

State of New York
Office of the State Comptroller
Division of Management Audit

**NEW YORK CITY
PUBLIC ADMINISTRATORS**

**IMPLEMENTATION OF THE
ADMINISTRATIVE BOARD'S
GUIDELINES**

REPORT 96-N-7



H. Carl McCall
Comptroller



State of New York Office of the State Comptroller

Division of Management Audit

Report 96-N-7

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Dear Public Administrators Birmingham, Black, Griffin, and Trepel:

The following is our report on the Public Administrators' implementation of the guidelines promulgated in November 1995 by the Administrative Board for the Offices of the Public Administrators.

This review was performed pursuant to the State Comptroller's authority as set forth in the State Finance Law, and the General Municipal Law. Major contributors to the report are listed in Appendix B.

*Office of the State Comptroller
Division of Management Audit*

September 30, 1997

Executive Summary

New York City Public Administrators Implementation Of The Administrative Board's Guidelines

Scope of Review

Public Administrators (PAs) are responsible for administering the estates of persons who die intestate and leave no known heirs, or leave heirs who are not qualified or willing to administer the estate. PAs also administer an estate if neither the executor nor any eligible beneficiary named in the decedent's will is able or willing to serve.

The Surrogate's Court Procedure Act (SCPA) provides authority for PAs in the five counties of New York City. In 1993, Section 1128 of the SCPA created the Administrative Board for the Offices of the Public Administrators (Board). On November 13, 1995, as part of its mission to establish guidelines and uniform fee schedules, the Board adopted guidelines for the operations of the PA offices in New York State (Guidelines). According to the SCPA, the Guidelines are to include, as a minimum, "rules for the initial inspection of the decedent's premises and guidelines for the selection and compensation of investigators, appraisers, accountants, warehouses, auctioneers and procedures for the disposal of personal property." They also provide guidance on recordkeeping, cash management, and the performance of other administrative functions.

This review covers the operations of the Public Administrators in the New York City counties of New York, Richmond, Queens, and Bronx during the period of November 13, 1995 through July 31, 1996. The Kings County PA was not included in this review because that office was being examined at the time by the New York City Comptroller's Office. As of December 31, 1995, the four PAs reported a combined caseload of 3,463 open estates with a total gross value of \$135.3 million; and they had a total staff of 49.

Our review addressed the following questions concerning the operations of the four PAs:

- Have the PAs fully implemented the Board's November 1995 Guidelines?
 - Do the Guidelines need to be revised to help the PAs deal with current conditions and/or procedures?
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Observations and Conclusions

All four of the PAs have made progress toward implementation of the Board's Guidelines, even for estates that had been opened before the Guidelines were established. However, the PAs still need to improve compliance in the areas of recordkeeping, cash management, selection of outside vendors and payments to them, and other administrative functions. In addition, the City of New York has not fulfilled its obligation to pay an independent auditing firm to annually audit each of the PAs, as required by the SCPA and the Guidelines. We recommend that the PAs continue to request sufficient resources to pay for the required audits.

None of the PAs follow the guideline requiring them to open separate, interest-bearing bank accounts for each estate valued at \$500 or more. Instead, each PA pools the funds together in a single bank account, because each considers the opening of individual bank accounts for small estates to be an administrative burden. We agree with the PAs' position to eliminate the requirement to open separate accounts where acceptable alternative methods of accounting are in place, and suggest that the Guidelines be revised to that effect. We also found that when the PAs file the required annual report of open estates with the State Comptroller, none of them report as part of the gross value of each estate, the estimated and appraised values of property collected but not yet sold. This could include valuable real property or stocks and bonds that have not been sold. We believe the report to the Comptroller should include appraised and estimated value, and recommend that the Board add this requirement to the Guidelines.

Certain issues unique to the operations of each PA are also included in the report. In many instances, the affected PAs initiated corrective action when we brought the deficiencies to their attention. We recommend that the PAs take appropriate action to fully implement the Guidelines and seek Board action to amend them where necessary.

Comments of Public Administrators

The Public Administrators generally agreed with our recommendations and indicated that corrective actions either have been or are being taken.

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Introduction

Background

Public Administrators (PAs) are responsible for administering the estates of persons who die intestate and leave no known heirs, or leave heirs who are not qualified or willing to administer the estate. They also administer an estate if neither the executor nor any eligible beneficiary named in the decedent's will is able or willing to serve. In most counties of New York State, the PA's role is performed by the county's chief fiscal officer; in the five counties of New York City (City), as well as certain other large counties, this role is performed by a full-time PA appointed by the county's Surrogate Judge. Article 11 of the Surrogate's Court Procedure Act (SCPA) provides authority for PA offices in the five counties of New York City.

In 1987, the State Comptroller and the State Attorney General issued a joint report on the operations of the five New York City PAs. This report identified numerous weaknesses that put estate assets at risk of theft, loss and abuse. A 1991 joint follow-up review of the operations of the five PAs found that little had been done to correct the previously identified weaknesses. We called for fundamental reform of the New York City PA offices. In 1993, Section 1128 of the SCPA created the Administrative Board for the Offices of the Public Administrators (Board). On November 13, 1995, as part of its mission to establish guidelines and uniform fee schedules, the Board adopted guidelines for the operations of PA offices in New York State (Guidelines). According to the SCPA, the Guidelines are to include, as a minimum, "rules for the initial inspection of the decedent's premises and guidelines for the selection and compensation of investigators, appraisers, accountants, warehouses, auctioneers and procedures for the disposal of personal property." They also provide guidance on recordkeeping, cash management, and the performance of other administrative functions.

Each New York City PA office receives funds from the City of New York. Some PA expenses not funded by the City may be paid from a "suspense account" that the SCPA and the Guidelines also allow each PA to maintain. The suspense account, which is funded by a one-percent fee charged to estates and by administrative fees paid to the PA, may also be used to pay miscellaneous estate disbursements if estate assets are not yet available to cover them. As assets are collected, the suspense account is to be reimbursed for the advances.

As of December 31, 1995, the Bronx, New York (Manhattan), Queens, and Richmond (Staten Island) PAs reported a combined caseload of 3,463 open estates with a gross value of \$135.3 million. These four PAs had a total staff of 49, of which 32 were funded by the City. The remaining 17 were funded through the suspense accounts. New York County, the largest, employed 22.

The PA's first involvement with an estate occurs upon notification of a death, usually through a hospital or nursing home, the police, the City Medical Examiner, or a friend or relative of the decedent. The PA then typically makes funeral arrangements, collects and manages the decedent's assets, liquidates property, and searches for possible heirs. The PA also pays creditors, collects debts, prosecutes legal claims, and prepares and files tax returns for the decedents. If an estate had more than \$10,000 in gross assets (i.e., assets collected before distributions are made), it was considered a formal estate (the amount for a formal estate was increased to \$20,000, effective August 30, 1996). Once that determination has been made, the PA must then petition the Surrogate's Court (Court) for Letters of Administration to gain legal authorization to administer the estate. During our review, an estate valued at \$10,000 or less, but more than \$499, was considered an informal estate, for which the PA had to file an inforatory accounting with the Surrogate's Court.

