



OFFICE OF THE STATE AUDITOR



August 31, 2018

DIANNE E. RAY, CPA
STATE AUDITOR

PUBLIC ADMINISTRATORS – STATUS REPORT

Members of the Legislative Audit Committee:

Attached is the status report from the Judicial Branch (Branch) and the Department of the Treasury (Department) on the implementation of recommendations contained in the Office of the State Auditor's (OSA) *Public Administrators Performance Audit*.

OSA REVIEW OF DOCUMENTATION

As part of the status report process, we requested and received supporting documentation for each recommendation that the Branch and the Department reported as having been implemented or partially implemented. Specifically, we reviewed the following documentation:

- Senate Bill 18-165, which amended the Public Administrator's statutes to increase the required bond amounts; establish reporting requirements related to fees, costs, and annual reports; and clarify requirements related to Deputy Public Administrators.
- Documents created by the Judicial Branch to assist with reporting on and reviewing activity of Public Administrators, including:
 - *Judicial Resource Manual*, which provides instructions for court staff on how to appropriately enter Public Administrator data into the judicial database.
 - Annual report form and spreadsheet that Public Administrators must use to report information related to their caseload.
 - Chief Justice Directives, which establish requirements for Public Administrator reporting of fees and costs associated with their cases.

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- *Guidelines for the Operations of the Offices of the Public Administrators of the State of Colorado*, which provides basic guidance to Public Administrators on responsibilities and duties.
- *Probate Advisory Workgroup Report and Recommendations*, which includes the Workgroup's conclusions regarding changes to the Probate System, and how those changes could be implemented, as well as conclusions related to the transfer of funds from decedents' estates to the Department.
- State Treasurer's webpage, which provides instructions on how to transfer funds from decedents' estates to the Department.

Based on our review, the supporting documentation substantiates the Branch's and Department's reported implementation status.

Office of the State Court Administrator



July 16, 2018

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State Court Administrator

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We are providing this letter in conjunction with the Audit Recommendations Status Report for the performance audit of Public Administrators within the Judicial Branch. While we are pleased to report progress the Judicial Branch has made to date, our commitment to courts' oversight of Public Administrators and their fiduciary responsibilities goes beyond fulfilling the recommendations of the audit.

Cases overseen by public administrators involve incapacitated, vulnerable parties and their families. Given the risks associated with these cases, courts must play a vital role overseeing the work of Public Administrators to make sure that they meet their obligations. The Branch will continue to expand the work on improving the overall coordination and oversight of all types of protective proceedings cases.

I look forward to discussing the Judicial Branch's progress on the audit recommendations at the September hearing along with my vision for continued improvement in the oversight of this critical caseload.

Sincerely,

A handwritten signature in blue ink, appearing to be "C. Ryan", written over a faint circular stamp.

Christopher T. Ryan
State Court Administrator

AUDIT RECOMMENDATION STATUS REPORT

AUDIT NAME	Public Administrators
AUDIT NUMBER	1678P
AGENCY	Judicial Branch- Office of the State Court Administrator
DATE OF STATUS REPORT	August 21, 2018

SECTION I: SUMMARY

REC. NUMBER	AGENCY'S RESPONSE	ORIGINAL IMPLEMENTATION DATE	CURRENT IMPLEMENTATION STATUS	CURRENT IMPLEMENTATION DATE
1	Agree	September 2018	Partially Implemented	July 2019
2a	Agree	September 2018	Partially Implemented	January 2019
2b	Agree	September 2018	Partially Implemented	September 2018
2c	Agree	September 2018	Partially Implemented	September 2018
2d	Agree	September 2018	Partially Implemented	June 2019
3a	Agree	September 2018	Partially Implemented	January 2019
3b	Agree	September 2018	Implemented	August 2018
5a	Agree	March 2018	Partially Implemented	September 2018
5b	Agree	March 2018	Implemented	February 2018

