



Thomas A. Schweich  
Missouri State Auditor

---

## JUDICIARY

# Missouri Court of Appeals

## Eastern District

---

March 2012  
Report No. 2012-20



---

<http://auditor.mo.gov>



**Thomas A. Schweich**  
Missouri State Auditor

# CITIZENS SUMMARY

## Findings in the audit of the Missouri Court of Appeals, Eastern District

Bidding Procedures	Several purchases were not bid in compliance with the court's administrative bid policy, which requires competitive bidding for purchases of major equipment or furniture over \$500. Court officials said two of the purchases were provided by a sole source contractor or as part of a state contract, but could not provide appropriate supporting documentation.
Payroll and Personnel Policies and Procedures	There is no supervisory review of payroll duties, law clerks are not required to complete timesheets, and a leave policy has not been established for law clerks. This makes it difficult to identify errors, ensure all transactions are legitimate, and ensure employees are treated equitably.
Receipts and Deposits	The court needs to improve its policies and procedures for managing receipts. Receipts are not always entered timely into the state's accounting system and entries are not reviewed for accuracy. We found approximately \$2,300 in receipts that were incorrectly coded. In addition, court receipts are not always deposited on a timely basis, which increases the risk of loss, theft or misuse.
Accounts Receivable	The court does not periodically review accounts receivable, which reduces the likelihood the court will collect the amounts it is owed. As of November 21, 2011, the accounts receivable report listed 654 cases totaling approximately \$45,600 in unpaid filing fees; however, many of the cases were incorrectly on the report due to not properly coding the cases in the system and because errors occurred during a computer system conversion several years ago. In addition, the court also improperly waived fees for some cases.
Capital and Library Assets	The court's procedures and records to account for court property are not adequate. The court has not conducted a physical inventory of the court's equipment and furniture since 2006, and the computer equipment list does not provide the purchase price, purchase date, or disposition of the items. A Law Library physical inventory was conducted in November 2011, but the court did not reconcile the results of the inventory with asset records. The Law Library asset list does not provide the purchase prices of the items, and the judge's law books are not included on any of the asset lists.

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

---

American Recovery and  
Reinvestment Act  
(Federal Stimulus)

During the year ended June 30, 2010, the Missouri Court of Appeals, Eastern District, spent \$159,866 in Federal Stimulus monies appropriated from the Federal Budget Stabilization-Medicaid Reimbursement Fund to fund general operations of the court.

\*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.

**All reports are available on our Web site: [auditor.mo.gov](http://auditor.mo.gov)**

---

# Missouri Court of Appeals

## Eastern District

### Table of Contents

---

State Auditor's Report	2
------------------------	---

---

Management Advisory Report - State Auditor's Findings	1. Bidding Procedures .....	4
	2. Payroll and Personnel Policies and Procedures .....	4
	3. Receipts and Deposits .....	6
	4. Accounts Receivable .....	7
	5. Capital and Library Assets .....	8

---

Organization and Statistical Information	9
---	---

---

#### Appendixes

A	Comparative Statement of Receipts, 3 Years Ended June 30, 2011 .....	11
B	Comparative Statement of Appropriations and Expenditures, 3 Years Ended June 30, 2011 .....	12
C	Comparative Statement of Expenditures (From Appropriations), 5 Years Ended June 30, 2011 .....	13



# THOMAS A. SCHWEICH

## Missouri State Auditor

Chief Judge and Court en banc  
Missouri Court of Appeals, Eastern District  
Saint Louis, Missouri

We have audited certain operations of the Missouri Court of Appeals, Eastern District, in fulfillment of our duties under Chapter 29, RSMo. The scope of our audit included, but was not necessarily limited to, the years ended June 30, 2011, 2010, and 2009. The objectives of our audit were to:

1. Evaluate the court's internal controls over significant management and financial functions.
2. Evaluate the court'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 court, 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 tested certain of those controls to obtain evidence regarding the effectiveness of their design and 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 court's management and was not subjected to the procedures applied in our audit of the court.

For the areas audited, we identified (1) deficiencies in internal controls, (2) no significant 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 the Missouri Court of Appeals, Eastern District.



