

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

**OFFICE OF
COURT ADMINISTRATION**

**ADMINISTRATION OF
MAINTENANCE AND OPERATIONS
INCENTIVE AID PROGRAM**

REPORT 96-S-23



H. Carl McCall
Comptroller



State of New York Office of the State Comptroller

Division of Management Audit

Report 96-S-23

The Honorable Jonathan Lippman
Chief Administrative Judge
Office of Court Administration
Agency Building 4
Empire State Plaza
Albany, NY 12223

Dear Judge Lippman:

The following is our audit report on the status of the implementation of the Court Facilities Act of 1987.

This audit was performed pursuant to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution and Section 8, Article 2 of the State Finance Law. Major contributors to this report are listed in Appendix A.

*Office of the State Comptroller
Division of Management Audit*

March 26, 1997

Executive Summary

Office Of Court Administration Administration Of Maintenance And Operations Incentive Aid Program

Scope of Audit

Under the Uniform Court System, the Office of Court Administration (OCA) is responsible for operating the city and county-level courts. However, responsibility for providing and maintaining the buildings and facilities housing the courts is the responsibility of the local governments. Although some localities met that obligation adequately, many did not. To promote better upkeep of courtrooms and buildings, the State Legislature passed the Court Facilities Act in 1987. Among other things, the Act provides subsidies to local governments by reimbursing a portion of their court-related maintenance and operations (M&O) costs. To qualify for M&O incentive aid, localities must maintain court facilities in accordance with standards set by the Unified Court System. A locality can receive reimbursement for amounts ranging from 10 to 25 percent of its regular court facility maintenance and operating costs. The amount of M&O aid paid totals about \$8.5 million annually.

Our audit addressed the following question related to the Court Facilities Act of 1987 for the period October 1, 1994 through July 31, 1996:

- Have the court facilities been maintained and have State aid payments been paid in compliance with the provisions of the Act and related regulations and requirements?

Audit Observations and Conclusions

We found varying degrees of compliance among the localities we visited concerning the proper maintenance of court facilities. In addition, we found a number of inaccuracies, as well as issues that need to be addressed, relating to the State aid claims submitted by the localities for reimbursement of their M&O expenses.

We reviewed compliance with established cleaning and maintenance standards for seven localities: Albany, Erie, Monroe, Nassau, New York City, Schenectady, and Westchester. At each locality, OCA has established building committees that work with OCA's local district office in monitoring a locality's compliance with standards. The building committees have reported that two localities, Westchester and Monroe, have well-kept facilities. The remaining five localities reportedly have not complied with standards although the conditions at each of these localities vary dramatically. For the most part, we were able to confirm these conditions. For example, we found elevator lights out, water fountains shut off, broken toilets, clogged sinks,

mirrors off the walls, phones missing from walls, and numerous other problems. As a result, facilities may not be suitable for conducting court business. (See pp. 3-7)

These conditions exist in part because the localities, many of which are short of funds, have not dedicated the necessary resources to cleaning and maintaining the court facilities. In addition, OCA officials stated that some of the problems and conditions in the buildings result from the age and physical condition of the buildings. OCA officials have not yet withheld aid since they believe it would be counter productive. Instead, OCA is relying on problem solving at the local level or special agreements between OCA and the locality. We recommend that where maintenance problems continue to persist, OCA should consider taking stronger action, by withholding State aid. (See pp. 3-7)

In addition, at each of the seven localities visited, we audited the reimbursement claims for the period October 1, 1994 through September 30, 1995. We found a number of inaccuracies. The net effect of these errors is a reduction in aid to some localities and an increase for others. For example, Albany did not claim office space for the county clerk, and this will result in an increase in aid. New York City included a building which is no longer occupied by court personnel, and this will result in a substantial reduction in aid. We also found that some localities had included ineligible expenses in their claims and at times had failed to include expenses that were eligible. To address these problems, OCA needs to revise its instructions to clarify the process of properly identifying eligible court square footage, particularly with regards to determining eligible county clerk space. OCA also needs to follow up on our observations and make the necessary adjustments to the localities' M&O claims. (See pp. 10-14)

We also found that OCA needs to clarify the eligibility of overhead expenses. Three of the seven localities we visited included overhead expenses in addition to direct cleaning and maintenance costs. However, the other four localities were not aware that these expenses may be eligible for reimbursement. If these four localities submit claims for overhead expenses, it could result in appreciably more aid to each. (See pp. 15-16)

Comments of OCA Officials

OCA officials indicate general agreement with our recommendations and that efforts to implement them are continuing.

