrator.*

# 2. County Controls

Procedures related to the county sales tax rollback, outstanding checks, and computer security controls need improvement.

## 2.1 County sales tax

The county has not documented the property tax levy reduction required for a percentage of sales taxes collected per Section 67.505, RSMo. For many years the county has chosen to set the general revenue tax levy at zero. Since the tax rate ceiling is zero, and the County Commission has determined the General Revenue Fund tax levy to be zero, a sales tax reduction rollback has not been calculated.

In 2008, the county certified a voluntary reduction equal to the county's tax rate ceiling of .3609 and the SAO followed Section 137.073.5(4), RSMo (amended in 2008), which provides a voluntary reduction taken in a non-reassessment year (even year) results in a reduced tax rate ceiling during the subsequent reassessment year (odd year), causing the tax rate ceiling to be zero. Thus, for 2010 through 2013, the county has not indicated a sales tax reduction or a voluntary reduction when certifying the tax rate to the SAO and certified the tax rate ceiling, sales tax reduction, voluntary reduction, and actual tax levy for the General Revenue Fund as zero.

Section 67.505, RSMo, requires the county to reduce property taxes for a percentage of sales taxes collected and the county is required to estimate the annual property tax levy to meet the reduction requirement and provides for an adjustment for actual sales tax collections of the preceding year that are more or less than the estimate for the preceding year.

If the county continues to have a General Revenue Fund tax levy of zero and to show compliance with Section 67.505, RSMo, the County Commission and County Clerk should document when establishing the tax rate levy their understanding of the sales tax rollback requirement and the county's intention to not reinstate its tax rate ceiling in order to show a sales tax reduction and a voluntary reduction to result in a tax levy of zero. If the county, in the future, decides to assess the tax rate levy at something other than zero, the county will need to reinstate its tax rate ceiling as allowed by Section 137.073, RSMo.

## 2.2 Outstanding checks

The county's main account has numerous old outstanding checks and the County Treasurer has not established procedures to periodically reissue or dispose of these checks. As of December 31, 2013, 83 checks totaling $9,998 had been outstanding for over a year with the oldest check dating back to 2002.

Procedures to periodically dispose of old outstanding checks are necessary to prevent the accumulation of this money and ensure it is appropriately disbursed to the payee or as otherwise provided by state law.

## 2.3 User passwords

The Public Administrator, Recorder of Deeds, Prosecuting Attorney, and County Collector have not established adequate password controls to reduce the risk of unauthorized access to office computers and data. Employees in these offices are not required to change passwords periodically to help ensure they remain known only to the assigned user and to reduce the risk of a compromised password.

Passwords are required to authenticate access to computers. The security of a computer password is dependent upon keeping passwords confidential. However, since these employees do not change passwords periodically, there is less assurance passwords are effectively limiting access to computers and data files to only those individuals who need access to perform their job responsibilities. Passwords should be unique and confidential and changed periodically to reduce the risk of unauthorized access to and use of computers and data.

## Recommendations

The County Commission:

2.1 Should document during the tax rate setting process its understanding of the sales tax rollback requirements and compliance with the statutory requirements.

2.2 Work with the County Treasurer to establish procedures to routinely investigate outstanding checks. The County Treasurer should void and reissue old outstanding checks to payees that can be readily located. If the payee cannot be located, the amount should be disbursed in accordance with state law.

2.3 Work with county officials to require employees change passwords periodically to prevent unauthorized access to computers and data.

## Auditee's Response

*The County Commission provided the following responses:*

*2.1 The County Commission and County Clerk will attempt to document its understanding of the sales tax rollback requirements. The County will work annually with the State Auditor's Office to determine the appropriate handling of the property tax levy issues as same relates to the tax roll back under Section 67.505, RSMo.*

*2.2 The County Commission will attempt to work with the County Treasurer to establish procedures to routinely investigate outstanding checks.*

*2.3 The County Commission will contact the Public Administrator, Recorder of Deeds, Prosecuting Attorney, and County Collector and suggest they establish adequate password controls to reduce the risk of unauthorized access to office computers and data.*

*The County Treasurer provided the following response:*

*2.2 We will review stale checks at year end and dispose of them according to state law.*

*The Public Administrator provided the following response:*

*2.3 We will evaluate the need for changing passwords.*

*The Recorder of Deeds provided the following written response:*

*2.3 We will consider the recommendation for changing passwords.*

*The Prosecuting Attorney provided the following response:*

*2.3 The Adair County Prosecuting Attorney's office accepts the finding that there was no requirement to update/change passwords on a regular basis. While passwords are required to access our computers, they were not being changed nor did the system require them to be changed.*

*Moving forward, the Adair County Prosecuting Attorney's office will establish protocol to ensure that passwords for access to computers are changed on a regular basis.*

*The County Collector provided the following response:*

2.3 *We will change passwords every six months.*

# 3. Sheriff Controls and Procedures

Accounting controls and procedures need improvement. The Sheriff's office processed approximately $96,000 in civil fees, board bills, concealed carry weapon permits, and other receipts during the year ended December 31, 2013.

## 3.1 Liabilities listing

The Sheriff does not have procedures in place to properly identify month-end liabilities and compare these liabilities to the reconciled bank account balance for the general fee account. At our request, the Sheriff's Finance Coordinator prepared a liabilities list for the account as of December 31, 2013. Identified liabilities were $435 less than the general fee account balance of $7,828. As a result, the Sheriff has accumulated excess monies in the account and cannot identify to whom or what entity they belong.

A monthly list of liabilities should be prepared and reconciled to cash balances to ensure records are in balance, errors are detected and corrected timely, and sufficient cash is available for the payment of all liabilities.

## 3.2 Receipting and depositing procedures

The Sheriff's office does not account for the numerical sequence of receipt slips or compare receipt amounts to deposits. As a result, there is less assurance monies are properly handled and deposited.

Manual receipt slips are issued from 2 separate receipt slip books located at the front desk and in the jailer's office. In addition, electronic receipt slips are issued for monies collected from inmates at booking or monies collected on behalf of inmates. The Finance Coordinator does not retrieve receipt slip books or generate lists of receipts issued and compare this information to deposit details to both account for receipt slips and ensure monies were appropriately deposited. We reviewed inmate deposits for December 2013 and identified 28 electronic receipt slips were not accounted for properly.

To reduce the risk of loss, theft, or misuse of monies received going undetected, procedures should be established to ensure the numeric sequence of receipt slips are accounted for properly and receipt records are compared to deposits.