SECTION II: NARRATIVE DETAIL

RECOMMENDATION 1			
<p><i>The Judicial Branch should implement mechanisms for collecting sufficient information from Public Administrators for the courts to assess the reasonableness of fees charged to and costs collected from decedents' estates and protected persons' accounts. This should include collecting information on the hourly rate, number of hours charged, and description of each distinct service provided, and providing guidance on the information that should be included in the small estate statement of accounts.</i></p>			
CURRENT IMPLEMENTATION STATUS	Partially Implemented	CURRENT IMPLEMENTATION DATE	July 2019
AGENCY UPDATE			
<p><i>SB18-165 takes effect in Aug. 2018, which in part, amends C.R.S. §15-12-621(6) to include: Copies of all Public Administrator (PA) fee statements reflecting fees & costs must be filed with the statement of account. Newly created Judicial Department Form (JDF) 898-PA's Statement of Accounts Pursuant to Small Estate Procedure was approved by the Supreme Court in June, and will likely take effect in September 2018, when the revised Probate Rules take effect. This form was created to standardize reporting on small estates and includes a section titled: Public Administrator/Deputy Public Administrator Fees & Costs (Including PA Staff/Investigator Fees), and Estate Expenses/Claims Paid (Attach all Fees/Costs Statements). There is also a 'Note' at the bottom of the form instructing PAs they must attach their detailed fees/costs account statement to the form. The Probate Advisory Workgroup (Workgroup) determined that the Judicial Branch is currently collecting sufficient information as recommended for protected persons' accounts by way of JDF 885 – Conservator's Report, in that Steps 3 and 4 on the form require reporting of professional fees and costs disbursed, as well as information on the hourly rate (range), number of hours worked, total hourly fees, other costs charged, and a brief description of services provided and benefit to the estate. The Workgroup believes the existing process to formally close a decedent's estate, which PAs are required to follow pursuant to statute, provides sufficient information regarding the PA/Deputy PA fees and costs charged to the estate, and that to require further scrutiny of accounts for these cases would result in additional costs assessed against the estate and run counter to the public policy expressed by the General Assembly through adoption of the Colorado Probate Code. The standardized Annual Public Administrator's Report created, does however, require PAs to report their fees and costs collected, effective hourly rate, and number of hours worked, etc., for all cases being administered by the PA, including decedent's estates and conservatorship cases. Additionally, the Judicial Branch is finalizing the Colorado Courts Online Conservator's Report (CCOCR). This tool will collect the statutorily required annual conservator reports filed by Public Administrator's electronically. CCOCR will give judicial officers better tools for overseeing professional conservators' work by identifying potentially problematic transactions for further review. CCOCR will also allow professional conservators' entire portfolio of work as an appointee to be aggregated to review the quality of their performance overall. CCOCR is scheduled to be launched in September 2018 with full statewide implementation in July 2019.</i></p>			

RECOMMENDATION 2A

The Judicial Branch should ensure that it collects and maintains the fundamental data needed to oversee the Public Administrator function in Colorado and to assess Public Administrator performance by:

Standardizing the format and content of Public Administrator annual reports and ensuring that they include the key elements needed to assess the performance of Public Administrators (e.g., total number of hours worked as a Public Administrator and total hours worked per case, tally of total caseload, cumulative fees for a given year and for each case, value of the estates, etc.). The Judicial Branch should then provide guidance to Public Administrators on the information required in the annual reports.

CURRENT IMPLEMENTATION STATUS	Partially Implemented	CURRENT IMPLEMENTATION DATE	January 2019
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AGENCY UPDATE

SB18-165 takes effect in Aug. 2018, which in part, amends C.R.S. §15-12-623(2) to include: All PA/Deputy PAs shall file with the appointing court an annual report, using a standard report form directed by the Chief Justice. This newly created standardized report (3 separate forms) was approved by former Chief Justice Nancy Rice. Although the Workgroup agreed upon the final draft report, it should be noted that there was significant discussion as to the overall benefit in requiring this level of detail when considering the additional time, effort, and costs imposed on the PA’s Offices associated with providing such information, and the possibility that the additional cost involved in preparing the report may be passed through to estates. The actual report requires reporting on: the most recent inventory value; total number of hours worked per case and the grand total of hours worked on all cases during the given year; total cumulative fees collected per case in the current year and the grand total for all cases in the current year; cumulative fees collected since PAs appointment to that case; and effective hourly rate, as recommended, as well as: PA costs collected; PA advancements made in current year; and fee and costs lost by PAs as determined at the end of the case. The other two forms are a part of and will accompany the annual report. The Caption Page form includes a section for issues such as, if the PA’s general bond has been filed, and sections for Case Load Totals by case type, and Hours Worked and Cumulative Fees (grand totals taken from the annual report). The Judicial Review form notes that the court is in receipt of the annual report and has met with the PA/Deputy PA to review and discuss the report, and allows for any additional comments the court deems necessary. The charge for the Probate Advisory Workgroup is in the process of being renewed. Once the charge is approved by the Chief Justice, the Workgroup will complete the policies and procedures and will distribute the information to all stakeholders. No later than January 2019, SCAO will post the standardized report to the Judicial Branch’s website and conduct meetings and/or trainings with all courts and PAs regarding using the forms, to ensure compliance with the statutory requirement that a standardized PA Annual Report be filed on or before March 1 of each year.