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Introduction

Background

In 1977, New York State created the Uniform Court System and established the Office of Court Administration (OCA). Under the Uniform Court System, OCA is responsible for operating the city and county-level courts. However, the local governments are responsible for providing and maintaining the buildings and facilities housing the courts. Although some localities met that obligation adequately, many did not. In many cases, court facilities deteriorated and the court space needed to support the substantially increased workload facing the courts was not available.

To address these problems, the New York State Legislature passed the Court Facilities Act in 1987. This Act provided financial incentives in the form of State aid, as follows:

- It provided subsidies to local governments to reduce the cost of borrowing money to finance capital improvements. These subsidies range from 33 to 25 percent of interest costs incurred, depending upon each locality's relative taxing capacity.
- To promote better upkeep of courtrooms and buildings, it reimbursed local governments a portion of their court-related maintenance and operations (M&O) costs. This provision is referred to as the M&O incentive aid program.

Our prior audit (Report 94-S-70, issued September 19, 1995) reviewed the implementation of the Act's provision relating to subsidizing the interest costs of capital improvements. The current audit addresses the latter provision, the M&O incentive aid program. Under this program, a locality can receive reimbursement for amounts ranging from 10 to 25 percent of their regular court facility M&O costs. The amount given to a specific locality is based upon three factors: (1) the cost incurred by the locality, (2) the locality's relative wealth, and (3) compliance with certain standards. The amount of M&O aid payments totals about \$8.5 million annually.

Audit Scope, Objectives and Methodology

We audited to determine compliance with the M&O incentive aid component of the Court Facilities Act of 1987 and related regulations and requirements. The period of our audit was October 1, 1994 through July 31, 1996. To accomplish our objectives we visited seven localities including Albany, Erie, Monroe, Nassau, New York City, Schenectady, and Westchester. At each location we examined and tested relevant transactions and records, interviewed staff, and inspected court facilities.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations which are included within our audit scope. Further, these standards require that we understand the applicable internal control structure and compliance with those laws, rules and regulations that are relevant to our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe our audit provides a reasonable basis for our findings, conclusions and recommendations.

We use a risk-based approach to select activities to be audited. This approach focuses our audit efforts on those operations that have been identified through a preliminary survey as having the greatest probability for needing improvement. Consequently, by design, finite audit resources are used to identify where and how improvements can be made. Thus, little audit effort is devoted to reviewing operations that may be relatively efficient and effective. As a result, our audit reports are prepared on an “exception basis.” This report, therefore, highlights those areas needing improvement and does not address activities that may be functioning properly.

Response of OCA Officials to Audit

A draft copy of this report was provided to OCA officials for their review and comment. Their comments have been considered in preparing this report and are included as Appendix B.

Within 90 days after final release of this report, we recommend that the Chief Administrative Judge of the Office of Court Administration should report to the Governor, the State Comptroller and the leadership of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

Quality of Cleanliness and Maintenance of the Court Facilities

The Court Facilities Act requires that localities maintain court facilities in accordance with standards set by the Unified Court System in order to qualify for M&O incentive aid. These standards are contained in section 34.1 of the Rules of the Chief Judge.

The Rules call for establishing building committees which are responsible for performing quarterly inspections of the quality of cleanliness and maintenance of their court facilities. These committees consist of OCA employees, such as local judges, commissioners of jurors, and other OCA staff. The results of their inspections are contained in reports which form the basis for the building committees to assess whether localities are meeting their obligations under the program. The inspection reports are sent to the locality's OCA district office, where the Administrative Judge will make a determination of whether the problems identified can be solved at the local level or whether OCA assistance is needed. Based upon the reports, the district office Administrative Judge could recommend that aid be discontinued if substandard conditions are identified. The district office Administrative Judge submits a district office report with his conclusions to OCA. OCA makes the final determination as to whether the locality should receive aid for the period in which the conditions were substandard.

We evaluated the level of cleanliness and maintenance of court facilities at each of the seven localities that we visited. We did this by reviewing the building committee reports and by inspecting the court facilities to evaluate conditions. The following chart summarizes the results of our assessments.