## 3.3 Accounts receivable

The Sheriff's office does not maintain an accurate computerized accounts receivable list. According to the computerized records, accounts receivable totaled $44,570 as of December 31, 2013, of which $36,800 was outstanding for more than a year. Our review determined the accounts receivable balance is overstated due to procedural errors when processing payments. For example, payments received for a $927 December 2013 board bill and a $70 February 2011 board bill were not applied to the corresponding receivable balances, and the original invoices were still shown as unpaid. Manual receipt slips are issued for payments received, but are not reconciled to the computerized records. As a result, these account balances are inaccurate and the total accounts receivable balance is overstated.

Computerized and manual records should be periodically reconciled to help ensure accounts and balances are current and accurate, and all monies due to the Sheriff's office are collected. Discrepancies between each set of records could create uncertainty regarding the validity of the amount due to the Sheriff's office.

## Similar conditions previously reported

Similar conditions to sections 3.1 and 3.2 were noted in our prior audit report.

## Recommendations

The Sheriff:

3.1 Prepare a monthly list of liabilities for the general fee account, reconcile the list to the reconciled bank balance, and investigate any differences.

3.2 Account for the numeric sequence of receipt slips issued to ensure all receipts are included when preparing the deposit and investigate any missing receipt slips.

3.3 Correct procedural errors that cause the accounts receivable list to be overstated.

## Auditee's Response

*The Sheriff provided the following responses:*

*3.1 The Sheriff will ensure a monthly list of liabilities is prepared for all bank accounts and reconciled to the bank balance and will document his review and approval before they are filed. This will be done for each account (Fees, Bonds, and Inmate Accounts) at the end of each month when bank statements are reconciled, and approved by the Sheriff.*

*3.2 The Sheriff's office will ensure the numerical sequence of receipt numbers is accounted for when each deposit is prepared. In addition, the Sheriff's Office is working to integrate all receipts issued into one computer system. A report will be run with a list of receipts, verifying numerical sequence, to ensure all receipts are accounted for and none are missing. This will be accomplished via an existing accounting system until a better method can be determined.*

*3.3 We have contacted a QuickBooks Counselor (CPA) who is assisting us in the mechanics of correcting the errors in accounts receivable inputs without causing additional errors in the banking accounts. We will begin making corrections with fiscal years 2014 and 2013 and work backwards. Some of the older years may be written off.*

## 4. County Collector's Commission

As noted in our prior audit, the County Collector is improperly withholding and personally retaining an additional 1.5 percent commission on railroad and utility taxes pertaining to cities. This commission totaled $1,225 on railroad and utility taxes for the year ended February 28, 2014.

The collection of railroad and utility taxes is a part of the County Collector-Treasurer's statutorily required duties, and he should not receive additional compensation for collecting these taxes. The County Collector is required by Section 151.180, RSMo, to collect all railroad taxes. The County Collector properly withholds a 1 percent commission on these taxes and pays this amount to the county's General Revenue Fund as provided by Section 151.280, RSMo. Section 153.030, RSMo, requires utility taxes to be levied and collected in the same manner as railroad taxes. However, the County Collector also withholds and personally retains a 1.5 percent commission from railroad and utility taxes collected for cities. The County

Collector has written agreements with 4 cities for property tax collection services, which provide for him to personally retain a 1.5 percent commission on current city tax collections. Because the collection of railroad and utility taxes is a statutorily required duty, these contract terms conflict with state law and the County Collector should not receive this additional compensation.

## Recommendation

The County Collector should discontinue withholding and retaining additional commissions on the cities' portion of railroad and utility taxes and consider making repayment to the cities.

## Auditee's Response

*The County Collector provided the following response:*

*The contract language allows for the County Collector to charge and collect the additional 1.5 percent commission.*

## 5. County Assessor's Receipting Procedures

The County Assessor's office issues manual receipt slips for monies received from the sale of maps, subscriptions to online data, and copies. The County Assessor processed receipts totaling $2,265 during the year ended December 31, 2013. We noted the following problems:

- The County Assessor does not always transmit receipts timely. For example, monies collected in February and April 2013 totaling $79 were held and turned over to the County Treasurer at the end of March and May, respectively. In addition, monies collected in June and July 2013 totaling $56 were held and transmitted to the County Treasurer in August 2013.

- The County Assessor does not properly account for the numerical sequence of receipt slips issued. We noted 10 receipt slips issued out of numerical order and 3 missing receipt slips. For example, receipt number 189277 was issued on May 25, 2013; however, the preceding and succeeding receipt slips were dated August 12, 2013. The County Assessor could not provide an explanation and there was no documentation indicating why the receipt slips were issued out of order or are missing.

- The County Assessor does not reconcile the composition of receipt slips to the monies transmitted to the County Treasurer. We noted discrepancies between receipt slips issued and amounts transmitted. For example, total receipts transmitted to the County Treasurer exceeded receipt slip totals by $27 for the year ended December 31, 2013.

To safeguard receipts and reduce the risk of loss, theft, or misuse of funds, receipts should be transmitted timely and intact, the numerical sequence of receipt slips accounted for, and receipt records should be reconciled to transmittals.

Recommendation

The County Assessor transmit all monies received timely and intact, account for the numerical sequence of receipt slips issued, and reconcile receipt slips to the transmittal.

Auditee's Response

*The County Assessor provided the following response:*

*We are now accounting for the numeric sequence of receipt slips, reconciling them to the turnover, and turning receipts over to the County Treasurer weekly.*

## 6. Public Administrator's Receipts

The Public Administrator's receipting procedures are not adequate. The Public Administrator had 111 wards with assets totaling $660,000 at December 31, 2013.

The deputy clerks do not issue receipt slips or maintain a log for monies received in the mail, and only issue manual receipt slips when an individual brings a payment to the office. As a result, there is less assurance all monies received are accounted for properly. A cash count performed on December 16, 2013, identified 12 receipts totaling $1,243 on hand that had not been receipted.

To safeguard receipts and reduce the risk of loss, theft, or misuse of funds, issue receipt slips for all monies received.

Recommendation

The Public Administrator ensure pre-numbered receipt slips are issued for all monies received or, at a minimum, a log is maintained for all monies received.

Auditee's Response

*The Public Administrator provided the following response:*

*We are recording all payments received on a manual receipt log.*

## 7. Senate Bill 40 Board Real Estate Transactions

The Senate Bill 40 Board (Board) did not obtain a formal appraisal for the purchase of a building for use as a new administration headquarters or an updated appraisal for the sale of the Board's existing headquarters. As a result, there is no assurance the Board paid or received fair market value for these transactions.

On June 14, 2013, the Board unanimously approved the purchase of the building for $275,000 and closed the purchase on July 13, 2013. The Board's Assistant Director said the Board obtained an informal appraisal from an out-of-town company that performs building inspections, which indicated the building was valued between $312,000 and $327,000. She also stated no local professionals performed appraisals on commercial real estate property and it would have been cost prohibitive to have a formal appraisal prepared.