Ultimately, the PA files an accounting of all estate transactions to be submitted to the Surrogate Judge, who issues a decree authorizing the PA to distribute the estate assets to heirs. If no heirs are located, the assets are deposited with the New York City Department of Finance and are ultimately transferred to the State Comptroller's Office of Unclaimed Funds.

Scope, Objectives, and Methodology of Review

We reviewed the operations of the PAs in New York, Richmond, Queens, and Bronx counties for the period of November 13, 1995 through July 31, 1996. The Kings County (Brooklyn) PA was not included in our review because that office was being examined at the time by the New York City Comptroller's Office. The objectives of our review were to determine the extent of the PA's compliance with the November 1995 Guidelines and to determine whether any of the Guidelines should be revised to help the PAs deal with current conditions and procedures. To accomplish these objectives, we reviewed a random sample of files of both formal and informal estates that had been opened after November 13, 1995, the effective date of the Guidelines; and reviewed a sample of estate files that had been opened before the effective date and were still being administered. We also interviewed the PAs of the Bronx, New York, Queens, and Richmond counties, as well as members of their staffs.

This review of the PAs is the first to be conducted by the State Comptroller's Office since the State Attorney General and the State Comptroller performed a joint review of the PA offices in the five New York City counties in 1992. Almost all of the recommendations presented in the 1992 joint report have been incorporated into the 1995 Board Guidelines.

Response of Public Administrators to Review

Draft copies of this report were provided to the respective Public Administrators for their review and comment. Their comments have been considered in preparing this report and are included as Appendices C, D, E and F.

Within 90 days after final release of this report, we request that the Public Administrators in the New York City counties of New York, Richmond, Queens, and Bronx report to the State Comptroller, advising what steps were taken to implement the recommendations contained in the report, and where not implemented, the reasons therefor.

Common Issues

We found that several issues were common to all four of the PAs we reviewed.

Annual Audit

Both the Guidelines and Section 1109 of the SCPA require each PA to arrange for an annual audit of its operations by an independent certified public accountant. According to the SCPA, the audit is to be conducted in accordance with generally accepted government auditing standards and include a review of the performance of the PA with respect to the Guidelines and uniform fee schedules established by the Board. The SCPA further states that the costs of the audits are to be included annually in the budget of the City of New York.

We found that none of the PAs had an annual audit. The PAs explained that they do not have sufficient funds to do so because New York City has not underwritten the cost of such audits as required by law. However, the Manhattan PA reported receiving permission from the City recently to begin soliciting bids for an annual audit. The Queens PA also indicated its 1996-97 annual audit will comply with the Guidelines.

Separate Bank Accounts

The Guidelines state that the PA should open a separate interest-bearing account for any estate valued at \$500 or more. We found that none of the PAs do this. Each PA pools the monies from all the estates administered by the PA's office into one or more bank accounts. The Manhattan PA's bank does maintain sub-accounts for each individual estate. The Manhattan, Queens, and Bronx PAs also utilize a computer system to account for the amounts held for each estate. They consider this to be in compliance with the intent of the Guidelines. Because the PAs handle a significant number of estates each year, they believe that opening individual bank accounts for each estate valued at more than \$499 would create an unnecessary administrative burden. We agree, where acceptable alternative methods of accounting are in place. The PAs should petition the Board for a revision of this guideline.

Witness to Residence Searches

According to the Guidelines, PA investigators who search decedents' residences for personal property should endeavor to secure an independent witness and to have the witness sign the inventory report at the time of the search. Even though we found some instances in which investigators had reported the presence of a witness, we found just one case that contained a corroborating witness' signature on an inventory or search report. The Manhattan, Bronx, and Queens PAs told us that the presence of a witness only complicates the search; they said investigators would have to conduct surveillance on the witness to ensure that the items are secure. Both the

Manhattan and Queens PAs also reported that witnesses are often reluctant to sign an inventory or search report for fear of being held responsible for any items later found to be missing. We believe the presence of an independent witness is an important control and that efforts should be made to secure witnesses.

Selection of Outside Vendors

According to the Guidelines, the PA should select outside vendors, such as accountants, appraisers, or auctioneers, who are “competitive with other vendors,” and who have “the complete confidence of the PA based upon their prior working relationship or general reputation and standing in the community.” The Guidelines do not stipulate that the PA should seek the lowest bidder. We noted that although the PAs advertise for potential vendors, they continue to do business with existing vendors based on prior working relationships. We believe that the Guidelines should be modified to require the PAs to seek the lowest bidder. However, if the lowest bidder is not selected, the PA should be required to document the reasons.

Gross Value of Estate Property

Part 72 of the State Finance Law requires the PAs to file an annual report of open estates with the State Comptroller, indicating which permanent Letters of Administration were issued. The gross value of each estate should be included in such a report.

We found that all four PAs report only the assets that have been collected by the PA and converted to cash. They do not reflect the appraised or estimated value of any estate assets, such as buildings or stocks and bonds, that have not been sold. Therefore, the PAs’ reports significantly understate the true value of the estates for which they are responsible. For example, the Bronx PA’s December 31, 1995 report listed a gross value of \$19,448 for a particular estate. However, this figure did not include the value of the estate’s real property, which the PA sold in June 1996 for \$125,000. For another estate, the report excluded the value of a taxi medallion, estimated to be worth \$170,000.

The Manhattan and Bronx PAs stated that they do not include the appraised value of property because the appraisals may not reflect the actual amount they would eventually receive for the property. The Manhattan PA added, however, that appraised values will be included in the future. We believe the report to the Comptroller should include appraised or estimated values, and the Guidelines should reflect this requirement.

Legal Fees

One recommendation addressed to all four PAs in the 1992 joint report issued by the State Comptroller and the Attorney General called for the PAs’ counsels to be paid with legal fees that correlated with the legal services they

actually rendered. The Guidelines do not address this issue. As a result, the counsels for all four of the PAs are still being paid a percentage of the gross value of the estates.

The counsels for both the Bronx and Queens PAs informed us that their fees have been approved by the Attorney General's Office. Counsel for the Queens PA believes that the use of billable hours as a method of determining legal fees provides a disincentive to closing an estate quickly. The Staten Island PA does not use legal counsel for estates valued at less than \$10,000. All four PAs cited that legal fees can be contested by all interested parties or by the Surrogate's Court at the time the Court approves the final decree for an estate. We suggest that the PAs ask the Board to establish guidelines regarding the payment of legal fees.