Thomas A. Schweich  
State Auditor

The following auditors participated in the preparation of this report:

Deputy State Auditor:	Harry J. Otto, CPA
Director of Audits:	John Luetkemeyer, CPA
Assistant Director of Audits:	Douglas J. Porting, CPA, CFE
Audit Manager:	Debra S. Lewis, CPA
In-Charge Auditor:	Carl Zilch Jr., CIA
Audit Staff:	Julie M. Moore, MBA

---

# Missouri Court of Appeals

## Eastern District

### Management Advisory Report - State Auditor's Findings

---

#### **1. Bidding Procedures**

Some purchases were not bid or documentation of sole source or state contract was not retained. As a result, the court cannot ensure the best price for services was obtained. The court's administrative policy states purchases of major equipment or furniture over \$500 will be bid. For the 3 years ended June 30, 2011, the following purchases were not bid in compliance with court policy:

Item	Cost
Office supplies (1)	\$ 39,408
Security service (1)	39,300
Courier service (1)	10,956
Courtroom lighting	6,850
LaserJet printers	3,065

(1) Total amount expended for the 3 years ended June 30, 2011

Court officials stated office supplies and courtroom lighting were provided by a sole source contractor or as part of a state contract; however, this information was not documented by the court. Competitive bidding helps ensure the court receives fair value by contracting with the lowest and best bidders. Bidding also helps ensure all parties are given an equal opportunity to participate in the court's business.

#### **Recommendation**

The Court Administrator ensure compliance with the court's purchasing procedures and ensure adequate documentation is maintained as evidence of compliance with policy and to support justification of bid awards.

#### **Auditee's Response**

*It is the court's policy to purchase office supplies, computer equipment, and other supplies whenever possible on the state contract. Policies have been adopted to ensure that there is adequate documentation to comply with this recommendation.*

---

#### **2. Payroll and Personnel Policies and Procedures**

Several concerns related to payroll and personnel policies and procedures were identified. Payroll expenditures total approximately \$4.3 million each year, representing over 90 percent of the court's total expenditures.

The court has two groups of employees. Court support staff, which includes the fiscal officer, librarian, computer information specialist, marshal, court clerks, and research attorney, work for the court overall and report to the Court Administrator. In addition, each judge has one or two law clerks and one judicial administrative assistant. All court employees work full-time and are provided a salary and the same benefits as other state employees, with the exception of annual leave and sick leave for law clerks.

##### **2.1 Payroll controls**

There is no supervisory review of the payroll duties performed by the Fiscal Officer. As a result, errors may not be detected and corrected in a timely



Missouri Court of Appeals  
Eastern District  
Management Advisory Report - State Auditor's Finding

---

manner. The Fiscal Officer enters payroll information, including salary and employee information, into the Statewide Advantage for Missouri - Human Resources/Payroll (SAM II-HR) System with no supervisory approval or review.

To ensure payroll transactions are proper and errors are detected and corrected timely, the court should require supervisory review of payroll records.

## 2.2 Timesheets

Timesheets are prepared by court support staff, but are not prepared by the law clerks. Without time sheets, the court cannot ensure hours worked and leave taken by the law clerks is properly documented. The work schedules of the law clerks are at the discretion of the judge for whom they work. We surveyed the judges and many indicated they consider the law clerks to be professional staff, who are required to put in the hours needed to complete their tasks and they do not consider timesheets necessary.

To ensure payroll costs are adequately documented, records detailing hours worked or leave taken should be prepared by all employees, approved by their supervisor, and filed with the fiscal office.

## 2.3 Leave records and policies

The court has not established a leave policy for law clerks. Law clerks do not accrue annual or sick leave, but are given time off at the discretion of the judge for whom they work. As a result, the court cannot ensure all employees are treated equally. Each judge is responsible for maintaining leave records for his or her law clerks and the Fiscal Officer is responsible for maintaining leave records for all other court employees. Our survey of the judges indicated they do not maintain leave records for the law clerks.

Our survey of the judges regarding leave practices for law clerks indicated they have not established standard amounts of time off for the law clerks. Some clerks do not receive any annual or sick leave, while others receive various amounts of annual leave from 5 to 20 days, and some as much sick time as they require, with their judge's approval.