In August 2013, the Board voted to advertise the sale of its current building. The building and property was last appraised at $140,000 in June 2010. The Assistant Director said the Board did not obtain a recent appraisal because the market had not changed since 2010. The Board received sealed bids and accepted a bid for $156,000 in May 2014.

Good business practice requires major real estate purchases or sales be formally and independently appraised to ensure prices are reasonable.

## Recommendation

The Senate Bill 40 Board obtain appraisals before purchasing and selling real estate.

## Auditee's Response

*The Senate Bill 40 Board provided the following response:*

*The Senate Bill 40 Board obtained an appraiser's opinion of the fair market value. The Board discussed the valuation also noting that appraisals of commercial property in this area are difficult and not always indicative of fair market value because of the scarcity of meaningful comparable properties. The Board agrees that in the future they will obtain full market valuations if any reals estate sale or purchases occur through independent sources.*

# Adair County
# Organization and Statistical Information

Adair County is a county-organized, third-class county. The county seat is Kirksville.

Adair County's government is composed of a three-member county commission and separate elected officials performing various tasks. All elected officials serve 4-year terms. The county commission has mainly administrative duties in setting tax levies, appropriating county funds, appointing board members and trustees of special services, accounting for county property, maintaining county roads and bridges, and performing miscellaneous duties not handled by other county officials. Principal functions of these other officials relate to law enforcement, property assessment, property tax collections, conduct of elections, and maintenance of financial and other records important to the county's citizens. The county employed 89 full-time employees and 22 part-time employees on December 31, 2013.

In addition, county operations include the Senate Bill 40 Board.

## Elected Officials

The elected officials and their compensation paid for the year ended December 31 (except as noted) are indicated below:

| Officeholder | 2014 | 2013 |
|---|---|---|
| Stan Pickens, Presiding Commissioner | $ | 30,697 |
| Carson Adams, Associate Commissioner | | 28,608 |
| Mark Thompson, Associate Commissioner | | 28,608 |
| Pat Shoush, Recorder of Deeds | | 43,346 |
| Sandra Collop, County Clerk | | 43,346 |
| Matt Wilson, Prosecuting Attorney | | 116,859 |
| Robert T. Hardwick, Sheriff | | 48,046 |
| Lori J. Smith, County Treasurer | | 43,346 |
| Brian C. Noe, County Coroner | | 14,623 |
| Rhonda Noe, Public Administrator | | 43,346 |
| David O. Erwin, County Collector (1), year ended February 28, | 65,078 | |
| Donnie Waybill, County Assessor, year ended August 31, | | 43,346 |
| David W. Borden, County Surveyor (2) | | |

(1) Includes $21,599 of commissions earned for collecting city property taxes.
(2) Compensation on a fee basis.

## Financing Arrangements

In June 2000, the county entered into a lease purchase agreement with a not-for-profit organization to finance the construction and furnishings of the juvenile justice center. Principal and interest payments are funded through the maintenance of effort monies paid proportionately by Adair, Lewis, and Knox Counties. The county refinanced the lease in June 2011. The lease is

scheduled to be paid off in 2020. The remaining principal outstanding at December 31, 2013, was $910,100. Interest remaining to be paid over the life of the agreement totals $147,490.

*The following comments were provided by the County Commission and County Clerk:*

November 3, 2014

The following are Adair County's responses to "Adair County Management Advisory Report State Auditor's Findings" presented to the Adair County Commission and Adair County Clerk on October 20, 2014. The Missouri State Auditor's arrived in Adair County on December 3, 2013 to begin the audit and departed on April 10, 2014. The report was presented by Chris Vetter, CPA, Audit Manager, State of Missouri, Office of the State Auditor and Steven J. Re', CPA, Senior Auditor, State of Missouri, Office of the State Auditor.

Response to:

## 1. County Management Procedures

### 1.1 County policies –

**Cell phones:**

At the request of Judge Steele, via payment requests signed by him, Judge Steele's secretary, was reimbursed a total of $1,085. These requests were paid out of Judge Steele's Court Administration Fund. Judge Steele has stated on many occasions that the County has to accept his budget and the County does not have the authority to make changes to his budget. These bills were presented and paid due to Judge Steele's "authority" to approve reimbursements for anything he presented for payment. Upon phone records being obtained by a Researcher hired to investigate irregularities, it was discovered that in August, 2009 the plan was changed from a Wide Area Family Plan to a National Family Plan with the addition of another phone number. The reimbursement request increased from $44.78 to $135.59. In many cases, the complete billing statement had never been presented to the County for payment even though it had been requested. The County was not consulted regarding the reason for the addition to the cell phone plan.

According to the State Auditor's office, it was discovered through Judge Steele that electronic tablets had also been added to the phone bill without the knowledge of the County Commission.

Overage usage and resulting charges should be addressed by the elected official responsible for the device. If bills are not presented to the County Clerk's office on a timely basis, late payment fees could also be assessed.

The above information was provided to the State Auditors during their time spent in the County.

**County employee meals:**

The County did have concerns regarding noncompliance with the established policy for County employees. It should be noted that the employment status (State or County) of the employees referred to in this section has not yet been determined. Judge Steele has maintained that these individuals should be treated as State employees using Operating Rule 7 as his determination. Therefore, he said they were not required to present receipts to support their reimbursement claims. The Drug Court Case Manager's request for payment was presented on a State of

Missouri reimbursement claim form. Such reimbursement claim forms have been questioned in the past. The County Clerk's office was informed that they did not have the authority to question the reimbursements due to Judge Steele's justification using Operating Rule 7.

**Vacation and sick leave:**

The County did have concerns regarding some employees earning vacation and sick leave at the State rate. It should be noted that the employment status (State or County) of the employees referred to in this section has not yet been determined. Judge Steele has maintained that these individuals should be treated as State employees using Operating Rule 7 as his determination. As a result, some of the 6 employees have accumulated vacation leave and sick leave in excessive amounts. Litigation continues regarding the ruling of their employment status. The County has tried to work with the Circuit Court to establish policies that define which positions are County or State paid, plus vacation and sick leave rates. The issue remains unresolved.

The above information was provided to the State Auditors during their time spent in the County.

## 1.2 Courthouse renovation -

The County Commission did not initiate the project for renovations to the third floor courtroom hallway and therefore, did not solicit bids for the work to be performed. The County Clerk's office retains on file all bid procurements when the County Commission has involvement with the project.

Expenses are paid from an invoice submitted by a vendor. Estimates are not paid. The request for payment in the amount of $6,290.00 was accepted into the County Clerk's office after it had been revised using whiteout and no longer contained the word "estimate." The Circuit Clerk said Judge Steele insisted the "bill" paid in 2012 because he had budgeted for the expense in that year.