RECOMMENDATION 2B			
<p><i>The Judicial Branch should ensure that it collects and maintains the fundamental data needed to oversee the Public Administrator function in Colorado and to assess Public Administrator performance by:</i></p> <p><i>Revising the Judicial Resource Manual to specify that court staff must enter the code designating when a Public Administrator is appointed to an estate case, and assign a case number and record details on each small estate reported by Public Administrators, including those reported in a bundle.</i></p>			
CURRENT IMPLEMENTATION STATUS	Partially Implemented	CURRENT IMPLEMENTATION DATE	September 2018
AGENCY UPDATE			
<p><i>Revisions to the Judicial Resource Manual sections were drafted and have been approved by the Workgroup. Further revisions are necessary due to the renumbering of probate rule which will likely take effect in September 2018. SCAO will post the sections and provide instructions to all courts regarding the changes affecting court practices, including: the use of party type code PAD for all probate cases in which Public/Deputy Public Administrators are involved; in small estate cases assigning a separate case number for each Statement of Accounts (JDF898) filed, including those reported in a bundle; and ensure the PA's detailed fees/costs account statement(s) is attached to the form.</i></p>			

RECOMMENDATION 2C			
<p><i>The Judicial Branch should ensure that it collects and maintains the fundamental data needed to oversee the Public Administrator function in Colorado and to assess Public Administrator performance by:</i></p> <p><i>Implementing mechanisms to collect and track key information related to Public Administrator performance.</i></p>			
CURRENT IMPLEMENTATION STATUS	Partially Implemented	CURRENT IMPLEMENTATION DATE	September 2018
AGENCY UPDATE			
<p><i>Along with the standardized PA Annual Report, the Judicial Branch will utilize existing data fields from its case management system, such as the: PAD party type code for identifying cases involving PA/Deputy PAs, ESTV event code regarding the estate value, and termination codes when cases are terminated. SB18-165 takes effect Aug. 2018 (standard annual report). The appointing court will meet with PAs annually to review the annual report as indicated in the Judicial Review form, and will also discuss policies and procedures, and any other issues impacting PA cases as outlined in The Guidelines for the Operations of the Offices of the Public Administrators in the State of Colorado. Together, this will assist the Judicial Branch in collecting and tracking key information related to a PA's performance.</i></p>			

RECOMMENDATION 2D			
<p><i>The Judicial Branch should ensure that it collects and maintains the fundamental data needed to oversee the Public Administrator function in Colorado and to assess Public Administrator performance by:</i></p> <p><i>Using the information obtained in PARTS A, B, and C to assess the performance of Public Administrators and Deputy Public Administrators in the judicial districts to determine if the function is achieving its purpose.</i></p>			
CURRENT IMPLEMENTATION STATUS	Partially Implemented	CURRENT IMPLEMENTATION DATE	June 2019
AGENCY UPDATE			
<p><i>When the Workgroup reconvenes this Fall, their main focus will be to consider any immediate challenges regarding the new and updated court processes/practices resulting from this audit. The Workgroup, with assistance from SCAO will create a section for the Judicial Resource Manual regarding statewide standardization in administering probate cases involving PAs, including: The Guidelines for the Operations of the Offices of the Public Administrators in the State of Colorado, meeting with PAs annually, the filing requirements and best practices for reviewing the new standardize PA Annual Report, as well as reviewing JDF898 PA Statement of Accounts. SCAO will conduct meetings and/or trainings with court staff regarding this new section, no later than January 2019. After March 1st and the filing of PA Annual Reports, SCAO, trial courts and the Workgroup will review the annual reports and begin the process of assessing the performance of Public Administrators and Deputy Public Administrators. The Judicial Branch will utilize the information obtained in all parts of Audit Recommendation 2 for assessing the performance of the Public/Deputy Public Administrators in determining if the function is achieving its purpose. It is anticipated that this will be an ongoing process, and that the tools and methodology used to assess public administrator performance will need to evolve over time.</i></p>			

