TO: Ken Burke, CPA  
Clerk of the Circuit Court and Comptroller  
Ex Officio County Auditor

FROM: Hector Collazo, Jr., Director/Inspector General  
Division of Inspector General

SUBJECT: Follow-Up Audit of the Clerk of the Circuit Court Probate Court Records Guardianship Audit Section

DATE: December 12, 2013

I am enclosing a copy of the audit dated December 12, 2013 on the above-referenced audit.

cc: Myriam Irizarry, Chief Deputy Director/General Counsel, Clerk of Court & Comptroller  
Colleen Ford, Director, Court and Operational Services  
Diane Elliott, Manager, Probate Court Records Department  
Jim Bennett, County Attorney  
Claretha N. Harris, Chief Deputy Director, Finance Division  
Crowe Horwath
Follow-Up Audit of the Clerk of the Circuit Court Probate Court Records Guardianship Audit Section
December 12, 2013

The Honorable Ken Burke, CPA
Clerk of the Circuit Court and Comptroller

We have conducted a Follow-Up Audit of the Clerk of the Circuit Court Probate Court Records Guardianship Audit Section. The objectives of our review were to determine the implementation status of our previous recommendations.

Of the 14 recommendations contained in the audit report, we determined that 5 have been implemented, 5 have been partially implemented, and 4 have not been implemented. The status of each recommendation is presented in this follow-up review. We encourage management to implement the remaining recommendations.

We appreciate the cooperation shown by the staff of the Clerk’s Court Operations and Clerk’s Probate Department during the course of this review.

Respectfully Submitted,

Hector Collazo, Jr.
Director/Inspector General
Division of Inspector General
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INTRODUCTION

Scope and Methodology

We conducted a follow-up audit of the Clerk of the Circuit Court Probate Court Records Guardianship Audit Section. The purpose of our follow-up review is to determine the status of previous recommendations for improvement.

The purpose of the original audit was to:

1) Determine if internal controls are adequate to ensure that the Clerk’s Probate audits are accurate and in compliance with legal requirements.
2) Determine if Guardianship audit fees are properly collected and adequate for the costs incurred with the Clerk’s Probate audit function.
3) Determine if the Guardianship audit processes are effective and efficient.
4) Determine the status of the recommendations of our prior audit issued April 20, 2000, as Audit Report No. 2000-02.
5) Analyze professionally managed Guardianship trends and patterns.

To determine the current status of our previous recommendations, we surveyed and/or interviewed management to determine the actual actions taken to implement recommendations for improvement. We performed limited testing to verify the process of the recommendations for improvement.

Our follow-up audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing and the Standards for Offices of Inspector General, and, accordingly, included such tests of records and other auditing procedures, as we considered necessary in the circumstances. Our follow-up testing was performed during the month of March 2013. The original audit period was October 1, 2008 through September 30, 2009. However, transactions and processes reviewed were not limited by the audit period.

Overall Conclusion

Of the fourteen recommendations in the report, we determined five were implemented, five were partially implemented, and four were not implemented. We commend management for implementation of some of our recommendations and continue to encourage management to fully implement the remaining recommendations.
## Status