The above information was provided to the State Auditors during their time spent in the County.

## 1.3 Allocation of salaries -

The Court Services Administrator completes a timesheet, but does not track time spent on different duties. Adair County's legal counsel has requested of the court system, on more than one occasion, the allocation of salary for the Court Services Administrator. This information has never been received by legal counsel or by the County. The Court Services Administrator's time sheet is approved by Judge Steele.

The County is not clear if work performed as the Adult Drug Court Case Manager is supported by contract terms. The case manager's salary is paid from the county Prosecuting Attorney's Administration Fund using drug court grant monies transferred from General Revenue and other

monies transferred from the Juvenile Justice Fund. The contract provided for $22,653 to be paid for drug case management services, however, the Adult Drug court Case Manger was paid an annual salary including benefits of $48,333. The difference was paid from monies transferred from the Juvenile Justice Fund. The contract does not address services to be performed or compensation to be paid for work associated with the Juvenile Justice Center. The case manager's timesheets do not document hours worked for the Adult Drug and/or the Juvenile Justice Center.

The Adult Drug Court Case Manager's timesheet is approved by the Prosecuting Attorney.

## 1.4 Contracts -

Written contracts for legal services were entered into by the Court Services Administrator without discussion with the County Commission or their permission. Other legal services were also performed without written contracts. The Commission is currently seeking legal counsel to determine who, if anyone other than the County Commission, has the authority to enter into contracts for the County. The County Commission would be in favor of reviewing and approving contracts that impact County funds and related budgets, if they are aware of the contract before services begin. The issue remains unresolved.

## 1.5 Fuel expenses -

The County has incurred the cost of fuel for providing a County-owned vehicle to a State-employed deputy Circuit Court clerk to travel to another County. This occurred without knowledge or permission of the County Commission. We agree that paying for the cost of providing transportation of State employees to perform work unrelated to Adair County, is not a prudent or necessary use of taxpayer's monies by the County. The County will amend their vehicle policy to prohibit County-owned vehicles to be utilized by State employees.

## 1.6 Court reporter mileage -

The County will no longer reimburse the court reporter, a State employee for mileage. Adair County will abide by Section 485.090, RSMo that requires reimbursement of necessary travel expenses for court reporters be paid out of the State treasury. The State court travel policy states "the State allowance represents full compensation for the costs of operating a vehicle."

## Recommendations/Auditee's Response:

**The County Commission:**

**1.1:**

will attempt to review the County's policies for reimbursements to ensure they are clearly defined and followed. They will continue to attempt through legal counsel to work with the Presiding Judge to clarify policies and procedures regarding court and County employees.

**1.2:**

will recommend the Presiding Judge obtain bids in accordance with State law and discontinue prepaying for work not yet performed.

**1.3:**

will recommend the Presiding Judge ensure salaries are allocated between job duties and supported by adequate documentation after determination of the employment status of the six employees referred to in section 1.1 County policies.

**1.4:**

will attempt to enter into written contracts which clearly define services to be provided and compensation paid. In addition, the County Commission will attempt to approve all contracts which bind the county.

**1.5:**

will consider requesting reimbursement from other entities for the use of County assets and revise vehicle policies to address usage by State employees.

**1.6:**

will review County policies concerning the reimbursement of mileage expenses to State employees.

## 2. County Controls

### 2.1 County Sales tax -

The County has certified to the State Auditor's office the tax levy for the General Revenue Fund as zero using the same procedures for many years. The County works closely with the State Tax Commission to insure the tax levy procedure is followed correctly. We will contact the State Tax Commission for guidance on your current recommendation of certifying Adair County's General Revenue tax levy to zero using a different formula.

### 2.2 Outstanding checks – Lori has given response to auditors

### 2.3 User passwords -

It will be suggested to the Public Administrator, Recorder of Deeds, Prosecuting Attorney, and County Collector to establish adequate password controls to reduce the risk of unauthorized access to office computers and data.

## Recommendations/Auditee's Response:

**The County Commission:**

**2.1:**

and County Clerk will attempt to document its understanding of the sales tax rollback requirements.

**2.2:**

will attempt to work with the County Treasurer to establish procedures to routinely investigate outstanding checks.

**2.3:**

will contact the Public Administrator, Recorder of Deeds, Prosecuting Attorney, and County Collector and suggest they establish adequate password controls to reduce the risk of unauthorized access to office computers and data.

## IN CONCLUSION:

While the County of Adair welcomes the four year audit that is performed by the Missouri State Auditor's office, we are dismayed by their findings. You stated Adair County has significant weaknesses in County management procedures and controls over personnel policies, contracts, bidding, disbursements, and vehicles. The Auditor's office is aware that the County has been in litigation for over one year with Judge Steele and his Court System concerning everything that the Auditor's office has noted as a finding in their Management Advisory Report of County policies including but not limited to cell phones, County employee meals, and vacation and sick leave.

We agree that the lack of clarity regarding the employment status of some employees and the inconsistent treatment of employees regarding vacation and sick leave is unacceptable. However, the County and the Court have tried unsuccessfully to work together regarding employment status of employees (County or State), to compensate, reimburse expenses, and award leave as appropriate.

The auditor's office has failed to take into consideration that Adair County has exercised the only course as set forth by Missouri law to challenge budget disputes with the Judiciary. On October 8, 2014, the

Judicial Finance Commission unanimously concluded that the 2014 Circuit Court budget requests to Adair County to be unreasonable. Therefore, many of the issues you have chosen as findings have now been addressed. Other issues still need to be resolved, however, and Adair County continues to work with legal counsel to obtain closure of these issues. We are attaching the ruling of the Judicial Finance Commission on October 8, 2014.

*The following additional comments were provided by the County Commission and County Clerk:*

1-30-15

Additional Responses to the Missouri State Auditor's Draft Audit for year 2012-2013

Section 1.1 Cell phones. The County completed the litigation in which it was engaged related to "cell phones" used in the Court's offices. Under the settlement and Judgment order entered in Steele v. Adair County, Adair County Circuit Court Case No. 14AR-CV00603, the expenses of the Circuit Court are no longer included with the County budget per Sec. 9 of the Settlement Agreement "the 2nd Circuit takes over all administration of the 2nd Circuit programs . . . and such administration shall be under the 2nd Circuit Court's federal identification number and not in any way associated with Adair County . . .". Thus there will be no future discrepancies arise.

Section 1.1 County employee meals. The County completed the litigation in which it was engaged related to "employee meals" used in the Court's offices. Under the settlement and Judgment order entered in Steele v. Adair County, Adair County Circuit Court Case No. 14AR-CV00603, the expenses of the Circuit Court are no longer included with the County budget per Sec. 9 of the Settlement Agreement "the 2nd Circuit takes over all administration of the 2nd Circuit programs . . . and such administration shall be under the 2nd Circuit Court's federal identification number and not in any way associated with Adair County . . .". Thus there will be no future discrepancies arise.