RECOMMENDATION 3A

*The Judicial Branch should ensure that Public Administrators maintain bonds of sufficient value to adequately protect the estates and conservatorships they oversee by:
Implementing written policies and procedures to clarify that anyone appointed to act in the capacity of Public Administrator, including Deputy Public Administrators, must comply with the statutory bond requirements and that judicial districts should obtain proof from Public Administrators and Deputy Public Administrators that a bond has been procured, appropriately filed with the Secretary of State’s Office, and updated as needed.*

CURRENT IMPLEMENTATION STATUS	Partially Implemented	CURRENT IMPLEMENTATION DATE	January 2019
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AGENCY UPDATE

SB18-165, effective Aug. 2018, amends in part, C.R.S. §15-12-619(4), in that the PA general bond must be filed annually with the Secretary of State, and C.R.S. §15-12-619(6), in that Deputy Public Administrators are subject to all requirements of Public Administrators as set forth in this section, including the bond requirements in subsection (4) of this section. Additionally, the Guidelines for the Operations of the Offices of the Public Administrators in the State of Colorado addresses bonding requirements including the requirement that copies of all updated bonds be filed with the appointing court. The Guidelines have been approved by the Workgroup. The Judicial Review form includes a section regarding bond issues, asking PAs to check boxes as to: is the PA bond current; is the current bond filed with the Secretary of State; and is a copy of the bond filed with the appointing court. The charge for the Probate Advisory Workgroup is in the process of being renewed. Once the charge is approved by the Chief Justice, the Workgroup will complete the policies and procedures and will distribute the information to all stakeholders. SCAO will provide a copy of the approved Guidelines to all PA/Deputy PAs. SCAO will also post the Guidelines to the Judicial Branch’s website and inform PAs when that has occurred and where to locate them. As indicated above in Recommendation 2D – Agency Update, the Guidelines will be included in the new section to be created for the Judicial Resource Manual, with guidance to the courts no later than January 2019. Also see below Recommendation 3B – Agency Updates regarding SCAO working with the Secretary of State’s Office regarding the procedure for filing bonds.

RECOMMENDATION 3B

*The Judicial Branch should ensure that Public Administrators maintain bonds of sufficient value to adequately protect the estates and conservatorships they oversee by:
Assessing the level of bond that would sufficiently cover the activities of Public Administrators, pursuing any necessary changes to the statutory bond amount based on this assessment, and providing guidance to the judicial districts and courts on bond amounts for Public Administrators.*

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	August 2018
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AGENCY UPDATE

SB18-165 takes effect in Aug. 2018, which in part, amends C.R.S. §15-12-619(4) to include: Increasing the amount of the PA’s general bond to \$100,000 and that the bond must be filed with the Secretary of State annually. SB18-165, also in part, amends C.R.S. §15-12-619(6) to include: Deputy Public Administrators are subject to all requirements of PAs as set forth in this section, including bonds. On Aug. 6th, SCAO advised all courts of the increased bond amounts for PA/Deputy PAs. SCAO reached out to the Secretary of State’s (SOS) Office, seeking information regarding their procedure for how PAs are to file their updated/increased bond and for receiving a receipt for such bond. The information received from the SOS was forwarded to all PAs on Aug. 8th, for them and their Deputy PAs to follow. That email communication was then forwarded to all courts.