<table>
<thead>
<tr>
<th>OFI NO.</th>
<th>PREVIOUS RECOMMENDATION</th>
<th>IMPLEMENTATION STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><strong>Guardianship Audit Fees Set By Florida Statutes, Chapter 744, Are Deficient And Have Cost The Clerk Of The Circuit Court $1.4 Million Over Three Years For Providing Mandated Guardianship Document Auditing Services.</strong></td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>We recommended Clerk's Management:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1. Petition the Court for an Administrative Order establishing a fee structure in an amount sufficient to offset the Probate Department's cost of all audit processes and services. The petition should also consider the cost associated with late filings of required documents and re-audits because the Guardian failed to submit a complete and/or accurate document.</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>If this petition fails to be forthcoming, the Clerk should then notify the Court that all audit and related services for the Court without legal authority will be discontinued.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Submit a fee increase proposal to the State Legislature via the Florida Association of Court Clerks and Comptrollers that, if enacted, would provide sufficient funds for the Clerk to audit Guardianship case documents.</td>
<td>✓</td>
</tr>
<tr>
<td>2</td>
<td><strong>Management Is Not Fully Utilizing Guardianship Case Data Resources To Compile Management Data Needed For Decision Making.</strong></td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>We recommended management:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>A. Establish performance measurements of its Probate audit staff, and determine and utilize reporting options to monitor the status of key Guardianship caseload activities.</td>
<td>✓</td>
</tr>
<tr>
<td>OFI NO.</td>
<td>PREVIOUS RECOMMENDATION</td>
<td>IMPLEMENTATION STATUS</td>
</tr>
<tr>
<td>--------</td>
<td>--------------------------------------------------------------------------------------------------------------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td></td>
<td><strong>B. Accumulate key and relevant Guardianship data, at inception of the case, into a formal, electronic “Guardianship</strong></td>
<td>Implemented</td>
</tr>
<tr>
<td></td>
<td><strong>Case Attribute File.”</strong></td>
<td>Acceptable Alternative</td>
</tr>
<tr>
<td>3</td>
<td><strong>Some Orders To Disapprove (Audit Discrepancies) For Guardianship Reports Are Unnecessary.</strong></td>
<td>Partially Implemented</td>
</tr>
<tr>
<td></td>
<td>We recommended Clerk’s Probate management establish a policy and implement procedures empowering the Guardianship Audit Section staff to resolve minor audit discrepancies with Guardians, Attorneys-of-Record and Court personnel.</td>
<td>Not Implemented</td>
</tr>
<tr>
<td>4</td>
<td><strong>Job Descriptions For Probate Audit Supervisor And Senior Audit Specialist Do Not Require Auditing Experience.</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>We recommended Clerk’s Probate management:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>A. Update the Probate Audit Supervisor and Senior Audit Specialist job descriptions to include audit experience.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>B. Update the Probate Audit Specialist, Senior Audit Specialist, and Supervisor job descriptions to include a college degree as part of the minimum education requirements.</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td><strong>Internal Controls Should Be Enhanced For The Oversight of Guardianship Audit Processes.</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>We recommended Clerk’s Probate management:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>A. Expedite writing their revised Policies and Procedures Manual.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>B. Include forms and instructions used for employee training in the Manual to provide overall guidance.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>C. In the interim, all written documentation pertaining to new or revised procedures to the audit process and Case 360 Paperless Software System should be saved in a segregated location (i.e., shared drive) by management for staff to access and reference.</td>
<td>Implementated</td>
</tr>
<tr>
<td>OFI NO.</td>
<td>PREVIOUS RECOMMENDATION</td>
<td>IMPLEMENTATION STATUS</td>
</tr>
<tr>
<td>--------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>D. Prepare written procedures for the Probate Audit Supervisor's review of Guardianship Audit Checklists.</td>
<td>✅</td>
</tr>
<tr>
<td></td>
<td>E. Develop a monitoring process to ensure that all required Guardianship reports and accountings are submitted to the Clerk's Inspector General for review in compliance with Administrative Order No. 2009-036.</td>
<td>✅</td>
</tr>
<tr>
<td></td>
<td>F. Develop a process to track Red Flag occurrences to provide the Guardianship Audit Section staff with on-going awareness of the potential for Guardianship fraud.</td>
<td>✅</td>
</tr>
<tr>
<td>6</td>
<td><strong>The Probate Guardianship Audit Function Needs To Be Upgraded To Improve Its Effectiveness.</strong></td>
<td>✅</td>
</tr>
<tr>
<td></td>
<td>We recommended Probate Guardianship Audit Section management develop and implement policies and procedures for its Probate audit function that will improve the auditors' professionalism, establish auditing standards, and streamline audit procedures.</td>
<td>✅</td>
</tr>
</tbody>
</table>
Background

The audit staff of the Clerk's Probate Guardianship Audit Section is responsible for servicing the audit needs of approximately 2,300 Guardianships and over 3,800 Estates. Staff performed audits and other related services on approximately 7,200 Guardianship and 9,400 Estate documents during Fiscal Year 2009, expending approximately 4,700 and 2,400 hours of work effort respectively.