Section 1.1 Vacation and sick leave. The County completed the litigation in which it was engaged related to "vacations and sick leave" used in the Court's offices. Under the Judgment order entered in Steele v. Adair County, Missouri, Adair County Circuit Court Case No. 14AR-CV00603, the six (6) subject positions of the Circuit Court "are classified and designated as employees of Adair County for purposes of payment of salary, health insurance, retirement and fringe benefits . . . but all of these financial requirements will be satisfied . . Not by General County tax revenue." Thus there will be no future discrepancies arise.

Section 1.1 Conclusion. Under the settlement and Judgment order entered in Steele v. Adair County, Adair County Circuit Court Case No. 14AR-CV00603, the expenses of the Circuit Court are no longer included with the County budget and the designated positions of the subject employees are County positions. Thus there will be no future discrepancies arise.

Section 1.3 Allocation of salaries. The County completed the litigation in which it was engaged related to "allocation of salaries" used in the Court's offices. Under the settlement and Judgment order entered in Steele v. Adair County, Adair County Circuit Court Case No. 14AR-CV00603, the expenses of the Circuit Court are no longer included with the County budget per Sec. 9 of the Settlement Agreement "the 2nd Circuit takes over all administration of the 2nd Circuit programs . . . and such administration shall be under the 2nd Circuit Court's federal identification number and not in any way associated with Adair County . . .". Thus there will be no future discrepancies arise.

Section 1.4 Contracts for services. The County completed the litigation in which it was engaged related to "contracts for services" used in the Court's offices. Under the settlement and Judgment order entered in Steele v. Adair County, Adair County Circuit Court Case No. 14AR-CV00603, the expenses of the Circuit Court are no longer included with the County budget per Sec. 9 of the Settlement Agreement "the 2nd Circuit takes over all administration of the 2nd Circuit programs . . . and such administration shall be under the 2nd Circuit Court's federal identification number and not in any way associated with Adair County . . .". Thus there will be no future discrepancies arise.

Section 1.6 Mileage reimbursement. The County completed the litigation in which it was engaged related to "mileage reimbursement" used in the Court's offices. Under the settlement and Judgment order entered in Steele v. Adair County, Adair County Circuit Court Case No. 14AR-CV00603, the expenses of the Circuit Court are no longer included with the County budget per Sec. 9 of the Settlement Agreement "the 2nd Circuit takes over all administration of the 2nd Circuit programs . . . and such administration shall be under the 2nd Circuit Court's federal identification number and not in any way associated with Adair County . . .". Thus there will be no future discrepancies arise.

Section 2.1 Property Tax Levy. The County will work annually with the State Auditor's Office to determine the appropriate handling of the property tax levy issues as same relates to the tax roll back under Sec. 67.505 RSMo.

*The following comments were provided by the Presiding Judge:*

**RESPONSE OF PRESIDING JUDGE RUSSELL E. STEELE TO 2014 AUDIT REPORT – ADAIR COUNTY**

**A. Introduction**

The Circuit Court strives to use the best available practices and procedures to fulfill its responsibilities to the public and to ensure the safe, secure, effective, and efficient use of the public's resources. While it is impossible to achieve perfection, that is always the goal. The Court and its staff take those responsibilities seriously and welcome merit-based audit recommendations. That is the case with this audit. However, as more specifically set forth below, while this Audit Report asserts that this audit was conducted in accordance with the standards applicable to performance audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, a careful review and analysis of those *Standards* and this Audit Report lead to the conclusion that many aspects of this audit were not, in fact, conducted in accordance with the *Government Auditing Standards.* The analysis that leads to this conclusion is set forth below.

This audit is a performance audit. Under *Government Auditing Standards* Section 2.10, performance audits are defined as audits that provide findings or conclusions based on an evaluation of sufficient, appropriate evidence against criteria. Compliance audit objectives relate to an assessment of compliance with criteria established by provisions of laws, regulations, contracts, or grant agreements, or other requirements that could affect the acquisition, protection, use, and disposition of the entity's resources and the quantity, quality, timeliness, and cost of services the entity produces and delivers. As provided in Section 6.03 of the *Government Auditing Standards,* performance audits that comply with generally accepted government auditing standards, must obtain reasonable assurance that evidence is sufficient and appropriate to support the auditors' findings and conclusions in relation to the audit objectives. Under Section 6.05, the findings, conclusions, recommendations, or assurance should not be improper or incomplete as a result of evidence that is not sufficient and/or appropriate, or intentional omissions or misleading information. Section 6.15 requires that there should be an understanding of the law applicable to the objectives, which often provides the criteria for evaluating performance. Sections 6.56, 6.57, 6.60, 6.67, and 6.71 require that findings and conclusions have a reasonable basis supported by sufficient and appropriate evidence. Evidence is not sufficient or not appropriate when using the evidence carries an unacceptably high risk that it could lead to an incorrect or improper conclu-

sion, or the evidence does not provide an adequate basis for addressing the audit objectives or supporting the findings and conclusions. Such evidence should not be used as support for findings and conclusions. Section A7.02 provides additional guidance and indicates that the audit report be accurate and complete. To be accurate, it must be supported by sufficient, appropriate evidence with key facts, figures, and findings being traceable to the audit evidence. The report should be complete, which means that the report contains sufficient, appropriate evidence needed to satisfy the audit objectives and promote an understanding of the matters reported. It also means that the report states evidence and findings without omission of significant relevant information related to the audit objectives.

As more specifically discussed below, the Audit Report does not comply with the *Government Auditing Standards* (1) by including findings or conclusions which are not based on sufficient, appropriate evidence against criteria; (2) by including findings and conclusions that are contrary to applicable law; and (3) by failing to provide a report that is accurate or complete. This failure to comply with the *Government Auditing Standards* renders many of the findings and recommendations in the Audit Report invalid.