COMPLIANCE WITH STANDARDS		
Locality	Inspection Reports	Auditor Observations
Albany County	Non Compliance	Non Compliance
Erie County	Non Compliance	Met standards
Monroe County	Met standards	Met Standards
Nassau County	Partial Compliance	Partial Compliance
New York City	Non Compliance	Non Compliance
Schenectady County	Non Compliance	Non Compliance
Westchester County	Met Standards	Met Standards

As the chart indicates, we found varying degrees of compliance among the localities visited. Two of the localities, Westchester and Monroe, have well-kept facilities. The remaining five localities were found by our site visits and/or by inspection reports to have not complied with standards, although the conditions at these localities vary dramatically. For three of these localities the district offices have recommended that problems be solved at the local level. However, for the other two localities, Erie and New York City, the district office requested assistance from OCA. The following are some observations that were made based on our site visits or review of the inspection reports.

- The building committee at the Albany County Courthouse identified in a February 1996 report that cleanliness was substandard. During our visit to the facility we found the floors were dirty, litter was not picked up, bathroom facilities were unclean, and some areas were covered with heavy soot. Many court employees found it necessary to keep their own cleaning supplies and to clean their offices themselves. However, in responding to a complaint by the Third Judicial District, county officials took prompt action subsequent to our field visits. Subsequently, in July 1996, court officials reported that the cleanliness had improved substantially and that conditions were satisfactory.
- Reports by the Eighth Judicial District, which oversees the Erie County Courts, have for several years identified that maintenance and cleanliness in the facilities are substandard. During our visit to the facilities, cleanliness and maintenance appeared satisfactory. However,

our review was much more limited than the inspections performed by the building committee.

- Nassau County had varying degrees of compliance. The inspection reports indicated conditions at the District, County, and Surrogate court buildings were substandard, conditions at the Family Court building usually met standards, and conditions at the Supreme Court building always met standards. Our observations confirmed these assessments. At the buildings where conditions were reported as substandard, we found carpeting that needed cleaning or replacement, windows with leaks, damaged ceilings, worn furniture, and maintenance and cleaning that were generally deficient.
- We reviewed inspection reports for the 26 buildings with court-occupied space owned by New York City and could find no evidence that 15 of the 26 buildings had ever been inspected. The inspection reports that were prepared showed that the City has not complied with standards since the establishment of the aid program in 1987. We physically inspected some of the court facilities and found various maintenance problems, including elevator lights out, water fountains shut off, broken toilets, clogged sinks, mirrors off the walls, phones missing from walls, holes in the ceiling, graffiti, water damage, plaster falling and paint peeling, doors torn off the men's room stalls, and numerous other problems. However, during our inspection, a number of employees stated that general cleaning had improved and that the New York City Department of General Services had been more responsive in addressing problems. These opinions that conditions have improved are shared by the OCA facilities coordinator for the New York City Courts.

(In responding to our audit, Office of Court Administration officials point out that all New York City court facilities were inspected during 1989 and once again during 1995 and, in both instances, were found in non-compliance with standards for the period ended September 30, 1995. However, the officials also stated that inspections begun in May of 1996 and concluded during the Summer of 1996 found facilities were in compliance with standards. Officials added that our findings, while quite real, were maintenance and repair problems, not cleaning problems and were not sufficient to sustain a finding of non-compliance with the standards.

Our conclusions about the lack of evidence of inspections were based upon the absence of required quarterly inspection reports. While Summer 1996 inspections may have shown that facilities complied

with standards, our fieldwork during May of 1996 did not support this conclusion.)

- Inspection reports prepared from October 1995 through June 1996 for the Schenectady County court facilities identified conditions as substandard. During our visit we found carpeting that needed cleaning, large areas in need of painting, damaged ceilings, and maintenance and cleaning that were generally deficient.

These conditions exist in part because the localities, many of which are short of funds, have not dedicated the necessary resources to cleaning and maintaining the court facilities. In addition, OCA officials stated that some of the problems and conditions in the buildings result from the age and physical condition of the buildings. For the two localities where OCA has been asked to intervene, OCA decided that it was counter productive to withhold aid. Instead, to address the continuing problem of non-compliance with standards, OCA is pursuing special arrangements. For example, OCA has entered into a partnership with New York City to identify methods of solving the persistent facility care problems in court premises Citywide. The agreement requires that all maintenance and operations aid be credited to a special fund and be used only for remedial maintenance and cleaning of the courts. New York City is also required to provide a summary showing how much money is spent by quarter for court cleaning and maintenance from the City's budget and from the special fund. OCA has recently negotiated a similar agreement with Erie County whereby aid is placed in a special fund for improving court facility maintenance and cleanliness.