Recommendations

To the Bronx, New York, Queens, and Richmond County PAs:

1. Continue to ask the City of New York to fund annual audits of the PA offices as required by law.
2. Recommend to the Board the following revisions to the Guidelines:
 - Eliminate the requirement to open separate, interest-bearing bank accounts for each estate valued at \$500 or more, where acceptable alternative methods of accounting are in place.
 - Require the PAs to seek the lowest bidder in selecting outside vendors. If the lowest bidder is not chosen, require the PAs to document the reasons why.
 - Require the PAs to include in the annual report to the State Comptroller, the appraised or estimated value of all property collected but not yet sold.
 - Establish a guideline that addresses the payment of legal fees.
3. Require each investigator to obtain the signature of a witness on the inventory report or document the reason a witness' signature was not obtained.
4. Comply with the law by including in the annual report to the State Comptroller, as part of the gross value of an estate, the appraised or estimated value of all property collected, but not yet sold.

Implementation of the Guidelines by Individual PAs

We noted issues that affected the operations of some of the PAs. The following are discussions of some of these matters. A table indicating the status of implementation for each guideline (i.e., implemented, partially implemented, not implemented, etc.) by PA, as of July 31, 1996, appears in Appendix A.

Bronx County

For 1995-96 fiscal year, New York City funded seven staff positions in the Bronx County PA's office at a cost of \$266,155 and provided other-than-personal-service funds of \$8,499. In addition, the PA funded one full-time investigator and some office expenses through his suspense account; and a part-time investigator was paid directly from the estates that the investigator handled. An outside counsel provided legal services; and an outside accountant prepared tax returns and unaudited financial statements and provided consulting services. Both the counsel and the accountant were paid from the estates for the services they rendered. As of December 31, 1995, the PA reported administering 633 open estates valued at \$30 million.

Central Recordkeeping

The Guidelines require the PA to maintain a central record for each estate (decedent). We found, however, that if the decedent had been a resident of a nursing home, and the estate had less than \$500 in assets, the Bronx PA would maintain an account in his computer system in the name of the nursing home, instead of the decedent. The PA's records contained only individual entries showing transactions for each decedent. Although proceeds of the estate were often used to pay the funeral and estate administration expenses of the decedent, the PA did not maintain supporting documentation for such payments. The PA has agreed to maintain this documentation.

The Guidelines also require the PAs to maintain an accurate record of all property included in each estate. However, we found that inventory records had not always been updated after assets were sold. For one estate, the Bronx PA had sold personal property at auction; but the computer system showed that the items were still reported as inventory more than two months after they had been sold and the proceeds had been received and credited to the estate. The PA explained that the computer system does not automatically change an item's inventory status when the item is sold and the resulting proceeds are credited to the estate. His staff must make independent entries in the estate account to show that cash was received, and in the inventory account to show that the property was sold. However, we noted that the staff did not always make the corresponding entry in the inventory account; thus the PA cannot be

assured that the inventory records reflect the actual property on hand. According to the PA, repeated requests have been made to the software vendor for software modifications that would enable the computer to update the inventory automatically, if the decedent's property is sold. However, these requests have not been satisfied. In response to our observation, the PA has issued written instructions requiring staff to ensure that inventory records are adjusted when an inventory item is sold.

Cash Management

According to the Guidelines, any funds or interest that cannot be traced to a particular estate, or any funds of less than \$500 from closed estates, should be treated as abandoned property and deposited with the New York City Department of Finance (Finance). Also, expenses incurred for estates with insufficient assets are to be paid out of the PA's suspense account.

We found that the Bronx PA was maintaining a miscellaneous account that included funds that should have been transferred to Finance as abandoned property or credited to specific estates. The PA was also using this account to pay for office expenses that should have been paid from the suspense account. From November 13, 1995 to June 14, 1996, receipts into this account totaled \$24,637 and disbursements totaled \$28,970. The account had a negative book balance of \$2,212 on June 14, 1996 (the bank account, which included other PA accounts, had a positive balance). The PA has agreed to discontinue the miscellaneous account. Concerning funds that could not be traced to particular estates (i.e., lacking a name or social security number), the Bronx PA indicated that Finance will not accept these funds. However, we have been advised by Finance officials that they maintain an account for "proceeds for the benefit of unknown distributees." As such, they will accept these funds.

Property Search and Collection

The Guidelines for collecting valuables at decedents' residences call for conducting a residence search as soon as possible after the notice of death is received. The Bronx PA's own internal guidelines require residence searches to be made within ten days after receipt of the notice. However, for the estates we sampled, we found that up to 15 days had elapsed before the PA's investigators searched the residence. The PA explained that the time frame depends on the number of residences to be searched; he said the investigators sometimes get backlogged.

The Guidelines also call for the maintenance of a log noting all visits to the decedent's residence. The Bronx PA maintained such a log, but it indicated neither the names of the investigators who initially visited the residence, nor indications that subsequent visits had been made to the same residence, as

required by the Guidelines. For two of the three sampled estates in which property searches had occurred, the log did not indicate the visits at all. During July 1996, the PA did begin recording in the log all visits to decedents' residences, as well as the names of the investigators who had made the searches.

According to the Guidelines, the investigators should record the inventory of property at the time of the first visit. However, the PA's investigators do not take such an inventory during the visit. Instead, recalling from memory, they note the contents of residences several days after they viewed them. For example, the investigators went to one residence on January 26, 1996, but did not record the inventory until January 30. We accompanied the investigators to two residences on a Friday, and noted that they did not record the inventory until the following Monday. We also noted that the investigators did not record the quantity of items, and that the preprinted inventory form they use does not allow for a description of the items inventoried or their condition. The Bronx PA agreed that there were weaknesses in the residence search process followed by his office, and said new written procedures will be prepared to address these deficiencies.

Sale of Personal Property

According to the Guidelines, each PA should maintain a roster of individuals and/or companies that have indicated an interest in purchasing decedents' property. The PA is to advertise annually in a newspaper of general circulation within the county, describing the opportunity to be listed on the roster.

The Bronx PA does not maintain such a roster. He regularly sells decedents' personal property at auctions held in the Surrogate's Court, but offers limited notification that they will take place. His "advertising" consists of posting notices in the courthouse and sending notices to local Bronx newspapers with limited circulation. The PA advised us that most of the bidders at the auctions are people who work in the courthouse or have business there. He said he was reluctant to charge the estates for more promotion because there was little widespread interest in the auctions and they generated a small amount of revenue - - less than \$3,000 in the most recent one. However, he agreed to follow the Guidelines

For proper accountability, the Guidelines also require all successful bidders to pay by check. However, we noted that a furniture buyer at a recent auction paid \$965 in cash. The PA explained that cash was accepted because some previous buyers' checks had been returned for insufficient funds. He stated that he would try, in the future, to make an arrangement with a bank that would enable bidders to obtain money orders without having to pay a fee. He

added that when vendors insist on paying cash, at least two PA staff will be present during the transaction and a receipt will be given.