Court personnel could provide no explanation or justification of the current practices for handling time off for law clerks. The court indicated this arrangement was established many years ago and is traditionally how law clerks are handled. A written leave policy for law clerks is necessary to provide assurance these employees are treated equitably and to prevent misunderstandings. Leave records should be maintained for all court employees and monitored to provide assurance the balances are accurate and in compliance with the leave policy, and employees are treated equitably. Leave records also provide support for the amount of accumulated leave to be paid to an employee upon termination.



---

## Recommendations

The Court Administrator:

- 2.1 Perform a supervisory review of the payroll duties performed by the Fiscal Officer.
- 2.2 And the Court en banc require a record of hours worked or leave taken be prepared and signed by all employees, approved by their supervisor, and filed with the fiscal office.
- 2.3 And the Court en banc establish a leave policy for law clerks, ensure leave records are maintained for all employees, and periodically monitor those records for compliance with the court leave policy.

## Auditee's Response

- 2.1 *The Court Administrator will conduct a quarterly review of the payroll.*
- 2.2
- &2.3 *The court appreciates the Auditor's recommendation in regard to this personnel issue. Law clerks are professional staff. This practice is one of long standing and is consistent with the policies of the state's other intermediate appellate courts and the Missouri Supreme Court. The court will take this recommendation into consideration in its ongoing review of its personnel policies.*

---

## 3. Receipts and Deposits

Improvements are needed on policies and procedures related to receipts. The court receives filing fees (\$70 per case) and monies for copies of various court records and documents. Court receipts totaled approximately \$42,000 during the 3 years ended June 30, 2011. Of this amount, approximately 84 percent was filing fees and 16 percent was copy fees. The following concerns were noted during our review of the court's receipting and depositing procedures:

- Receipts are not always entered in the Statewide Advantage for Missouri (SAM II) System in a timely manner. Receipts received throughout the month of April 2011 were not posted to SAM II until April 27.
- SAM II receipt entries are not reviewed for accuracy. Receipts of approximately \$2,000 were incorrectly coded to state auditor fees during the year ended June 30, 2011, and approximately \$300 was incorrectly coded to milk inspection fees during the year ended June 30, 2009. An administrative assistant is responsible for making the entries and there is no independent review to ensure receipts are properly coded in SAM II.



Missouri Court of Appeals  
Eastern District  
Management Advisory Report - State Auditor's Finding

- Court receipts are not always deposited on a timely basis. Deposits are only made approximately 2 to 3 times per month.

To adequately safeguard and account for all receipts, procedures should be established to ensure monies are recorded timely and accurately in SAM II and deposits are made in a timely manner.

## Recommendation

The Court Administrator establish procedures to ensure monies are recorded timely to SAM II and reviewed for accuracy, and deposits are made in a timely manner.

## Auditee's Response

*The court has reinforced its existing policy that receipts are recorded in a timely manner and deposits are made on a timely basis. Procedures have been established to ensure that receipts will be accurately coded in SAM II.*

## 4. Accounts Receivable

Accounts receivable are not reviewed periodically, which reduces the likelihood that amounts due to the court are collected. Accounts receivable for the court consist of case filing fees. An accounts receivable report is available on the court's computer system; however, court personnel indicated they were not aware of this report, nor were they aware of any accounts receivable.

The court normally collects the filing fee when a case is filed. As of November 21, 2011, the accounts receivable report included 654 cases totaling approximately \$45,600. After we made the court aware of the list, several cases were reviewed. Court personnel determined some cases listed had been granted In Forma Pauperis status, which entitles an individual who is without funds to a waiver of normal costs. However, the court had not properly removed the fees from the system. There were also several cases which appeared to be on the list in error from a computer system conversion several years ago. It appears the majority of the accounts receivable were simply not coded correctly to remove the fees from the system or were errors. The errors would have been discovered by the court if the accounts receivable information had been reviewed.

In addition, fees for some In Forma Pauperis cases involving inmates had been incorrectly waived. The Prison Litigation Reform Act established a section of U.S. code which requires case fees to be collected from inmates, but the court had not collected the required fees and considered them to have been waived. Court personnel indicated the judges did not feel the court was required to collect the fees, but there was no documentation to support this explanation.

Review and follow-up of delinquent accounts is necessary to properly monitor amounts due to the court, provide information to the Chief Judge, and improve accountability.