The Second Judicial Circuit consists of Adair, Knox, and Lewis counties. It is organized pursuant to Section 478.077 RSMo. The Circuit Court is a constitutional entity and the Presiding Judge is responsible for the administration of the Court. See *22nd Judicial Circuit v. Jones,* 823 S.W.2d 471 (Mo.banc 1992). The Presiding Judge of the Circuit Court is authorized by Article 5, Section 15 of the Missouri Constitution, Section 478.240 RSMo, and Section 211.351 RSMo to appoint necessary court personnel, including juvenile court personnel. These employees are employees of the circuit court and not of the counties comprising the circuit. See *Hill v. 24th Judicial Circuit,* 765 S.W2d 329 (Mo.App. 1989). Under Section 478.240 RSMo, all judicial employees are under the specific authority and control of the Presiding Circuit Judge, not the County Commission. See *Hill v. 24th Judicial Circuit, supra.*

The Missouri Supreme Court has consistently held that, except for the management of the fiscal affairs of the county, county commissions possess no powers except those conferred by statute. *See Kuyper v. Stone County Commission,* 838 S.W.2d 436, 439 (Mo.banc 1992); and *State ex rel. Lack v. Melton,* 692 S.W.2d 302, 305 (Mo.banc 1985). The county commission's primary role, as it relates to the judiciary, is as its budget authority, with the limited role of appropriating general revenue to help fund the operations of the courts. There is no statutory au-

thority for the county commission to control spending decisions of the circuit court outside of the budget process, or to establish policies or procedures to which the circuit court must comply. The county commission has no authority to limit or control the expenditure of funds appropriated for the circuit court or to refuse to honor pay warrants for any appropriated expenditure that is within the limits and for the purposes approved in the appropriation order. The presiding circuit judge may hire personnel as he deems necessary without the approval or consent of the County Commission. *Kuyper* at 440. As the Supreme Court noted, in *Melton,* "We are of the opinion that the legislature did not intend . . . to subjugate the autonomy of the [elected official's] office to the political whims of the county commission via an 'advice and consent stratagem.'" *Melton* at 305 (cited with approval in *Kuyper,* at 439-440). As the Supreme Court went on to hold, in *Kuyper,* "Once appropriations are fixed and the appropriation order entered, the commission may not control the spending decisions of the [elected official] made within appropriations to that office." *Id.* at 440. This logic applies not only for appropriated expenditures, but for other policies and procedures of the judiciary, absent specific statutory authority granted to the county commission. Many of the Audit Report's findings, conclusions and recommendations wholly ignore this well-defined limitation on the authority of the County Commission to control expenditures or impose or enforce its policies upon the Circuit Court.

One of the principal errors in the Audit Report is the assumption, without explanation or citation of any legal authority, that Circuit Court personnel are county employees that are subject to county policies. Such an assumption ignores well established legal principles set forth above which confirm the status of the Second Judicial Circuit as a unique constitutional entity distinct from the counties which it encompasses, including Adair County, and the status of its employees as employees of the Circuit Court, not of any individual county within the Circuit. The Circuit Court has its own policies and procedures, including personnel policies, and is entitled to apply them independently of the County's policies. No statutes or cases support the Auditor's contrary assumption, and to apply such an assumption disregards basic principles of constitutional separation of powers and has led to erroneous findings and conclusions in the Audit Report. Further, not only are the findings and conclusions not supported by the law, they are also not based upon evidence that was provided to the audit staff, or whichwas otherwise available.

Further, the Audit Report fails to consider or include any discussion of the Settlement Agreement entered into between the Adair County Commission and the Presiding Judge in 2014.

This Agreement modifies the fiscal relationship between the parties and confirms the autonomy and independence of the Second Judicial Circuit.

As more specifically discussed below, the Audit Report does not comply with the *Government Auditing Standards* (1) by including findings or conclusions which are not based on sufficient, appropriate evidence against criteria; and (2) by including findings and conclusions that do not utilize proper criteria and are contrary to applicable law. This failure to comply with the *Government Auditing Standards* in regard to many of the findings and recommendation in the Audit Report renders them invalid.

Responses will be provided to specific Sections of the Audit Report below.

**B. Responses to Specific Sections**

**1. County Management Procedures**

**1.1. County policies.** The findings and recommendations in Subsection 1.1 are based on the flawed premise that Circuit Court judicial personnel are subject to the policies and procedures of Adair County. That concept has been rejected by the appellate courts, as cited above. Second Judicial Circuit employees are employees of the Second Judicial Circuit, not of any individual county within the Circuit. The Audit Report does not provide any authority for the premise that Circuit Court employees are subject to the policies of the County which must be the criteria upon which the findings and recommendations in Subsection 1.1 of the Audit Report are founded. This lack of criteria for any of the findings in this Audit Report and disregarding the applicable criteria does not comply with applicable *Government Auditing Standards*. Further, to apply such a criteria could lead to absurd results if each county had distinctly different employee policies; whose policies should be followed? Following one county's policies would necessarily mean that there would be a violation of the policies of the other two counties. That is illogical.

Although the absence of any authority of the County over the policies and procedures of the Circuit Court or its personnel, constitutes a complete lack of criteria to support any of the findings and recommendations in Subsection 1.1, as required by applicable *Government Auditing Standards,* nevertheless, the various issues raised in subsection 1.1 will be further more specifically addressed below.

**a. Cell phones.**

i. The Presiding Judge's Secretary is an employee of the Second Judicial Circuit, and not an employee of Adair County, and is subject to the policies and procedures of the Second Judicial Circuit, not those of Adair County, including its cell phone policy. The failure to consider this fact and assuming, without explanation, why the County's cell phone policy applies renders the criteria applied in the Audit Report erroneous, inappropriate, and inapplicable, and does not comply with applicable *Government Auditing Standards.* Further, unlike the County, which had no formal cell phone policy, there has been a written cell phone policy covering the Presiding Judge and the Presiding Judge's Secretary for many years which was provided to the County, and that policy was followed for cell phone reimbursements. There were funds appropriated for these expenses and it was disbursed in accordance with that written cell phone policy. The cell phone expenses that were reimbursed to the Presiding Judge's secretary were actually for a joint plan that included both her cell phone and the Presiding Judge's cell phone, since a joint plan was less expensive than individual plans. All of this evidence was omitted from the Audit Report. The omission of this evidence and the lack of any criteria or evidence to support the findings in the Audit Report constitute a failure to comply with applicable *Government Auditing Standards.*

ii. The overage charges for the electronic tablets were incurred by reason of staff being unaware that the electronic tablet was set on "Cellular Data" rather than "Wi-Fi", which caused data usage in excess of that available under the plan. This was immediately addressed upon its discovery. This evidence was omitted from the Audit Report. Such omission constitutes a failure to comply with applicable *Government Auditing Standards.*

iii. The Audit Report also appears to rely upon the statements of the County Commissioners that the Court Services Administrator did not timely provide certain bills to the County for payment, resulting in some late charges. The evidence is that bills were provided to the County for payment promptly upon receipt. There was apparently no effort to determine, independently of the Commissioners' statements, if the bills were submitted promptly for payment by reviewing the date the bills were received by the Court Services Administrator and the date that they were submitted to the County for payment. The Audit Report also does not include evidence that bills are typically only paid twice each month by the County and the timing of the delivery of the bill to the County for payment vis-à-vis the County's payment date is the likely

source of any late payment charges. Interestingly, the Audit Report does not recommend that the County promptly pay bills that will be overdue if not paid before the next payment cycle, rather than waiting until the next regular payment cycle, which may result in a late charge.