Selection of Outside Vendors

The Bronx PA also uses a variety of outside vendors to perform necessary functions. Such vendors include funeral homes, tradesmen, appraisers, and stockbrokers. The Guidelines require the PA to advertise annually for outside vendors in a newspaper of general circulation within the county. The PA placed such an advertisement in January 1996, but placed it in a local newspaper with a limited circulation of just 15,000 readers. Eight responses were received; none was deemed suitable. The PA then continued to do business with the same vendors as usual, explaining that he believed he was obligated to conduct business with local vendors. Thus, the PA argued, it made sense to advertise only in a local newspaper, which would be less expensive than a citywide publication. He has, however, agreed to advertise in general circulation newspapers.

Maintenance of Suspense Accounts

During the period November 13, 1995 to June 14, 1996, receipts into the Bronx PA's suspense account totaled \$57,300 and disbursements totaled \$75,852. The account balance at June 14, 1996 was \$45,778. Our review of a sample of 17 disbursements from this account made between November 13, 1995 and June 14, 1996, found that the invoices lacked documentation that the ordered goods had actually been received or that the billed services had, in fact, been provided. In other instances, it was not possible to determine the business purpose for expenditures, such as meals, without obtaining an explanation from the PA.

The PA also maintains a petty cash fund, funded from the suspense account, that is used to pay for miscellaneous cash expenditures; however, the PA maintains no log recording disbursements from this fund. Proper accounting controls over petty cash dictate that all disbursements be recorded, and that expenditures be proper and documented. The PA had maintained receipts for expenditures, but in many instances the receipts were not dated and did not show the business purpose of the expenditure.

Our review of a sample of 25 petty cash receipts found that none stated the business purpose of the expenditure; 11 of them had not been dated. We also saw receipts for expenditures, such as lunches, that were clearly not business-related. The PA explained that because they were not business-related, the suspense account was reimbursed. However, because proper records had not been kept, we were unable to confirm this. The PA agreed to indicate the purpose of the expenditures on the invoice, noting the

number of the check used for payment; to begin maintaining a log for petty cash expenditures; and to refrain from using the petty cash fund for non-business purposes.

Recommendations

To the Bronx County PA:

5. Maintain supporting documentation for payments made from estates valued at less than \$500.
6. Ensure that estate inventories are updated properly after property is sold and/or disposed of.
7. Ensure that any estate funds or interest that cannot be traced to a particular estate, or revenue that is generated from closed estates valued at less than \$500, are treated as abandoned property and transferred to the New York City Department of Finance.
8. Discontinue the miscellaneous account.
9. Follow the Guidelines for conducting and documenting residence searches.
10. Maintain and utilize a roster of individuals and/or companies interested in the purchase of decedents' personal property, as described in the Guidelines.
11. Require successful bidders to pay by check or money order.
12. Advertise for outside vendors in general circulation newspapers.
13. Improve controls over the suspense account by:
 - requiring written authorization and proper documentation for all disbursements;
 - using the suspense account funds to pay only for expenditures permitted under the Guidelines; and
 - establishing proper controls and adequate recordkeeping of the petty cash fund.
14. Take appropriate actions to implement the other guidelines that are identified in Appendix A as being not fully implemented.

New York County

For the 1995-96 fiscal year, New York City funded 14 staff positions at the New York County (Manhattan) PA's office at a cost of \$426,855 and provided other-than-personal-service funds of \$251,223, including \$122,780 for the lease of a new warehouse (the PA reported that this facility was not obtained and the funds were not used). In addition, the PA used its suspense account to fund eight other staff positions and some office expenses. Outside counsel from two firms provided legal services to the PA; and an outside accountant prepared tax returns, reviewed reports, and provided consulting services. The counsel and the outside accountant were paid from the estates for services rendered. As of November 1, 1996, the PA's office reported that it was administering 1,757 active estates, with a total balance of \$77 million.

Central Recordkeeping

According to the Guidelines, a central record should be established for each estate. While each estate folder we examined contained a record of the activity in the estate, it did not include an inventory of estate property or its appraised values. The appraisals and inventory lists were kept separately. In response to our preliminary finding on this matter, the New York County PA agreed to have copies of estate inventories and property appraisals placed in each new estate folder.

The Guidelines also require the PA to maintain a summary of the results of each auction in the central record for each estate. For each auctioned item, this information should include the sale price, the item sold, and the estate to which the sale price should be credited. We noted that the PA was not including such information in the estate file. The PA indicated this too will be implemented.

Case Management System

The Guidelines call for the PAs to maintain a case management system that tracks the progress of each estate's administration. Tracking an estate's progress helps ensure that all assets are identified and collected and that a proper accounting is prepared, as required by law. This system should include a "tickler" function, so the PA can monitor unusual delays in estate administration. We found that, although the New York County PA maintained a case management system, it did not flag delays adequately. In response to our preliminary finding regarding this, the PA said a tickler system has been implemented.

Small Estate Accounts

The Guidelines allow the funds of estates valued at less than \$500 to be deposited in one bank account. If the balance of an individual estate becomes

greater than \$500 (e.g., with the addition of interest, etc.), a separate account is to be established. The New York County PA maintained a miscellaneous account called the Public Administrator Miscellaneous Expense (PAMX) account for “small” estates with gross estate balances of less than \$500. However, we found that this account also included some larger estates. As of December 31, 1995, PAMX included 85 estates valued at more than \$500, with a total value of \$136,700. On May 23, 1996, 77 of the 85 estates, totaling more than \$124,700, remained in the PAMX account. As a result of our review, the PA has established individual accounts for estates valued at more than \$500.

We also found that the PA had not credited interest income to any of the estates in the PAMX account, as required by the Guidelines. The PA stated that computing interest for each of the small estates would be too onerous and of little benefit to the estates, but agreed to instruct staff to make such computations for all estates with at least \$100 in the account. We believe the PA can have its office computer program updated to prorate interest to every small estate in the PAMX account.

According to the Guidelines, funds or interest the PA cannot trace to a particular estate should be treated as abandoned property and transferred to the New York City Department of Finance. We found that the PA kept such funds in “interest” and “hospital” accounts that totaled, as of April 1996, almost \$500,000 and \$200,000, respectively. The hospital account consisted of monies received from hospitals where unknown decedents had died. The interest account was opened in 1986 to capture the interest earned on estates from the time a case was closed (settled) to the time the resulting checks cleared the bank. These interest funds should have been turned over as abandoned property, rather than used to supplement the PA’s suspense account. Subsequent to our review, the PA turned over all funds in these two accounts to the Department of Finance.