---

## Recommendation

The Court Administrator should establish procedures to monitor accounts receivable reports to maximize collections. The court should reconsider collecting on cases which fall under the Prison Litigation Reform Act or properly document why this fee does not apply.

## Auditee's Response

*The accounts receivable report currently reflects no accounts receivables. This report is being printed and reviewed monthly. The Court en banc has instructed court staff to apply the Prison Litigation Reform Act.*

---

## 5. Capital and Library Assets

Procedures and records to account for court property are not adequate. As a result, assets are more susceptible to theft or misuse. The court maintains three asset listings, one for computer equipment, another for Law Library resources, and another for all other court equipment and furniture. The following concerns were noted during our review of the court's asset lists:

- A physical inventory of the court's equipment and furniture has not been performed since 2006.
- A physical inventory of the Law Library was performed in November 2011, but the court did not reconcile the results of the inventory with asset records.
- The judges' law books are not included on any of the asset lists.
- The computer equipment list does not contain information on the purchase price, purchase date, or the disposition of the item.
- The Law Library asset list does not contain information on the purchase price of items.

Adequate asset records are necessary to secure better internal control over court property. Asset records should include a detailed description of the assets, purchase price, purchase date, and the date and method of disposition of the assets. Physical inventories and reconciliation of those inventories to the inventory records are necessary to ensure inventory records are accurate, identify unrecorded additions and dispositions, detect and deter theft of assets, and identify obsolete materials.

## Recommendation

The Court Administrator ensure complete and detailed capital and library asset records are maintained and annual physical inventories are performed and compared to detailed records.

## Auditee's Response

*This has been partially completed and is being implemented.*

---

# Missouri Court of Appeals

## Eastern District

### Organization and Statistical Information

---

The Missouri Court of Appeals, Eastern District, was formed in 1876, and is governed by Article V, Missouri Constitution, and Chapter 477, RSMo. The court has appellate jurisdiction over 25 counties in Eastern Missouri including the City of Saint Louis, except for those cases within the exclusive jurisdiction of the Supreme Court. The court has its offices in Saint Louis, Missouri. The court holds oral arguments August through June. The court is composed of 14 judges who sit in 5 divisions, each with 3 judge positions, that rotate on an annual basis. The judges cover the additional position through a monthly rotation, usually from the pool of Eastern District Court judges.

The salaries of the judges are set by statute. Judges are selected under the Missouri Plan, which includes selection by the Appellate Judicial Commission, appointment by the Governor, and retention by voters. Judges must be at least 30 years old, residents of their district, United States citizens for at least 15 years, and Missouri voters for 9 years before their selection. Judges serve 12-year terms. The judges elect a chief judge to serve a 1-year term. At June 30, 2011, the judges of the Missouri Court of Appeals, Eastern District, were as follows:

#### Judges and Court Personnel

Name and Title	Term Expires
Roy L. Richter, Chief Judge	December 31, 2020
Gary M. Gaertner, Jr.	December 31, 2012
Kurt S. Odenwald	December 31, 2020
Kenneth M. Romines	December 31, 2018
Sherri B. Sullivan	December 31, 2012
Lawrence E. Mooney	December 31, 2012
Mary Kathryn Hoff	December 31, 2022
Robert G. Dowd, Jr.	December 31, 2020
Clifford H. Ahrens	December 31, 2016
Kathianne Knaup Crane	December 31, 2016
Patricia L. Cohen	December 31, 2016
Glenn A. Norton	December 31, 2016
George W. Draper, III	December 31, 2014
Vacancy (1)	

(1) Nannette Baker resigned in February of 2011 and was replaced by Robert M. Clayton III in August of 2011.

Douglas R. Bader has served as Court Administrator since January 2001. The court administrator supervises the internal administrative functions of the court and reports directly to the chief judge. In addition to the judges and Court Administrator, the court employed 53 full-time employees at June 30, 2011.



Missouri Court of Appeals  
Eastern District  
Organization and Statistical Information

---

American Recovery and  
Reinvestment Act 2009  
(Federal Stimulus)

The court spent American Recovery and Reinvestment Act of 2009 monies of \$159,866 during the year ended June 30, 2010. These monies were appropriated to the court from the Federal Budget Stabilization - Medicaid Reimbursement Fund (see Appendix B) and were used to fund general operations of the court.