Although many of the localities have made progress and there appears to have been some improvement, some of the localities are not in compliance with standards and the courts are not being maintained as required. As a result, court business is being carried out in facilities that may not be suitable for the transacting of judicial business.

Recommendations

1. Determine whether the problems reported in the quarterly inspection reports are resolved at the local level to the satisfaction of the building committees and district offices.
2. Continue to monitor localities which have reported persistent facility care problems. If these problems are not resolved, then consider taking stronger action by withholding aid.



Review of Localities' Expense Claims

Localities submit claims, on an annual basis, to obtain reimbursement of their court-related M&O expenses incurred. OCA performs desk reviews of these claims. This includes verifying the mathematical accuracy of the claims, performing trend analysis to determine whether expenditures are consistent with prior years, and, on occasion, requesting documentation which supports expenses claimed. We visited seven localities to review the documentation which supports expenses claimed for the period October 1, 1994 through September 30, 1995. At the time of our audit, this was the latest time period (i.e., program year) for which local governments had submitted claims. These seven localities were among the largest recipients of M&O aid, together accounting for approximately two-thirds of the total statewide aid. During the 1994-95 program year, these localities had identified nearly \$36 million in M&O expenses, yielding approximately \$5.8 million in State aid.

Locality	Total M&O Expenses	Reimbursement Percentage	Total State Aid Requested
Albany County	\$662,806	19%	\$125,933
Erie County	1,564,398	25%	391,100
Monroe County	1,624,209	25%	406,052
Nassau County	3,995,580	10%	399,558
Schenectady Co.	529,633	25%	132,408
Westchester Co.	2,386,926	10%	238,693
New York City	25,361,740	16%	4,057,878
Total	\$36,125,292		\$5,751,622

OCA provides written instructions each year to local governments which own, operate or otherwise provide court facilities on behalf of the State's court system. These instructions basically describe how a locality can claim reimbursement of the M&O expenses incurred, including such matters as:

- the types of expenses that are eligible for reimbursement under the program,
- how to determine what space is eligible under the program, and

- a standard methodology for allocating common expenses between court and non-court space.

During our review of the localities' claims, we identified a number of inaccuracies, which will either increase or decrease the eligible amount of the claim. We also noted instances where the dollar effect of the adjustment could not be determined at the time of our audit. The following chart summarizes the effect of the audit observations that could be quantified.

Adjustments Required as a Result of Audit				
Locality	Miscalculated Square Footage	Ineligible Expenses Claimed	Eligible Expenses Not Claimed	Effect on State Aid
Albany	\$68,595	(\$4,013)	\$11,411	\$14,439
Erie	18,195			4,549
Monroe	47,602			11,900
NYC	(303,078)	(268,226)	45,043	(84,202)
Nassau	(2,201)		65,896	6,370
Schenectady			11,035	2,759
Westchester	33,000	(85,794)		(5,279)
Total	(\$137,887)	(\$358,033)	\$133,385	(\$49,464)

Miscalculated Square Footage

Cleaning and maintenance crews generally are assigned to service a whole building or a group of buildings as opposed to being assigned to a single occupant, such as the court system. Likewise, the associated costs of the crews are applicable to the entire building or group of buildings, not normally to any specific occupant.

For the M&O incentive aid program, OCA instructions call for the overall costs of cleaning and maintaining a building to be apportioned among building tenants on the basis of net square footage. (Net square footage is that area dedicated for use by a specific occupant. It does not include common-use areas, such as lobbies, hallways, etc. which are available for use by all the

occupants of a building.) Consequently, to properly apportion the M&O expenses, it is necessary to accurately divide the square footage between court and non-court occupants.

We identified a number of problems in the way localities accomplished this, as follows:

- **Inclusion of Common-Use Areas as Part of Court Net Square Footage.** Albany County, in its claim, identified a common-use cafeteria as part of court square footage. Not including the cafeteria space results in a decrease in eligible expenses of \$3,401. This error resulted from unclear OCA instructions regarding the claiming of shared and public space.
- **Incorrect Calculations.** We identified incorrect calculations of square footage in the Nassau County and New York City claims. In the Nassau County claim, the court square footage was overstated for two court buildings. When corrected, the court's percentage of space in the two buildings declined slightly, resulting in a decrease in eligible expenses of \$2,201.