Property Search and Collection

The Guidelines call for the investigators searching a decedent’s residence to photograph the contents of the residence and submit them to the PA after each search. At the same time, investigators are to make a complete and detailed inventory of the contents of the residence. We examined case files and noted that the photographs taken of one decedent’s residence did not appear to show all parts of the rooms in the home. In addition, some files did not contain support for the investigators’ statements about the number of rooms in the residence. Without verification of the number of rooms and a complete photograph of each room, the PA can not be assured that the investigators had searched the decedents’ homes adequately or had made a complete and

detailed inventory. The PA indicated that she believed they are in compliance with the Guidelines, but would review the situation further.

The Guidelines require the PA, after the initial search of a decedent's residence, to evaluate appropriate information received from the investigators and decide whether any further action concerning the residence is required. We were unable to find any documentation in our sampled estate files that showed that the PA had reviewed the investigators' work. In one such file, a set of photographs showed two televisions at a decedent's residence, but the inventory on the apartment search form indicated only one television. There was nothing in the file to reconcile this difference. In response to our preliminary finding, the PA stated that the files are reviewed, but that in the future, the PA or a deputy would indicate on the front of each estate file that the file had been reviewed.

Although the Guidelines require investigators to seal all of a residence's entrances and windows after the search and before the apartment is released to the landlord, we found that many files did not document that this was done. Therefore, the PA had no way of confirming that the investigators had completed their search properly and had secured the residence. In response to our preliminary finding, the PA indicated that the apartment search form has been revised to include a check-off for apartment sealing.

Sale of Personal Property

The Guidelines require the PA to maintain a roster of individuals and/or companies that have expressed an interest in purchasing decedents' property. In addition, the PA is to advertise annually in a paper of general circulation, inviting interested parties to be listed on the roster. We noted that the PA does not maintain a roster of interested buyers, but does advertise when decedents' property is to be auctioned. To ensure that more interested parties are aware of such auctions, the PA should also maintain a roster of prospective buyers and notify them when decedents' property is to be sold.

Maintenance of Suspense Account

Although the Guidelines call for the suspense account to be reimbursed promptly after estate assets are collected, we found that the New York County PA has not always done so. In our sample of 20 estates that have been opened since the Board imposed the Guidelines, we found that three estates owed reimbursements to the suspense account well after the funds were available to make reimbursement. The PA indicated her office will comply with this Guideline.

In recent years, the PA has consistently spent significantly more from the suspense account than the amount of revenue received in the form of administrative fees, resulting in negative book balances in this account (the bank account, which included other PA accounts, had a positive balance.) For example, in 1995, the suspense account received fees totaling \$122,500 and incurred expenses of \$382,600. By January 1996, the account had a negative balance of \$391,294. In response to our preliminary finding, the PA indicated that a Board-approved increase in the administrative fee from .5 percent to 1 percent has resulted in sufficient funds to cover all expenses in this account. As of September 18, 1996, as a result of the higher administrative fee, the account had a positive balance of \$9,851.

Recommendations

To the New York County PA:

15. Include in the central record for each estate copies of the inventory listings, appraised values for the inventory, and the results of any sales of estate property.
16. Provide a tickler function in the case management system that will identify delays in the administration of estates.
17. Allocate interest to estates in the PAMX account, and establish a separate estate account as soon as the value of a PAMX estate becomes greater than \$500.
18. Transfer to the New York City Department of Finance all funds that cannot be traced to a particular estate.
19. Require investigators to photograph all views of all rooms in a decedent's home, document the number of rooms, and document the sealing of each residence.
20. Conduct and document reviews of the files for each estate.
21. Maintain a roster of individuals and/or companies that have indicated an interest in purchasing decedents' property, and notify them of upcoming sales.
22. Reimburse the suspense account promptly from the estate accounts when sufficient funds become available.
23. Do not incur administrative costs in excess of fees contained in the suspense account.
24. Take appropriate actions to implement the other guidelines that are identified in Appendix A as being not fully implemented.

Queens County

For the 1995-96 fiscal year, New York City funded eight staff positions at the Queens County PA's office, at a cost of \$279,135. The budgeted amount for City-funded, other-than-personal-service costs was \$6,420. In addition, the PA funded seven positions and paid some office expenses through its suspense account. An outside counsel performed legal services for the PA on behalf of the estates, including the preparation of accountings. An outside accountant, who prepared tax returns and provided consulting services, was paid from the estate for every tax return he prepared and also received a monthly retainer paid from the suspense account. As of December 31, 1995, the Queens PA reported that she was administering 967 open estates valued at \$22.9 million.

Informatory Accounting

The SCPA requires the PAs to file an informatory accounting with the Surrogate's Court for informal estates. We found that the Queens PA had not filed an informatory accounting for 9 of 12 informal estates we sampled. The PA replied that temporary staffing shortages had made it difficult to process some smaller estates, especially those involving nursing homes, on a timely basis. A property agent has since been assigned the task of following up on informal estates and they are now filed timely.

Property Search and Collection

The Guidelines require that at least two investigators be present at all times during searches. Our review of residence search documents prepared by investigators from the Queens PA office revealed that, while it was likely that both investigators conducted searches, one always initialed the results of the search for the other. While separate signatures are not required by the Guidelines, we consider them necessary to document independent verification by each investigator and believe they should be required. (Each of the investigators working for the other three PAs signed independently.) The Queens PA agreed that each investigator should sign the investigators' report individually.

Maintenance of Suspense Accounts

The Guidelines also call for accurate records of all receipts and disbursements involving the suspense account. When we reviewed a sample of 16 disbursements made by the Queens PA between January 1, 1996 and May 31, 1996, we found three instances of incomplete documentation. The PA should improve the documentation of suspense account disbursements. (The Queens PA indicated that all disbursements are now documented properly.)

Recommendations

To the Queens County PA:

25. Ensure that the required informatory accountings are filed with the Surrogate's Court for all informal estates.
26. Require each investigator to sign the residence search report.
27. Ensure that all disbursements from the suspense account are documented properly.
28. Take appropriate actions to implement the other guidelines that are identified in Appendix A as being not fully implemented.

Richmond County

The Richmond County (Staten Island) PA's office staff consists of the PA and two staff members. The related personal service and other-than-personal-service costs for the 1995-96 fiscal year, which were funded by New York City, totaled \$126,815 and \$32,611, respectively. The PA used the suspense account to fund some office expenses, and relied on two outside counsel for legal issues related to the decedents' estates. The PA paid an outside accountant to prepare and file the required annual estate tax returns, and the estate reimbursed the PA for the expenditure.

Many of the job functions in this PA office are combined because of the few number of staff. The PA employs no full-time investigators and handles investigations alone, with assistance from outside counsel. If additional investigators are needed for a search of a decedent's home, they are hired and the expense is charged to the suspense account. As of April 1996, the Richmond County PA reported that he was administering 106 open estates valued at \$5.4 million. The current Richmond County PA was appointed in February 1997, subsequent to this review.