A comparison of these activities in terms of the number of audits performed and the work effort needed are presented in the following two graphs.

GRAPH A
Number Of Audits Performed During Fiscal Year 2009

ESTATES: 9,443
57%

GUARDIANSHIPS:
7,182
43%

The term "Audit" as used throughout this document includes audit verification services, follow-up services, monitoring services, and other services required by Florida Statutes and the Sixth Judicial Circuit Court. It is defined by F.S. 744.102(2), "As ... a systematic review of financial and all other documents to ensure compliance with F.S. 744.368, rules of court, and local procedures using generally accepted accounting principles."
During Fiscal Year 2009, there were 2,281 open Guardianship cases with the oldest dating back to May 10, 1944. The case span is shown in the exhibit below.

<table>
<thead>
<tr>
<th>Decade</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1940s</td>
<td>1</td>
</tr>
<tr>
<td>1950s</td>
<td>2</td>
</tr>
<tr>
<td>1960s</td>
<td>6</td>
</tr>
<tr>
<td>1970s</td>
<td>32</td>
</tr>
<tr>
<td>1980s</td>
<td>112</td>
</tr>
<tr>
<td>1990s</td>
<td>260</td>
</tr>
<tr>
<td>2000s</td>
<td>1,868</td>
</tr>
<tr>
<td>Total</td>
<td>2,281</td>
</tr>
</tbody>
</table>

The Clerk’s Probate Department consists of 24 employees located at the Clearwater Branch. The primary functions of Clerk’s Probate are intake and processing of Court documents for new and existing Guardianships, Estates, and Mental Health cases. Additional functions include imaging of documents, and auditing and monitoring of open Guardianship and Estate cases. Clerk’s Probate also accepts payment for parking, traffic, and misdemeanor fines.
The Guardianship Audit Section of Clerk’s Probate located at the Clearwater Branch employs:

- 4 Probate Audit Specialists
- 1 Senior Audit Specialist
- 3 Court Records Specialists
- 1 Probate Audit Supervisor

In compliance with F.S. 744.368 and in a cooperative effort with the Sixth Judicial Circuit Court, the Clerk has established three levels of audits for the examination of Guardianship reports.

**Level I***:

Level I audits are performed by the Clerk’s Probate Guardianship Audit Section which consist of the initial audit referred to as a desk review of Guardianship reports along with the review of supporting documentation. The Clerk’s Probate Guardianship Audit Section in Fiscal Year 2009 completed 5,315 Level I audits, which includes annual, amended, simplified, interim and final accountings, initial verified inventories, initial/annual plans, and discharges.

**Level II***:

Level II audits are initiated and performed by the Clerk’s Inspector General’s Public Integrity Unit with the approval and cooperation of the Probate, Guardianship and Mental Health Division of the Sixth Judicial Circuit Court (Guardianship Division of the Court), and is commenced and conducted according to Administrative Order Number 2009-036 issued June 30, 2009. It consists of the examination of the Guardianship report and the verification of questionable items.

**Level III***:

Level III audits initiated are also performed by the Clerk’s Inspector General’s Public Integrity Unit with the approval and cooperation of the Guardianship Division of the Court, and are commenced and conducted according to Administrative Order Number 2009-036. It consists of a comprehensive examination and verification of all significant items pertinent to the Guardianship report. A detailed review of account transactions is common and may include third-party confirmations.

*The Clerk’s Inspector General, in Fiscal Year End 2009, reviewed 480 Level I audits with discrepancies, which initiated 55 Level II and Level III audits.*
GRAPH C

Types Of Guardianship Audits And Services Performed (b) During Fiscal Year 2009

(a) On June 14, 2010, the Clerk proposed to the Chief Judge that the non-statutory work processes noted herein be discontinued.
(b) Total = 7,182

The Guardianship Audit Section also audits Estates for discharge, and monitors Estates pursuant to Florida Statutes at the request of the Courts, which includes, but is not limited to, proof of publication, inventory, and death certificates.
STATUS OF RECOMMENDATIONS

This section reports our follow-up on actions taken by management on the Recommendations for Improvement in our original audit of the Clerk of the Circuit Court Probate Court Records Guardianship Audit Section. The recommendations contained herein are those of the original audit, followed by the current status of the recommendations.