Appendix A

Missouri Court of Appeals  
Eastern District  
Comparative Statement of Receipts

	Year Ended June 30,		
	<u>2011</u>	<u>2010</u>	<u>2009</u>
<b>GENERAL REVENUE FUND</b>			
Court fees	\$ 8,498	8,821	8,052
Copy monies	1,661	2,107	2,839
Total General Revenue Fund	<u>\$ 10,159</u>	<u>10,928</u>	<u>10,891</u>
 <b>BASIC CIVIL LEGAL SERVICES FUND</b>			
Court fees	<u>\$ 3,240</u>	<u>3,380</u>	<u>3,380</u>

Appendix B

Missouri Court of Appeals  
 Eastern District  
 Comparative Statement of Appropriations and Expenditures

	Year Ended June 30,								
	2011			2010			2009		
	Appropriation Authority	Expenditures	Lapsed Balances	Appropriation Authority	Expenditures	Lapsed Balances	Appropriation Authority	Expenditures	Lapsed Balances
<b>GENERAL REVENUE FUND</b>									
Personal Service-Judges' Salaries	\$ 1,794,901	1,747,530	47,371	1,794,901	1,749,919	44,982	1,794,901	1,744,639	50,262
Personal Service	2,573,817	2,515,184	58,633	2,459,057	2,427,504	31,553	2,588,481	2,583,924	4,557
Expense and Equipment	449,719	449,719	0	404,601	404,597	4	435,055	435,055	0
Total General Revenue Fund	<u>4,818,437</u>	<u>4,712,433</u>	<u>106,004</u>	<u>4,658,559</u>	<u>4,582,020</u>	<u>76,539</u>	<u>4,818,437</u>	<u>4,763,618</u>	<u>54,819</u>
<b>FEDERAL BUDGET STABILIZATION -          MEDICAID REIMBURSEMENT FUND</b>									
Personal Service	0	0	0	129,424	129,424	0	0	0	0
Expense and Equipment	0	0	0	30,454	30,442	12	0	0	0
Total Federal Budget Stabilization - Medicaid Reimbursement Fund	<u>0</u>	<u>0</u>	<u>0</u>	<u>159,878</u>	<u>159,866</u>	<u>12</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total All Funds	<u>\$ 4,818,437</u>	<u>4,712,433</u>	<u>106,004</u>	<u>4,818,437</u>	<u>4,741,886</u>	<u>76,551</u>	<u>4,818,437</u>	<u>4,763,618</u>	<u>54,819</u>

The lapsed balances include the following withholdings made at the Governor's request:

	Year Ended June 30,		
	2011	2010	2009
<b>General Revenue Fund</b>			
Personal Service-Judges' Salaries	\$ 47,000	44,980	49,025
Personal Service	25,674	18,080	0
Total General Revenue Fund	<u>\$ 72,674</u>	<u>63,060</u>	<u>49,025</u>

Appendix C

Missouri Court of Appeals

Eastern District

Comparative Statement of Expenditures (From Appropriations)

	Year Ended June 30,				
	2011	2010	2009	2008	2007
Personal service	\$ 4,262,714	4,306,847	4,328,563	4,224,317	4,075,655
Travel, in-state	16,057	15,224	21,061	23,483	16,061
Travel, out-of-state	1,832	4,105	6,698	4,996	4,109
Supplies	161,526	155,512	140,668	172,431	135,589
Professional development	24,068	22,463	26,845	27,989	23,846
Communication services and supplies	82,454	72,927	69,464	63,284	76,920
Services:					
Professional	41,228	32,695	31,626	23,384	27,817
Maintenance and repair	5,073	4,880	10,756	11,454	9,621
Equipment:					
Computer	18,815	22,060	24,458	29,430	10,437
Office	1,034	7,589	10,392	4,283	10,281
Other	683	0	4,174	4,563	3,962
Real property rentals and leases	83,867	79,492	71,340	73,510	70,255
Equipment rental and leases	9,706	9,960	9,671	19,736	33,842
Miscellaneous expenses	3,376	8,132	7,902	7,494	12,276
Total Expenditures	\$ <u>4,712,433</u>	<u>4,741,886</u>	<u>4,763,618</u>	<u>4,690,354</u>	<u>4,510,671</u>