Central Recordkeeping

Although a central record is maintained for each estate, its condition does not lend itself to easy verification of the estate's status. The case file, which is usually voluminous, lacks summary data. The Status sheet and the Inventory of Assets form, describing jewelry and other assets, should provide more details than we found in the Richmond County PA's files. For example, the description on one of the forms we reviewed stated only that jewelry and

watches were being held in the safe for a particular estate, but the type of jewelry and number of items were not described. The PA should consider following the detailed format used on the New York City Police Department's voucher form, which lists items the Police are holding. The current PA responded that immediately upon completing an inventory of assets, all assets with significant value are appraised and a copy of each appraisal is placed in the estate file.

Case Management System

According to the Guidelines, the PA must maintain a case management system that tracks the progress of each estate's administration and includes a "tickler" function that makes it possible to monitor unusual delays in the administration of any estate. The Richmond County PA has partially complied with this guideline. For example, the PA's diary system acts as a tickler system, indicating key dates for follow-up. However, the lack of an estate summary prevents a review of the estate's current status. The PA also manually compiles a list of estates that are open as of a certain date; but we found instances in which closed cases remained on the list. (The current PA indicated that he has made improvements to the system.)

The Guidelines also call for the PA to establish a miscellaneous receipts account. The PA is to review this account semi-annually to ensure a proper accounting of estate funds and allocation of interest, and to ensure that any untraceable funds are treated as abandoned property and sent to the New York City Department of Finance. The PA places funds from estates with balances of less than \$500 into one of two interest-bearing checking accounts. However, the PA does not review the records for these two accounts, following instead a policy of reviewing for unallocated interest only when an estate is closed and only for estates that are valued at more than \$10,000. Interest that cannot be traced to a particular estate remains in the checking account and is not treated as abandoned property, as required by the Guidelines.

We found that, from October 1, 1988 through May 31, 1996, the total amount of interest received was \$104,572, while the amount to be allocated to the estates totaled \$58,381. Unallocated interest amounted to \$46,191. The Guidelines state that the PA should treat as abandoned property any interest that cannot be traced, and should send it to the Department of Finance. (The current PA responded that once the accounting system is revised, any untraceable, unallocated interest will be sent to the Department of Finance.)

Property Search and Collection

The Guidelines require the presence of at least two investigators during the search of a decedent's residence and the recording of inventory in the presence

of an independent witness who signs the inventory or search report. The PA has no full-time investigators and performs this function personally with the assistance of legal counsel. This lack of separation of duties creates significant control risks. The PA informed us that his budget from New York City, unlike the budgets for other PAs, contains no City funds for a property agent, who would normally be assigned to conduct the search. The PA should request additional funding from New York City that will make it possible to hire enough investigators to conduct the searches.

Our review of three residence searches found that the initial inventory lacked detailed descriptions of each item, that photographs taken at the decedent's residence did not show every part of each room, that the photographs did not reflect all of the items on the inventory list, and that the search forms failed to indicate the number of rooms in the residence. Therefore, we had no assurance that all of the rooms and their contents were shown in the photographs. The current PA said that budget constraints made it impossible to purchase video equipment that would eliminate this problem, but noted that he will attempt to secure such equipment when additional funds are available.

Maintenance of Suspense Accounts

We found that, as of December 31, 1995, about \$21,000 in expenditures for one estate had been made from the suspense account over a six-year period. Although this estate had assets of \$157,875 on April 8, 1996 (in addition to the ownership of a house that subsequently sold for \$440,000), no reimbursement to the suspense account had been made as of June 28, 1996. The current PA assured us that he reimburses the suspense account for the money owed as soon as possible.

Informatory Accounting

The SCPA required the PAs to file an informatory accounting with the Surrogate's Court for informal estates. We noted that the Richmond County PA has not complied, stating that preparing a report on these estates would be unnecessarily cumbersome to the Surrogate's Court. We believe the PA should comply with the law, as do the three other PAs whose operations we reviewed.

Recommendations

To the Richmond County PA:

29. Improve the central records for each estate by providing more detailed information regarding the assets held.
30. Improve the case management system for tracking the progress and administration of each estate.
31. Transfer to the New York City Department of Finance as abandoned property all unallocated interest that cannot be traced to particular estates.
32. Strengthen internal controls by hiring investigators to conduct searches.
33. Exercise greater care in performing the residence search, especially with regards to the photographing and recording of inventory.
34. Reimburse the suspense account for expenses paid on behalf of estates as soon as funds are available.
35. File the required informatory accountings for informal estates with the Surrogate's Court.
36. Take appropriate actions to implement the other guidelines that are identified in Appendix A as being not fully implemented.

Status of PA Compliance with November 1995 Board Guidelines As of July 31, 1996

Guideline*	Compliance by County			
	Bronx	NY	Queens	Richmond
I. Office Procedures and Recordkeeping				
A. Central Recordkeeping				
1. Maintain a central record for each estate, with individually-numbered entries for each asset that will serve to enumerate all property for each estate.	I	PI	I	PI
2. Devise a uniform system for maintaining this central record for all estates with assets of more than one type.	I	I	I	PI
B. Centralized Accounting Procedures				
1. Implement and maintain a double-entry bookkeeping system to record and summarize all receipts and disbursements for each estate.	I	I	I	I
2. Maintain a centralized journal to record all non-estate-related receipts and disbursements received and paid by the PA.	I	I	I	I
3. Include an audit of the accounts described above in the annual audit of each PA's office by an independent auditing firm (SCPA §1109).	NI	NI	NI	NI
<p>* The Guidelines have been paraphrased for this Appendix.</p> <p>Abbreviations: I - Implemented PI - Partially Implemented NI - Not Implemented NA - Not Applicable (situation did not occur during the review period) DND - We Did Not Determine</p>				

	Bronx	NY	Queens	Richmond
C. Case Management System				
Maintain a case management system for tracking the progress of each estate's administration that includes a "tickler" function, enabling the PA to monitor unusual delays in the administration of any estate.	I	PI	PI	PI
II. Cash Management				
A. Estate Accounts				
1. Open a separate, interest-bearing account for each estate, valued at \$500 or more. Place funds for estates with less than \$500 in one Miscellaneous Receipts Account that will bear interest.	NI	NI	NI	NI
2. Upon implementation of these Guidelines, reconcile any accounts that contain commingled estate funds and/or interest accrued on estate funds (i.e., house accounts) with any records concerning those estate funds.	NI	NI	NA	NI
3. Review the records relating to the miscellaneous receipts account at least twice a year.	NA	NI	I	NI
4. If any estate funds or interest accrued cannot be traced to a particular estate, treat these funds as abandoned property and deposit them with the New York City Department of Finance. Do not use monies in the Miscellaneous Receipts Account to fund the operations of the PA's office.	NI	NI	NA	NI
5. Maintain procedures for insuring that funds held for an estate in a particular bank do not exceed the amount insured by the FDIC - - currently \$100,000.	I	I	I	I
6. When passbooks for bank accounts held solely in the name of the decedent are received, note these accounts in the centralized recordkeeping system	I	I	I	I