1. Guardianship Audit Fees Set By Florida Statutes, Chapter 744, Are Deficient And Have Cost The Clerk Of The Circuit Court $1.4 Million Over Three Years For Providing Mandated Guardianship Document Auditing Services.

A. Clerk’s Cost

During the 36 to 52 month period of our audit and analysis work, Wards received Guardianship services, legal services and statutory/Court mandated auditing services costing a total of approximately $20.7 million. As shown in the exhibit below, $19.3 million of this Cost-of-Services amount was charged against the Wards’ funds by Guardians, Attorneys, and the mandated audit fees under Florida Statutes, while the Clerk absorbed the remaining $1.4 million.

<table>
<thead>
<tr>
<th>Type of Service</th>
<th>Period</th>
<th>No. of Wards</th>
<th>Reference</th>
<th>Amount Services</th>
<th>Expenses (c)</th>
<th>Total</th>
<th>Funded by Wards</th>
<th>Clerk of the Court</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clerk of the Court Document Audits</td>
<td>3 Years</td>
<td>NA</td>
<td>Exhibit 4</td>
<td>$1,839,000</td>
<td>$0</td>
<td>$1,839,000</td>
<td>$415,000</td>
<td>$1,424,000</td>
<td>$1,839,000</td>
</tr>
<tr>
<td>Professional Guardianship Services (a)</td>
<td>52 months</td>
<td>194</td>
<td>Exhibit 29</td>
<td>$1,278,000</td>
<td>$404,000</td>
<td>$1,682,000</td>
<td>$1,682,000</td>
<td>$0</td>
<td>$1,682,000</td>
</tr>
<tr>
<td>Professional Guardianship Services (b)</td>
<td>52 months</td>
<td>1,044</td>
<td>(b)</td>
<td>$6,877,000</td>
<td>$2,174,000</td>
<td>$9,051,000</td>
<td>$9,051,000</td>
<td>$0</td>
<td>$9,051,000</td>
</tr>
<tr>
<td>Professional Attorneys’ Legal Services (a)</td>
<td>52 months</td>
<td>194</td>
<td>Exhibit 31</td>
<td>$1,226,000</td>
<td>$49,000</td>
<td>$1,275,000</td>
<td>$1,275,000</td>
<td>$0</td>
<td>$1,275,000</td>
</tr>
<tr>
<td>Professional Attorneys’ Legal Services (b)</td>
<td>52 months</td>
<td>1,044</td>
<td>(b)</td>
<td>$6,598,000</td>
<td>$263,000</td>
<td>$6,861,000</td>
<td>$6,861,000</td>
<td>$0</td>
<td>$6,861,000</td>
</tr>
<tr>
<td>Totals</td>
<td></td>
<td></td>
<td></td>
<td>$17,618,000</td>
<td>$2,890,000</td>
<td>$20,708,000</td>
<td>$19,284,000</td>
<td>$1,424,000</td>
<td>$20,708,000</td>
</tr>
</tbody>
</table>

(a) Identified in the "Guardianship Historical Analysis" located in the "Supplemental Information" section of this Report.
(b) Estimated as fifty percent (50%) of 2,281 Wards, per Exhibit 1, less Wards included in the "Guardianship Historical Analysis."
(c) Expenses are primarily for banking and financial services' fees and for Guardians' personal services contracts.

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Clerk's Probate is required by Statute and/or by Order of the Sixth Judicial Circuit Court to audit certain documents submitted to the Court by Guardians. These documents include the following 12 types of documents that are filed or prepared by the Guardianship Audit Section for the Probate Court:

- Annual Accounting
- Interim Accounting
- Amended Accounting
- Simplified Accounting*
- Final Accounting
- Trust Accounting
- Initial Verified Inventory
- Initial and Annual Plan
- Order to File Required Documents*
- Order to Disapprove*
- Order to Show Cause
- Discharge of Guardian
Although the above documents are audited or prepared by the Guardianship Audit Section, fees are collected for only two types of audits:

- Annual Accounting (AACT)
- Initial Verified Inventory (IVIG)