This evidence was omitted from the Audit Report which means that was not sufficient appropriate evidence to support the findings which constitutes a failure to comply with applicable *Government Auditing Standards.* Further, the sole reliance on the statements of the County Commissioners to support the finding when there was other objective evidence available suggests a lack of objectivity, which constitutes a failure to comply with applicable *Government Auditing Standards.* Such reliance also fails to consider other more appropriate evidence related to this finding, which constitutes a failure to comply with applicable *Government Auditing Standards.*

**b. County employee meals.** For the reasons discussed above, the employees of the Second Judicial Circuit are subject to the policies and procedures of the Second Judicial Circuit. They are not employees of Adair County and are not subject to the policies of Adair County, including its employee meal reimbursement policy. The Circuit Court's employees utilize the State of Missouri's meal reimbursement policy. The failure of the Audit Report to utilize the applicable law as its criteria constitutes a failure to comply with applicable *Government Auditing Standards*

**c. Vacation and sick leave.** For the reasons discussed above, the employees of the Second Judicial Circuit are subject to the policies and procedures of the Second Judicial Circuit. They are not employees of Adair County and are not subject to the policies of Adair County, including its employee vacation and sick leave policy. They are covered by Supreme Court Operating Rule 7 regarding vacation and sick leave. The failure of the Audit Report to utilize the applicable law as its criteria does not comply with applicable *Government Auditing Standards.*

**d. Conclusion.** The "Conclusion" portion discusses the County Commission's uncertainty regarding the application of county versus state reimbursement rates, leave accrual rates, and potential problems due to inconsistent application of policies among county employees. As confirmed by the principles set forth above, the County Commission has no authority to establish or enforce personnel policies of employees of the Circuit Court. Thus, the concerns of the Commissioners have no relevance to the employees of the Second Circuit. Further, as mentioned above, it would be unfair and inequitable to those employees of the Circuit Court who are paid

from grant funds or operational revenue, rather than by the State, to be subject to different personnel policies and procedures than their State-paid colleagues who perform the same or similar duties. The suggestion that the County and the Court should work together to resolve these issues is pointless and misguided considering that the Circuit Court has no "county" employees and is not otherwise subject to County policies. It is also naïve, given the volatile political climate and strained relationship between the Presiding Judge and the County Commissioners. Finally, it ignores the autonomous status of the Second Judicial Circuit as confirmed by the Settlement Agreement with Adair County.

Also, the recommendation that the County should consult with legal counsel to obtain clarification suggests that the opinion of its legal counsel will somehow be determinative and resolve this issue. Such an opinion will be just that: an opinion, and will not change the law applicable to the policies or procedures of the Court regarding the issues addressed above. This is a failure to apply proper criteria which constitutes a failure to comply with the applicable *Government Auditing Standards.*

**1.2. Courthouse renovation.** The County Commission approved certain renovations on the third floor lobby area of the Courthouse, and the logistics of locating and engaging a contractor were conducted by the Circuit Clerk. Since the work was divided into phases encompassing demolition and construction components, each of which fell below the threshold requiring competitive bidding, no bids were required. Subsection 2 of Section 50.660 RSMo provides that "Notwithstanding the provisions of subsection one of this section to the contrary, advertising shall not be required in any county in the case of contracts or purchases involving an expenditure of less than six thousand dollars." The Circuit Clerk did submit bills for prepayment because the project had been included in her 2012 budget. These were paid by the County. Perhaps a better practice would have been to include it in the following year's budget, but prepayment is not an uncommon practice in the construction industry. Since this project involved renovations to a common area of the Adair County Courthouse, it probably should have been a project undertaken and supervised by the County Commission.

**1.3. Allocation of salaries.**

a. The Juvenile Services Administrator, now Court Services Administrator, was assigned Drug/DWI Court duties, and was added to the Drug/DWI Court Team. This was due to the realization that a substantial number of Drug/DWI Court participants have adolescent children (in

2013, there were 63 children who had a parent participating in one of those programs) and that there is a direct correlation between a parent's sobriety and their acquisition of social and parenting skills, employment, education, and medical or mental health care, and their ability to provide a safe, stable, and appropriate home so that they can be reunified with or maintain their child or children in their home. That results in reduced risk and trauma to the child and in reduced costs to society. However, it is impossible and inappropriate to attempt to quantify the amount of time that is strictly connected to Drug/DWI Court because of this direct impact on children and their families. His duties as supervisor of the Circuit Clerk's office were discontinued effective April 1, 2014. For those reasons, there is no need to track his time or allocate his salary among his various duties because they all relate to juvenile services. The Audit Report does not cite the criteria used to support these findings or recommendations. Further, this evidence was omitted from the Audit Report. Such failure to utilize appropriate criteria and the omission of appropriate evidence relevant to the findings constitute a failure to comply with applicable *Government Auditing Standards.*

Further, under the Settlement Agreement with the County, With the exception of a small appropriation from County general revenue, all court operations, including employee salaries and benefits for employees who are not paid by the state are funded from the operational revenue generated by the Bruce Normile Juvenile Justice Center. This makes the findings and recommendations in the Audit Report moot.

b. The Drug/DWI Court Case Manager was an employee of the Prosecuting Attorney until August 1, 2014, so the findings and conclusions relating to her work and duties should, perhaps, be addressed by him. However, as with the Court Services Administrator, since an overwhelming majority of her Drug/DWI Court case management services were for participants who have children (approximately 80% of all participants have children), most of her work provides a direct benefit to those children and their families. Again, it would be impossible to accurately or adequately quantify that portion of her time attributable only to juvenile services.

This evidence was omitted from the Audit Report. Further, the Audit Report does not cite the criteria used to support these findings or recommendations. Such failure to utilize appropriate criteria and the omission of appropriate evidence relevant to the findings constitute a failure to comply with applicable *Government Auditing Standards.*

Further, under the Settlement Agreement with the County, with the exception of a small appropriation from County general revenue, all court operations, including employee salaries and benefits for employees who are not paid by the state, are funded from the operational revenue generated by Court, primarily from the Bruce Normile Juvenile Justice Center. This makes the findings and recommendations in the Audit Report moot.

c. In addition, under the applicable legal principles cited above, the County has no authority to control or enforce its policies on the Circuit's employees, including allocating employee salaries, and, since these salaries are paid solely from the operational revenue of the Court, and not from County general revenue, the County Commission has no role in salary allocation. The Audit Report does not cite the criteria used to support these findings or recommendations. Such failure to utilize appropriate criteria constitutes a failure to comply with applicable *Government Auditing Standards.*