B. Assets Not Passing Through the Estate	Bronx	NY	Queens	Richmond
1. When passbooks or other evidence of joint or trust accounts, insurance policies, pension accounts or other similar assets not passing through the estate are received, contact the beneficiaries of such accounts or assets immediately and transfer all funds to the appropriate parties. The estate must be solvent and charges against such assets must be paid or provided for before any such transfer.	I	DND	I	I
2. Upon implementation of these Guidelines, immediately review the status of all assets not passing through the estate in the PA's custody and dispose of them in a manner consistent with Section 1 above.	I	NA	I	I
III. Property Management				
A. Property Search and Collection				
1. Assure that all personal property is collected and credited to the decedent's estate. Supervise and oversee the conduct of those who search for and collect personal property.	PI	I	I	PI
2. Assure the presence at all times of at least two PA investigators during searches for personal property at the residence of a decedent. Require investigators to secure the appearance of an independent witness at the search; photograph the contents of the residence, preferably with video equipment; and search each residence thoroughly, making a complete and detailed inventory of its contents during and immediately after the search. Have this inventory signed by both investigators, as well as the independent witness.	PI	PI	PI	PI
3. Conduct the search of a decedent's residence as soon as possible after the death notice is received and the matter appears to fall within the jurisdiction of the PA.	NI	I	I	I
4. Follow the initial search of a decedent's residence with an evaluation of appropriate information from investigators, including the inventories, pictures, and investigative reports.	I	NI	PI	I
5. Seal the residence entrances and windows before the premises are released to the landlord. Secure a signed receipt or release from the landlord or its agent when the residence is released.	I	NI	I	I

	Bronx	NY	Queens	Richmond
6. Maintain a log reflecting every visit to a decedent's residence, the employees who entered the residence, and the reason for entry. Maintain keys to decedents' residences in a secure place, and control access to such keys.	PI	I	I	I
7. Contact the Police Property Clerk within the county on a monthly basis to determine whether the police department is holding any decedent's property. If so, PA staff who collect such property shall execute a written statement to be attached to the Police inventory form attesting that all of the property enumerated on the inventory has been collected.	I	I	I	I
B. Sale of Personal Property				
1. Maintain a roster of individuals and/or companies that have indicated an interest in purchasing decedents' property. On an annual basis, advertise in a newspaper of general circulation in the respective county the opportunity to bid on such sales. Invite individuals and/or companies to be listed on this roster. Notify all those listed on the roster of all public auctions held by the PA.	PI	NI	I	NA
2. Sell any item of a decedent's personal property that has significant value at public auction unless such a sale is impractical. Select the property to be auctioned; do not leave this decision to the discretion of the auctioneer. Supervise all aspects of auction sales of estate property, and require that the auctioneer or his agent reconcile items sold or left unsold at auction with estate property inventory records to ensure that all items have been accounted for. Maintain a summary of the auction results in the central record for each estate. For each auctioned item, indicate the sale price, the item sold, and the estate to which the sale price should be credited.	I	PI	I	PI
3. Solicit at least three sealed bids for each sale.	I	NA	PI	NA
4. Conduct a private sale to dispose of any item of a decedent's personal property that appears to have less than significant value.	NA	NA	NA	NA
5. Require all successful bidders to pay by check to the specific estate.	NI	NI	I	I
6. Disqualify individuals or companies related to the PA from bidding on or purchasing personal property of estates.	DND	DND	DND	DND

C. Sale of Real Property and Cooperative Apartments	Bronx	NY	Queens	Richmond
1. Within New York, Kings, Queens, or Bronx counties, have real property or cooperative apartments of decedents appraised and sold at public auction. Pay real estate brokerage fees no higher than 3 percent of the purchase price of the property to any real estate broker in connection with such auction sales.	I	I	I	NA
2. Sell decedents' property or cooperative apartments located outside the county by private sale at the highest and best price available. Pay reasonable real estate brokerage fees in connection with such sales.	I	DND	I	NA
IV. Performance of Other Administrative Functions				
A. Searching for Distributees				
1. Search for distributees of the decedent.	I	I	I	PI
2. Do not hire a private investigator unless such hiring is approved by the court for good cause shown; such hiring, including compensation, shall be made on terms and conditions set by the court.	I	I	I	NA
3. Do not include compensation for distributee searches in regular legal fees; consider using a portion of the PA's commission to compensate counsel for performing this executorial function.	I	I	I	I
B. Maintenance of Suspense Accounts				
1. Maintain a suspense account containing suspense fees charged to estates in accordance with law, interest earned on monies in the account and funds representing reimbursements for particular estates made from the suspense account before the estate assets are collected, and fees received by the PA for the performance of administrative services. Do not keep monies from other sources in the suspense account.	PI	PI	I	I

	Bronx	NY	Queens	Richmond
2. Use the suspense account to pay certain office expenses not funded by the PA's budget, but still necessary for the proper functioning of the office's operations and for the administration of estates. Note the nature and amount of such funds used to purchase office equipment or supplies. If used to pay salaries and benefits for office personnel, note the reasons for employing such personnel and justify the reasonableness of their salaries and benefits. Use the suspense account to pay disbursements such as filing fees or death certificates for individual estates, if necessary, before the estate assets are collected. Reimburse the suspense account promptly after the collection. Use the suspense account to pay miscellaneous estate disbursements if estate assets are insufficient.	PI	PI	PI	PI
3. Keep accurate records of all receipts and disbursements to and from the suspense account. Supply the Surrogate with monthly reports of such receipts and disbursements and of the present balance of the suspense account. Supply copies of the monthly reports to the State Comptroller on an annual basis and, for the counties of New York City, to the Comptroller of the City of New York as well. Maintain back-up documentation such as receipts and invoices for all receipts and disbursements from the suspense account; and make such records available to the Surrogate, the City Comptroller, or the State Comptroller upon request.	PI	I	PI	PI
V. Payment of Fees and Selection of Outside Vendors				
A. Selection of Outside Vendors				
1. Employ an outside vendor if it is determined that the services of one are necessary for proper administration of an estate.	I	I	I	I
2. Do not employ as an outside vendor (a) any employee of the PA's office; (b) any individual related by blood or marriage to the PA or to any employee of the PA's office, or any corporation, firm, association or other entity in which one or more of its officers or directors or any person having a substantial financial interest is related by blood or marriage to the PA or any employee of the PA's office.	DND	DND	DND	DND

	Bronx	NY	Queens	Richmond
3. Advertise annually in a newspaper of general circulation within the county where the PA maintains an office that the PA is formulating a list of outside vendors who can provide related services.	PI	I	I	I
4. Draw on responses to the advertisement and personal knowledge of competent outside vendors to prepare a list of the providers in each category, specifying their usual fees. Include on the list only those outside vendors who (a) hold all licenses required in their field, (b) have a good reputation in the community, and a history of performing their services competently or providing goods of serviceable quality if they have provided goods or services to the PA in the past.	PI	DND	PI	I
5. Select outside vendors who are competitive with other vendors in the classification and have the complete confidence of the PA based on their prior working relationship or general reputation and standing in the community.	I	I	I	I
B. Fees To Be Paid to Outside Vendors				
Pay fees to outside vendors that are fair and reasonable, considering the individual circumstances of each county.	DND	DND	DND	DND

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July 8, 1997

Hon. H. Carl McCall
Comptroller of the State of New York
Office of the State Comptroller
A.E. Smith State Office Building
Albany, New York 12236

Attention: Frank J. Houston, Audit Director

REFERENCE: YOUR DRAFT REPORT 96-N-7

Gentlemen:

This letter is in response to your referenced report on the Public Administrators' implementation of the Guidelines promulgated in November 1995 by the Administrative Board for the Offices of the Public Administrators.