There is a single fee for auditing the Initial Verified Inventory document; however, the fees for Annual Accountings are in accordance with F.S. 744.3678, as follows:

"(4) The guardian shall pay from the ward's estate to the clerk of the circuit court a fee based upon the following graduated fee schedule, upon the filing of the annual financial return, for the auditing of the return:

(a) For estates with a value of $25,000 or less, the clerk of the court may charge a fee of up to $20.
(b) For estates with a value of more than $25,000 up to and including $100,000, the clerk of the court may charge a fee of up to $85.
(c) For estates with a value of more than $100,000 up to and including $500,000, the clerk of the court may charge a fee of up to $170.
(d) For estates with a value in excess of $500,000, the clerk of the court may charge a fee of up to $250.

Upon petition by the guardian, the court may waive the auditing fee upon a showing of insufficient funds in the ward's estate."

The following exhibit presents the fees the State/Department of Revenue (DOR) share, and the Clerk's share, which is also forwarded to the DOR to fund the Florida Clerks of Court Operations Corporation (Florida CCOC).

```
<table>
<thead>
<tr>
<th>Fees Collected for</th>
<th>Annual Accounting [AACT]</th>
<th>Initial Verified Inventory [IVIG]</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Size of Guardianship</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Up to $25,000</td>
<td>Over $25,000 to $100,000</td>
</tr>
<tr>
<td>State: DOR</td>
<td>$5</td>
<td>$10</td>
</tr>
<tr>
<td>Clerk: For DOR Florida CCOC</td>
<td>$15</td>
<td>$75</td>
</tr>
<tr>
<td>Total</td>
<td>$20</td>
<td>$85</td>
</tr>
</tbody>
</table>
```
As noted above, based on the standard time it takes to audit or prepare the 12 different types of documents, Clerk's Probate expended approximately **$1.4 million** more than it collected in audit and other related fees for the three years ended September 30, 2009.

The relationship between the fees collected and the Cost-of-Services rendered is shown on the graph below.

---

**GRAPH E**  
Funding Of Clerk's Cost-of-Services For Wards  
*Full Cost (a) = $1,839,000*

**Three Years**

- **Clerk:** Unreimbursed Costs: $1,424,000 (77%)
- **Fees Collected:** $415,000 (23%)

---

*(a) Full Cost includes the Probate Court Records Department's Salaries and Wages, payments for Employee Benefits and Other Department Costs that are allocable to the Guardianship Audit and Non-Audit activities, excluding costs allocable to Estate Audit and Non-Audit activities.*
An analysis of the components of the unreimbursed costs is in the following exhibit.

**EXHIBIT 4**
GUARDIANSHIPS
FEES COLLECTED vs. CLERK’S FULL COSTS
THREE YEARS

<table>
<thead>
<tr>
<th>Fiscal Year Ended September 30</th>
<th>Fees Collected (a)</th>
<th>Full Cost [Clerk’s Probate Costs Allocable to Guardianship Services]</th>
<th>Excess of Full Cost Over Fees Collected</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>$138,000</td>
<td>$663,000</td>
<td>$525,000</td>
</tr>
<tr>
<td>2008</td>
<td>$146,000</td>
<td>$625,000</td>
<td>$479,000</td>
</tr>
<tr>
<td>2007</td>
<td>$131,000</td>
<td>$551,000</td>
<td>$420,000</td>
</tr>
<tr>
<td>Total</td>
<td>$415,000</td>
<td>$1,839,000</td>
<td>$1,424,000</td>
</tr>
</tbody>
</table>

(a) Fees collected for initial Guardianship filings, and for Initial Verified Inventories and Annual Accountings submitted.

The scope of services rendered by the Guardianship Audit Section is shown in the following exhibit.