RECOMMENDATION 5A

*The Judicial Branch should ensure that undistributed funds from decedents’ estates are handled in accordance with statute by:
Working with the Department of the Treasury to provide guidance and training to Public Administrators on the distinction between decedents’ funds and other unclaimed property, and the methods for transferring undistributed funds from decedents’ estates to the Department of the Treasury and reporting these transfers to the Attorney General’s Office.*

CURRENT IMPLEMENTATION STATUS	Partially Implemented	CURRENT IMPLEMENTATION DATE	September 2018
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AGENCY UPDATE

SCAO has drafted a Public Administrator’s Guide for Reporting Escheats to the Department of the Treasury which includes the instructions posted on the Treasury’s website. In recent days, SCAO and the Department of the Treasury have worked together to revise the Treasury’s current instructions and have agreed upon a final version to be posted. Once the final version is posted, SCAO will revise the Guide and post it to the Judicial Branch’s website, circulate it to all PAs, and work with the Department of the Treasury to provide further guidance when necessary.

RECOMMENDATION 5B

*The Judicial Branch should ensure that undistributed funds from decedents' estates are handled in accordance with statute by:
Working with Public Administrators and the Department of the Treasury to determine if there are additional decedents' funds that have been improperly deposited into the Unclaimed Property Fund and correcting any errors identified.*

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	February 2018
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AGENCY UPDATE

SCAO worked with Mr. Ryan Parsell, Deputy Treasurer, who confirmed that their agency searched their records from the past 20 years to identify funds that may have been handled as unclaimed property rather than escheats. SCAO, worked with a Public Administrator and reviewed several reports, and in the search found 3 separate escheats transferred between Nov. 2008 and April 2012, that were not a part of this audit. The Department of the Treasury conducted a search and found all three escheats were properly processed. This matter being sufficiently explored requires no further action, therefore, we report Recommendation 5B as being implemented.

STATE OF COLORADO
DEPARTMENT OF THE TREASURY

Walker R. Stapleton
State Treasurer



Ryan Parsell
Deputy Treasurer

July 26, 2018

Dianne E. Ray, CPA
State Auditor
Colorado Office of the State Auditor
1525 Sherman Street, 7th Floor
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Dear Auditor Ray,

In response to your request, we have prepared the attached status report on the implementation status of audit recommendations contained in the *Public Administrators August 2017 Performance Audit*. The report provides a brief explanation of the actions taken by the Department of the Treasury ("Treasury") to implement the recommendation.

The Treasury moved quickly to implement this recommendation. The Treasury volunteered to fully implement the recommendation by November 2017 and kept its commitment. The Treasury made additional changes to the website in July 2018 to further clarify the information provided to Public Administrators and other personal representatives. The website was updated with information for both Public Administrators and citizens with messages tailored to the specific needs of each group. The instructions are prominently featured on the website to help those needing information to find it with ease.

If you have any questions about this status report and Treasury's implementation of the audit recommendation, please contact Ryan Parsell at 303-866-4951 or Ryan.Parsell@state.co.us.

Thank you for bringing this recommendation to our attention and for the opportunity to update you regarding Treasury's work.

Sincerely,

Ryan Parsell
Deputy State Treasurer

AUDIT RECOMMENDATION STATUS REPORT

AUDIT NAME	Public Administrators
AUDIT NUMBER	1678P
AGENCY	Department of the Treasury
DATE OF STATUS REPORT	July 26, 2018

SECTION I: SUMMARY

REC. NUMBER	AGENCY'S RESPONSE	ORIGINAL IMPLEMENTATION DATE	CURRENT IMPLEMENTATION STATUS	CURRENT IMPLEMENTATION DATE
4	Agree	November 2017	Implemented	July 2018

SECTION II: NARRATIVE DETAIL

RECOMMENDATION 4

The Department of the Treasury should provide guidance on its website for personal representatives, including Public Administrators, on the information they should provide when transferring funds from decedents' estates and develop standardized documentation requirements for these transfers that clearly indicate that the transferred funds are intended for inclusion on the "Estates of Deceased Owners List."

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	July 2018
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AGENCY UPDATE

Treasury agreed to this recommendation and committed to full implementation by November 2017. Treasury has fulfilled that commitment. The website was updated with information for both Public Administrators and citizens with messages tailored to the specific needs of each group. The desire behind that approach was to be more user-friendly towards the groups with which Treasury interacts. The instructions are prominently featured on the website. In July 2018, Treasury made additional changes to the website to clarify the instructions for those sending escheated estates to the Treasury.