**1.4. Contracts.**

a. There is no reason why the County should have written contracts with attorneys who are appointed by the Court, *ad hoc,* to provide legal services for indigent parents in juvenile court proceedings, or with attorneys who are appointed as guardians ad litem in adoptions, orders of protection proceedings, incompetency or mental health proceedings, or as defendants ad litem in civil proceedings. These attorneys are appointed by the Court to perform services for parents, juveniles, incapacitated persons, or decedent's heirs. They are not appointed on behalf of the County nor does the County have any legal relationship with these attorneys which would make a contract with the County appropriate. The duties and responsibilities of lawyers appointed by the Court to represent parties in court proceedings are contained in Supreme Court Rules outlining the professional responsibilities of lawyers, Supreme Court Rule 4, and need not be set forth in specific contracts. There is no legal authority cited in the Audit Report, nor which could be cited, as the criteria to support the findings or recommendations in this subsection and such failure to utilize appropriate criteria constitutes a failure to comply with applicable *Government Auditing Standards.*

b. There is no reason why the Court Services Administrator should discuss with the County Commission contracts between the Second Judicial Circuit and attorneys who provide legal services for the Juvenile Officer and for indigent parents in juvenile court proceedings. These contracts are not with the County and the County has no legal relationship with these at-

torneys. As discussed above, the County Commission has no authority to be involved with the policies or practices of the Circuit Court except as it relates to budgets and appropriations. There is no legal authority cited in the Audit Report, nor which could be cited, as the criteria to support the findings or recommendations in this subsection and such failure to utilize appropriate criteria constitutes a failure to comply with applicable *Government Auditing Standards.*

**1.5. Fuel expenses.** The County is not incurring the cost of fuel nor providing a county-owned vehicle for deputy circuit clerks to travel to another county. At one time, deputy circuit clerks from Adair County were assigned to Lewis County to assist the Lewis County Circuit Clerk with her workload since her office is understaffed. During that time, vehicles and fuel purchased solely from the operational revenue of the Circuit Court, which includes Lewis County, and not from county tax or general revenue, were used to transport those deputy clerks to and from Lewis County. Further, for the reasons discussed above, use of these vehicles is not controlled by County policy. There is no legal authority cited in the Audit Report, nor which could be cited, as the criteria to support the findings or recommendations in this subsection and such failure to utilize appropriate criteria constitutes a failure to comply with applicable *Government Auditing Standards.*

**1.6. Court reporter mileage.** For the reasons stated above, the court reporter is not subject to the County's policies. This reimbursement was paid from the court reporter's travel appropriation. Section 485.090 also provides that the court reporter shall be reimbursed for all travel expenses incurred in attending court. The state reimbursement rate of .37 is less than the IRS federal allowable rate, and the 10.5 cents appears to be the difference in those rates. That practice has been discontinued.

**2. Recommendations.**

1.1. The Court's employees are Circuit employees, not County employees, and are subject to the policies and procedure of the Circuit Court, and not to those of the County. There is no legal authority cited in the Audit Report, nor which could be cited, as the criteria to support the recommendations in this subsection and such failure to utilize appropriate criteria constitutes a failure to comply with applicable *Government Auditing Standards.*

1.2. The Presiding Judge has complied with statutory bid requirements and any prepayment for work was made by the County at the request of the circuit clerk from the circuit clerk's budget.

1.3. Allocation of salaries is often impossible because there is a substantial overlap in the impact of the employee's duties. It is also needless because the Court's employees are paid exclusively from the operational revenue of the Circuit Court and not from County general revenue. Finally, since the Court's employees are not County employees, the County Commission has no authority or role in reviewing employment contracts or job descriptions. That is under the exclusive authority and control of the Presiding Judge. There is no legal authority cited in the Audit Report, nor which could be cited, as the criteria to support the recommendations in this subsection and such failure to utilize appropriate criteria constitutes a failure to comply with applicable *Government Auditing Standards.*

1.4. The service to be provided by attorneys appointed by the Court and the compensation to be paid are controlled by Supreme Court Rules and statutory authority and, although the Court does enter into written contracts with attorneys who perform specified work regularly for the Court, there is no legal requirement nor necessity for written contracts with other attorneys who are appointed *ad hoc.* There is no legal authority cited in the Audit Report, nor which could be cited, as the criteria to support the recommendations in this subsection and such failure to utilize appropriate criteria constitutes a failure to comply with applicable *Government Auditing Standards.*

1.5. The Circuit Court has not used County assets for any other entities. Vehicles used by Court employees, whether paid by the Circuit Court or by the State, have been purchased by the Circuit Court solely from the Court's operational revenue, and not from County general revenue. There is no legal authority cited in the Audit Report, nor which could be cited, as the criteria to support the findings or recommendations in this subsection and such failure to utilize appropriate criteria constitutes a failure to comply with applicable *Government Auditing Standards.*

1.6. State employees are not subject to the County's mileage reimbursement policies. Further, the practice of requesting additional mileage reimbursement has been discontinued.

*The following comments were provided by the Circuit Clerk:*

ADAIR COUNTY CIRCUIT CLERK'S RESPONSE TO AUDIT REPORT

1.2 Courthouse Renovation

The Circuit Clerk wishes to provide the following information on the audit Information for Adair County.

In the fall of 2012 – the Presiding Judge approached the Circuit Clerk and requested that I contact Derek Miller – Restoration Rebuilder, LLC. The Presiding Judge indicated that he wanted to talk with Mr. Miller concerning removing the ceiling panels from the hallway outside the Division One courtroom. I called Mr. Miller and asked him to come by and talk with the Presiding Judge. Mr. Miller came to my office in the Adair County Courthouse in late October or early November, 2012 and I escorted him to the Presiding Judge's office and returned to my office.

The middle of December, 2012, Mr. Miller delivered to my office two documents numbered 1675 and 1676 for amounts totaling $6,290.00. I took those documents to the Presiding Judge and he directed me to take those documents to be submitted to Adair County for payment from the Circuit Clerk's budget. The end of December, Adair County Clerk, Sandy Collop personally returned those documents to my office and said the county wasn't going to make payments from documents titled Estimates. I took those same documents to the Presiding Judge and he ordered me to "white-out" the word Estimates, place my initials and date at the top of each document and resubmit them to the county for payment from the 2012 budget.

The county then issued the checks to Mr. Miller – Restoration Rebuilder, LLC, and delivered the checks to my office. I took the checks to the Presiding Judge and he told me to call Mr. Miller to pick up the checks.

At no time did I have any conversation with Mr. Miller on the work to be completed at the courthouse. The project, bids, amount of material, etc. was between Mr. Miller and the Presiding Judge and/or Matthew Holt. Please see the attached statement provided by Mr. Derek Miller on this matter.

Sincerely,

Linda Decker

Linda Decker
Adair County Circuit Clerk