**EXHIBIT 5**
RECAP OF PROBATE AUDITORS’ ACTIVITIES
FISCAL YEAR 2009

<table>
<thead>
<tr>
<th>Activities</th>
<th>For</th>
<th>Number of Activities</th>
<th>Hours</th>
<th>Average Time [in Minutes] Per Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Total</td>
<td>Guardianships</td>
<td>Estates</td>
</tr>
<tr>
<td>Audit</td>
<td>Guardianships</td>
<td>7,182</td>
<td>7,182</td>
<td>-</td>
</tr>
<tr>
<td>Audit</td>
<td>Estates</td>
<td>9,443</td>
<td>-</td>
<td>9,443</td>
</tr>
<tr>
<td>Total Audits</td>
<td></td>
<td>16,625</td>
<td>7,182</td>
<td>9,443</td>
</tr>
<tr>
<td>Non-Audit</td>
<td>Guardianships</td>
<td>4,286</td>
<td>eP4,286</td>
<td>-</td>
</tr>
<tr>
<td>Non-Audit</td>
<td>Estates</td>
<td>13,138</td>
<td>-</td>
<td>13,138</td>
</tr>
<tr>
<td>Total Non-Audits</td>
<td></td>
<td>17,424</td>
<td>4,286</td>
<td>13,138</td>
</tr>
<tr>
<td>Guardianship Totals</td>
<td></td>
<td>11,468</td>
<td>11,468</td>
<td>-</td>
</tr>
<tr>
<td>Estate Totals</td>
<td></td>
<td>22,581</td>
<td>-</td>
<td>22,581</td>
</tr>
</tbody>
</table>

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EXHIBIT 5
RECAP OF PROBATE AUDITORS' ACTIVITIES
FISCAL YEAR 2009

<table>
<thead>
<tr>
<th>Totals</th>
<th>34,049</th>
<th>11,466</th>
<th>22,581</th>
<th>9,939</th>
<th>5,388</th>
<th>4,551</th>
<th>18</th>
<th>28</th>
<th>12</th>
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<tr>
<td>Non-Audit Activities</td>
<td>Estate Audit Activities</td>
<td></td>
<td></td>
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<tr>
<td>Answering Telephones</td>
<td>Estate Accounting - Follow-Up</td>
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<td>Appeals</td>
<td>Estate Accounting - Returns</td>
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<td>Copying</td>
<td>Estate Inventory &amp; Final Accounting</td>
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<tr>
<td>Document Requirements</td>
<td>Orders To File Required Documents</td>
<td></td>
<td></td>
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<tr>
<td>Filing</td>
<td>Orders To Show Cause</td>
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<td>Fingerprint cards</td>
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<tr>
<td>Mailing</td>
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<td>Processing Judges' Orders for Attorneys</td>
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<tr>
<td>Returns from Court</td>
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<tr>
<td>Reviews</td>
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<td>Status Reports to Court</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note - The numerical data included in this Exhibit was drawn from interviews of the Clerk's Probate auditors, supervisors and managers. Auditors maintain their own activity records.

B. Audits Of Certain Guardianship Accountings Cost The Clerk Of The Circuit Court Approximately $263,200.

The Florida Legislature has NOT enacted audit fees for the following Guardianship accountings listed below:

- Trust accountings
- Final accountings
- Interim accountings
- Simplified accountings*

* On June 14, 2010, the Clerk proposed to the Chief Judge that the non-statutory work process noted above (*) be discontinued.

Clerk’s Probate is providing FREE audit services. The department is required by Statute to monitor Wards’ assets; however, no fees are collected to cover all of the direct costs (unfunded under Florida Statute) to perform this function.

F.S. 744.368 states the following regarding the responsibilities of the Clerk of the Circuit Court:
“(1) In addition to the duty to serve as the custodian of the guardianship files, the clerk shall review each initial and annual guardianship report to ensure that it contains information about the ward addressing, as appropriate:
(a) Physical and mental health care;
(b) Personal and social services;
(c) The residential setting;
(d) The application of insurance, private benefits, and government benefits;
(e) The physical and mental health examinations; and
(f) The initial verified inventory or the annual accounting.

(2) The clerk shall, within 30 days after the date of filing of the initial or annual report of the guardian of the person, complete his or her review of the report.

(3) Within 90 days after the filing of the verified inventory and accountings by a guardian of the property, the clerk shall audit the verified inventory and the accountings. The clerk shall advise the court of the results of the audit.

(4) The clerk shall report to the court when a report is not timely filed.”

Audit is defined by F.S. 744.102(2) Definitions as –

"Audit means a systematic review of financial and all other documents to ensure compliance with S. 744.368, rules of court, and local procedures using generally accepted accounting principles."