At the outset, as I am sure you will appreciate I am somewhat handicapped in preparing this response. My predecessor passed away in December, 1996 and I was not appointed to this position until February 14, 1997. Accordingly, I was not present nor otherwise familiar with the conditions in this office at the time your auditors made their examination.

Frankly, I have by now implemented certain procedural changes of my own which render some of your commentary inappropriate.

To begin, to address those recommendations emanating from your review of the "common issues" which apply to all of the offices which you examined:

1. To suggest that the Public Administrators "continue to ask the City of New York" to provide funding to enable us to perform our statutory mandate seems, to be frank, rather silly. I have had occasion to discuss the Guidelines and our office procedures in detail with each of the offices which you have examined. Each Public Administrator has advised that they have repeatedly asked

the City for funding, not only for an independent auditor as required by the Guidelines but for improved computer equipment to enable them to deal with the revised requirements respecting the handling of decedents' funds. The City's response has been simple: "No".

2. As respects the suggestion that the Public Administrators recommend revisions to the Guidelines, I would suggest that simply providing the Board with a copy of your Audit Report should do the trick. As respects this office, however, my review of our procedures indicates that we have opened Money Market Accounts for most estates valued at more than \$500.00. Since I am in process of securing adequate computer hardware and software to pool my decedents' funds in a Treasury Bill Investment Account (already approved as equivalent of FDIC insurance), with appropriate separate allocation of interest earned to each estate regardless of value, the expenditure of significant time to complete the process of opening separate accounts for all estates valued at over \$500.00 would be duplicative and impracticable.

Of course, in selecting among competitive bids, one either chooses the lowest or documents the reason why a higher bid was selected. This needs direct expression?

In preparing an Annual Report to your office earlier this year, the value of each estate included the appraised or estimated value of all property collected. My review of last year's submission indicates that that was also the case.

Finally, as respects the issue of legal fees, I respectfully suggest that your recommendation constitutes a usurpation of the appropriate and statutory duties of the Surrogate, and for that reason respectfully decline to agree.

Your specific review of this office commences on page 20 of your Report and concludes with recommendations on page 23. In evaluating these recommendations, one must keep in mind that this office consists of myself and two staff members (one secretary, one bookkeeper).

For example in the past, my predecessor inventoried all estates personally, using one of his counsel in lieu of another employee. However, having spent twenty years as a practicing attorney, I thought this procedure was highly inappropriate, tending to over personalize one's relationship with counsel and requiring of counsel more than is justified by the payment of counsel's fees. Accordingly, to the extent possible I have personally inventoried all estates with one of my staff members. My experience has been that it is often difficult to secure an independent witness, since neighbors are loathe to get involved and those with any financial interest are difficult to trust.

With respect to your specific recommendations:

29. Immediately upon completing an inventory of assets, all assets with significant value are appraised and a copy of each such appraisal is maintained in the estate file. To the extent there are no heirs, this office has established a procedure of gifting to various charities all assets having no significant value.

30. In addition to continuing the computerized list of all open estates, I have revised the manual diary card system to include a brief narrative description of all actions taken. Accordingly, whenever the computerized system indicates that action need be taken on an estate, a review of that estate's diary card quickly updates the reviewer as to the matter's status.

31. Since I have been unable to secure a budgetary modification to enable me to update our computer hardware and software to accommodate the sort of cash management which has been effected by the other three offices which you examined, I will arrange to secure the same through the funds currently existing in my Suspense Account. However, as you are aware City acquisitions take time. Once our accounting system is revised, all accounts presently maintained on decedents' funds will be transferred to the new pooled account; at that time any untraceable, unallocated interest will be transferred to the Department of Finance as abandoned property.

32. I have recently requested a budget modification from the Office of Management and Budget to enable me to hire a property management agent. After acquisition of my revised computer system, and in view of the historical size of this office's annual Suspense accumulation, paying for an additional employee from the Suspense Budget is impossible.

33. As you have already been advised, the type of detailed record keeping of the resident search which you seem to desire properly requires video taping of the apartment/residence. Again, as my Suspense Account regenerates I will attempt to secure such equipment through the use of Suspense Account funds.

34. I assure you, that since I have been Public Administrator I have attempted to reimburse the Suspense Account for expenses paid on behalf of estates as soon as possible.

35. As indicated in your Report, this office's practice has been that the Public Administrator personally handle all estates qualifying as statutory "small estates", and I intend to continue that practice. My review of such estates and consultation with Surrogate's Court personnel indicates that the preparation and filing of informatory accountings is not desirable. However, to the extent that should change I will complete such accountings as requested by my Surrogate.

36. As respects this catch-all recommendation, it must be

remembered that this is a small office, with limited personnel and budget. The suggestion that we "individually number" entries for each asset in each estate will require that my staff be at least doubled, if not further enhanced. After you convince the City to give me the money, I will implement such a system.

As indicated above, I believe that my system for tracking the progress of each estate's administration is adequate.

"Cash Management". As indicated above, I believe that the improvements which I intend for cash management, in terms of computerization and the like, will satisfy the requirements of the Guidelines respecting this area.

"Property Management". I believe that our office procedures currently insure that all personal property is collected and credited to the appropriate estate. Again, when you convince the City to provide me with the money to do so, I will assure the presence at all times of at least two Public Administrator employees during searches.

I believe that all decedent's personal property with significant value has been sold at public auction and will continue to be so sold.

I am presently testing the services of a particular heir search firm to determine the utility of utilizing such services in our search for distributees.

"Maintenance of Suspense Accounts". As respects the recommendation that we use the Suspense Account to pay all office expenses not funded by our budget, you should recall the size of our Suspense Account. To my information and belief, accurate records of all receipts and disbursements to and from the Suspense Account are maintained, and reports are provided to the Surrogate as desired by the Surrogate.

Should you have any questions concerning this response, please do not hesitate to contact me.

Very truly yours,



Richard F. Birmingham
Public Administrator

RFB:mjm