The New York City claim included a building which had been vacated by court personnel during the prior year. In addition, we reviewed the square footage data from the 1995 survey of three buildings and found that the calculations used by the City were inaccurate. In addition to incorrectly calculating the percentage of court occupancy, the City rounded the percentages (of court space to total space) to a whole number instead of calculating the percentages to the nearest two decimal places as called for in OCA's instructions. The effect of these adjustments is that the City understated its expenditures by \$303,078.

- **Not Claiming All Eligible Court Space.** We found that Monroe County did not include space occupied by a district office of OCA in its computations of court square footage. This space is appropriately court space, and its inclusion in the County's claim will increase the percentage of its Hall of Justice M&O expenses that can be claimed from 80.39 to 81.65 percent. According to revised calculations by Monroe County officials, inclusion of this space will increase the county's M&O expenses by \$26,602.

- County Clerk Space.** As an officer of the county court, the county clerk performs some, but not all, work on behalf of the court system. Consequently, counties are entitled to claim at least a portion of the costs incurred in cleaning and maintaining the county clerk's storage and office space. According to OCA instructions, the proportion of county clerk transactions that are directly court-related determines what percentage of M&O costs for cleaning and maintaining county clerk space can be claimed.

However, OCA instructions are not clear concerning this. For example, two counties interpreted them to mean that only the cost of cleaning and maintaining county clerk *storage* space could be claimed. Because these costs were minimal, the counties did not submit a claim for them. Other localities claimed 100 percent of the county clerk space used for storing court records without figuring in the percentage of county clerk transactions that are court related. Our findings regarding the claiming of county clerk space are summarized below. Only one of the seven localities we visited correctly computed eligible county clerk space.

Location	Method for Claiming Space	Impact on Expenses
Albany County	Claimed storage space, not office space; did not consider percentage of county clerk transactions that were court-related	Increase \$71,996
Erie County	Did not claim county clerk space	Increase \$18,195
Monroe County	Did not claim county clerk space	Increase \$21,000
Nassau County	Claimed correctly	No change
Schenectady County	Claimed 100 percent of estimated amount of county clerk storage space; did not consider percentage of county clerk transactions that were court-related	Unknown, likely to decrease
Westchester County	Did not claim county clerk space	Increase an estimated \$33,000
NYC - All 5 Boroughs (County clerk in each)	Claimed 100 percent of county clerk space at some and possibly all of the buildings and did not consider percentage of county clerk transactions that were court-related	Unknown, likely to decrease

In responding to our audit, OCA officials indicate that not all County Clerk space was claimed for all buildings. They indicate that county

clerks' space is being reviewed by a working group of City and Unified Court System staff and that, when work is complete, claims will be adjusted.

- **Unsupported Square Footage Data.** This problem occurred with the claims of Schenectady County and New York City. Schenectady County did not actually measure but only estimated the square footage of record storage areas for court filings maintained by the county clerk's office. Without actual measurements we cannot determine whether Schenectady is using accurate data to support its claim.

In New York City, there are 26 buildings which house court offices. However, other than a survey commissioned by the City in 1995 for three of the buildings, the City does not have adequate documentation to support the space measurements used in calculating the percentage of space occupied by the courts. OCA has recognized this shortcoming and has allowed the City to use in its calculations data obtained from a 1981 survey of court facilities. However, the City was able to produce the survey results for only 18 of the buildings. There was no information available to show how the allocation of square footage was determined for the other eight buildings. As a result, there is no reliable data on which to base the allocation of square footage between court and non-court occupants. More accurate data could affect the amount of State aid that the City could claim.

Adjustments to Claimed Expenses

During our visits to the seven localities, we reviewed invoices and other documentation supporting expenses claimed by localities on their M&O claim forms. Our purpose was to verify that claimed expenses were accurately stated and were eligible for reimbursement under the program. We selected judgmental samples of expenses to review at each location. We found a number of errors both where localities included ineligible expenses and also where they failed to claim expenses that were eligible. Our findings are summarized in the following chart:

Location	Ineligible Expenses Claimed	Eligible Expenses Not Claimed	Comments
Albany	(\$4,013)		Expenses were for non-court occupied buildings
		\$11,411	Payroll expenses for employee not included
Nassau		\$59,665	Incorrect amount used for overhead of HVAC
		\$6,231	December payment on cleaning contract not included
Schenectady		\$3,100	Used incorrect methodology to allocate expenses
		\$7,935	Non-court related overtime payment deducted twice
Westchester	(\$82,954)		Incorrectly included payroll for security personnel
	(\$2,840)		Claimed expenses that were not supported
New York City	(\$161,775)		Incorrectly claimed real estate taxes on leased property
	(\$20,045)		Claimed labor cost twice
	(\$20,445)		Gas billings for non-court space included
	(\$40,948)		Cleaning expenses were based on appropriations and not actual expenses
		\$45,043	Utility expenses not included
	(\$25,013)		Wrong fringe benefit rate used

In addition to the above, we also identified where Nassau County had included, in its claim covering the period October 1994 through September 1995, an expense for utilities that it had incurred in December 1993 but that it had omitted in error from its prior year's claim. This expense for \$151,701 should not be included in the current year's claim. Instead, the county should adjust its prior year's claim so that the expense is identified in the correct year.

In addition, the New York City claim did not include M&O expenses for two rented facilities that are used by courts. OCA instructions advise that the landlords should be requested to calculate these expenses and report them in a certified statement. However, the City has not done this. As a result, the City is not claiming reimbursement for eligible expenses that it is entitled to.

Claiming for Overhead Expenses

In reviewing the localities' M&O expense claims, we found that three of the seven localities we visited included overhead expenses in addition to direct cleaning and maintenance costs. These were the counties of Erie, Nassau and Westchester. As a consequence, these three localities were able to claim appreciably more in eligible expenses because the cost of payroll, purchasing, human resources and other general support functions were included, as well as overhead within the facilities management department itself. The written instructions provided by OCA to localities made no mention of eligible overhead expenses. In fact, with respect to cleaning staff, these instructions stated that only the salaries of those individuals actually performing cleaning services and their first-line supervisors would be eligible for reimbursement. Several of the localities we audited which did not submit for their overhead expenses understood these instructions as prohibiting the claiming of any overhead expenses at all.

Initially, based upon discussions with OCA officials, we understood that localities would be eligible to claim overhead only if they had a Federally approved cost allocation plan from which they could calculate the amount of overhead applicable to cleaning and maintenance activities. However, we subsequently found that neither Westchester's claim, nor Nassau's, included overhead expenses which were based on Federally approved cost allocation plans. To enable all localities to equally participate in the program, OCA needs to clarify its instructions concerning the eligibility of claiming overhead expenses under the M&O incentive aid program.

In addition, the four localities that we visited that had not submitted claims for their associated overhead expenses, and other localities in the State as well, should be afforded the opportunity to submit adjusted claims that include overhead expenses. This could result in appreciably more aid to each of the localities which have not previously claimed overhead. For example, based upon our audit, Monroe County resubmitted its claim to include some of its overhead expenses. Although its revised claim included only those costs associated with support activities within its facilities management department, and not those associated with general support services, it identified additional eligible expenses of approximately \$75,000. This increases the County's M&O incentive aid by more than \$19,000, an increase of nearly 4.7 percent.

Recommendations

3. Revise OCA instructions to clarify the process of properly identifying eligible court square footage, particularly with regard to determining eligible county clerk space.
4. Follow up on the observations made in this report and make the necessary adjustments to localities' M&O claims.
5. Clarify OCA instructions concerning the eligibility of claiming overhead expenses under the M&O incentive aid program.

Major Contributors to This Report

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February 4, 1997

Hon. H. Carl McCall
State Comptroller
Alfred E. Smith Building
Albany, New York 12236

Dear Comptroller McCall:

The Office of the State Comptroller has issued draft audit report (96-S-23) relative to its audit of the Implementation of the Court Facilities Act.

Based on our review of the report, we offer the following comments:

Audit finding #1: Compliance with maintenance and operations standards for seven localities were reviewed and it is reported that five of the localities have not complied with the Standards. The five are: Albany County, Erie County, Nassau County, Schenectady County and New York City.

Albany County: Shortly after the auditors visited the Courthouse, county officials took what the audit report calls "prompt action." Since that time, the Third Judicial District Office, which is located in Albany, reports that cleaning in the Courthouse is "very good".

Erie County: Non Compliance with the Standards was in part due to worn and deteriorated interiors and is receiving aid subject to a special agreement that calls for such moneys to be spent on "deep cleaning" and court fix-up projects. Erie County recently agreed to a program of new building and major renovations which should, when fully implemented, address systemic maintenance problems and provide modern surfaces that could be kept clean.