The Audit Specialists of the Guardianship Audit Section prepare the Clerk’s Audit Checklist Form (Audit Checklist) as part of their audit function for various types of Guardianship accountings, which include:

- Initial accountings
- Annual accountings
- Trust accountings
- Interim accountings
- Simplified accountings*
- Final accountings

* On June 14, 2010, the Clerk proposed to the Chief Judge that the non-statutory work process noted above (*) be discontinued.

The Audit Checklist serves as a guide to comply with the Clerk’s responsibilities to ensure that the Ward’s assets are properly disbursed as required by Florida Statute, Title XLIII, Chapter 744, and Guardianship Law.

As noted above, a cost analysis for three years ending September 30, 2009 was performed to determine the full cost of auditing the annual accountings, final accountings, trust accountings, simplified accountings, and interim accountings. These costs do not include any Court-related
costs, such as the General Magistrate and Judges’ review of Guardianship documents and any hearings for non-compliance by Guardians, etc.

a. Final Accountings are prepared by Guardians and/or Attorneys-of-Record in accordance with F.S. 744.527 and F.S. 744.511. Guardianships are terminated for a number of reasons, such as the:

- Death of the Ward
- Ward reaching majority (18 years of age)
- Resignation of a Guardian
- A Court Order for the removal of the Guardian

The estimated cost of auditing Final Accountings for the past three fiscal years is approximately $173,700.

<table>
<thead>
<tr>
<th>EXHIBIT 6</th>
</tr>
</thead>
<tbody>
<tr>
<td>FINAL ACCOUNTINGS</td>
</tr>
<tr>
<td>THREE YEARS</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>No.</th>
<th>Unit Time</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008/2009</td>
<td>169</td>
<td>2 Hours</td>
<td>$48,600</td>
</tr>
<tr>
<td>2007/2008</td>
<td>207</td>
<td></td>
<td>$59,500</td>
</tr>
<tr>
<td>2006/2007</td>
<td>228</td>
<td></td>
<td>$65,600</td>
</tr>
<tr>
<td>Total</td>
<td>604</td>
<td></td>
<td>$173,700</td>
</tr>
</tbody>
</table>

Unit Time:

Unit Times used in this Report represents estimated time needed by Probate auditors to complete identified Guardianship document audits. These times are based on interviews with Probate auditors, supervisors, and managers. Auditors maintain daily activity records.

b. Under the control and guidance of the Guardian, the Trustee of a Ward’s assets may be requested by the Court to prepare and submit a Trust Accounting in accordance with F.S. 744.441(19) and F.S. 744.368(3) for the Court’s review. Although Trustees are obligated to act according to the terms of the respective Trust Agreement and the Court Order authorizing the Trust, the Guardian has ultimate responsibility for the Trust’s assets. The estimated cost of auditing Trust Accountings for the past three fiscal years is approximately $54,100.
c. 

<table>
<thead>
<tr>
<th>EXHIBIT 7</th>
<th>TRUST ACCOUNTINGS THREE YEARS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fiscal Year</td>
<td>No.</td>
</tr>
<tr>
<td>2008/2009</td>
<td>92</td>
</tr>
<tr>
<td>2007/2008</td>
<td>102</td>
</tr>
<tr>
<td>2006/2007</td>
<td>61</td>
</tr>
<tr>
<td>Totals</td>
<td>255</td>
</tr>
</tbody>
</table>

During Fiscal Year 2009, there were approximately 92 Guardianship Trusts established for the benefit of Wards with approximately $28.8 million in assets.

d. If a Guardianship meets the criteria set forth in F.S. 744.3679, the Court may authorize the filing of a Simplified Accounting. The estimated cost of auditing a Simplified Accounting for the past three fiscal years is approximately $33,400.