Nassau County: Facilities problems have developed as facilities which were new 20 years ago, have aged and become subject to greater stress due to increased use and changes in clientele. Approaches to remedy these problems are being discussed.

Schenectady County: The Fourth Judicial District Office reported in late August 1996 that the county was making substantial progress in painting courtrooms, judges chambers, secretarial offices and waiting rooms in the Family Court, and in recarpeting. That Office also reported progress with

respect to daily cleaning, but agreed "much remains to be done." The reported improvements came a few months after the auditors visited this court.

The City of New York: The audit report states that "we could find no evidence that 15 of the 26 buildings had ever been inspected." In fact, all buildings have been inspected, first by the committees established in 1989 and later by the "Partnership" as follows: In 1994, the Unified Court System, in conjunction with the New York City Bar Association and various "good government" groups, established the NYC Court Facilities Partnership. The Partnership, which also includes representatives of the Office of Court Administration, each individual NYC court, and the NYC Department of General Services, inspected all 24 court facilities between May and October 1995 (the number of facilities subsequently increased) and confirmed that the City of New York was not in compliance with the Standards for the period ending September 30, 1995. The Partnership began another complete round of inspections in May 1996; these were completed in the summer of 1996 for all 26 facilities in operation at that time and showed that basic cleaning and maintenance had improved to the point where the City was recently found to be in compliance with the Standards.

The report stated that based on a tour of "some" court facilities, there were enough instances of problems to conclude that as of May 1996 the City was still not in compliance with the Standards. Since only 4 or 5 of the 25 currently operational facilities were physically inspected by the audit team—this is not a representative sample. The problems that are reported by the auditors are maintenance and repair problems, not cleaning problems. Many of the physical problems that were observed, such as clogged sinks and broken toilets, are being addressed as the City's Department of Citywide Administrative Services (formerly DGS) implements new procedures to identify and prioritize needed repairs. With respect to missing ceiling tiles (described by the auditors as "holes in the ceiling"), the auditors were informed that UCS and DGS contractors are removing ceiling tiles to install new computer lines and fire safety equipment. These removed tiles are often stored in the ceiling and replaced when the wiring job is completed. In context, these problems, while quite real, are not sufficient to sustain a finding of non-compliance.

Audit finding #2: The City of New York made miscellaneous errors in preparing its most recent aid claim, including errors in calculating court occupied space, county clerk space, and rental expenses.

These findings were brought to the City's attention in April and May of 1996 by the auditors. In response to the auditor's findings and other issues that were raised by UCS at a pre-audit conference on June 19, 1996, the City withdrew its aid claim for further analysis and resubmission later in the year. An amended claim was submitted on November 14, 1996 that fully reflects the auditors' reported findings as well as other issues that came to light as a result of this examination and UCS's pre-audit of the claim. With respect to the County Clerk space claimed by NYC, the audit finding that the City was claiming 100% of the County Clerk's space is generally incorrect. The Clerks are in the Supreme Court buildings. Percentage allocations for four of the five buildings were taken from the 1981 Survey of Court Facilities commissioned by a Task Force appointed by the Chief Judge. A review of this document suggests that, with the exception of Queens County, the Task

Force reviewers did not include the County Clerk's space as part of the court system. The County Clerks' space is being reviewed by a working group including UCS and City staff. The aid claim will be adjusted when that work is complete; on balance, it is expected that the City will be deemed eligible for some additional aid.

Audit finding #4: Other jurisdictions made various, mostly minor errors in space calculations and/or calculations of eligible costs.

As these errors were brought to the attention of local governments and UCS by the auditors, they were corrected.

Audit finding #5: OCA's instructions with respect to calculating eligible county clerk space were not sufficiently clear.

Proposed response: The instruction have been revised and clarified, and a separate eligibility worksheet was developed and distributed for use by the County Clerks where and as appropriate.

Audit finding #6: OCA's instructions with respect to allowable overhead result in inconsistent applications in different jurisdictions.

The instructions have been clarified to help prevent any inconsistencies in application.

Except as noted above, we are in general agreement with the reports recommendations and the UCS will continue to make efforts to implement the recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerome L. ...". The signature is fluid and cursive, with a long horizontal line extending to the right.

/smw

c: Hon. Barry A. Cozier
Nicholas P. Capra, Esq.
William L. Clapham, CGFM
Dennis W. Donnelly, CPA