<table>
<thead>
<tr>
<th>EXHIBIT 8</th>
<th>SIMPLIFIED ACCOUNTINGS THREE YEARS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fiscal Year</td>
<td>No.</td>
</tr>
<tr>
<td>2008/2009</td>
<td>99</td>
</tr>
<tr>
<td>2007/2008</td>
<td>95</td>
</tr>
<tr>
<td>2006/2007</td>
<td>130</td>
</tr>
<tr>
<td>Totals</td>
<td>324</td>
</tr>
</tbody>
</table>

e. Interim Accountings may be filed by the Guardian or Attorney-of-Record when the Ward acquires additional assets. If a Guardian or Attorney-of-Record submits accountings in addition to the Annual Accounting required by F.S. 744.3678, the accountings are referred to as Interim Accountings. Interim Accountings are not required by Florida Statute or the Court's Administrative Orders. The estimated cost of auditing Interim Accountings for the past three fiscal years is approximately $2,000.
As noted above, in accordance with F.S. 744.3678, the Initial Verified Inventory (IVIG) and Annual Accountings (AACT) are the only accountings for which the Clerk may legally collect audit fees.

C. Clerk’s Costs To Audit Guardianship Documents.

During the three years ending September 30, 2009, the Clerk’s Probate Department incurred $1,839,000 in direct departmental costs (“full costs”) to audit Guardianship case documents for which it recovered $415,000 in fees, resulting in a net three-year cost of $1,424,000. The documents subject to the Department’s audit procedures fall into two classes:

1. In compliance with legal authority (estimated net cost: $794,000), and
2. Optional compliance without legal authority (estimated cost: $630,000).
On June 14, 2010, the Clerk proposed to the Chief Judge that the following non-statutory audit and document preparation services be discontinued, which would have resulted in a cost savings of $161,000 for the three years ending September 30, 2009:

- Simplified Accounting
- Order to File Required Documents
- Order to Disapprove

a. Clerk's Compliance with Legal Authority:

Florida Statutes and Administrative Orders issued by the Court require the Clerk's compliance with auditing and preparing specific Guardianship case documents. These documents are listed in the exhibit below.
IN ACCORDANCE WITH LEGAL AUTHORITY
THREE YEARS

<table>
<thead>
<tr>
<th>Type of Document</th>
<th>Legal Reference</th>
<th>Net Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Accountings</td>
<td>S. 744.368</td>
<td>$485,700</td>
</tr>
<tr>
<td>Initial Verified Inventories</td>
<td>S. 744.368</td>
<td>$63,800</td>
</tr>
<tr>
<td>Plans (Initial &amp; Annual)</td>
<td>S. 744.362</td>
<td>$113,800</td>
</tr>
<tr>
<td>Orders to File Required Documents*</td>
<td>A.O. 2009-036</td>
<td>$43,500</td>
</tr>
<tr>
<td>Orders to Disapprove Guardianship Reports*</td>
<td>A.O. 2009-036</td>
<td>$84,000</td>
</tr>
<tr>
<td>Orders to Show Cause</td>
<td>A.O. 2009-036</td>
<td>$3,200</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>A.O. 2009-036</strong></td>
<td><strong>$794,000</strong></td>
</tr>
</tbody>
</table>

* On June 14, 2010, the Clerk proposed to the Chief Judge that the non-statutory work processes noted herein be discontinued.

Background and the impact on the Court of the two documents proposed for discontinuance:

1. **Orders to File Required Documents**

The Probate Department's auditors prepare Orders to File Required Documents for all Guardianship case documents not filed timely. Case files are monitored to ensure compliance with these Orders. However, this monitoring work is a non-statutory function required by Administrative Order 2009-036. While this monitoring process helps to ensure that all appropriate documents are being filed with the Court, these duties are outside of the Clerk's responsibilities.

2. **Orders Disapproving Guardianship Reports**

Preparation of these Orders was created by Administrative Order 2009-036. The Clerk's role is a review function. Upon discontinuation of the preparation of these Orders, the Clerk will provide the Court with a list of discrepancies.

The language of the referenced Florida Statutes follows:

"S. 744.362 Initial guardianship report.--
(1) Each guardian shall file with the court an initial guardianship report within 60 days after her or his letters of guardianship are signed. The initial guardianship report for a guardian of the property must consist of a verified inventory. The initial report for a guardian of the person must consist of an initial guardianship plan. The initial report shall be served on the ward, unless the ward is a minor under the age of 14 years or is
totally incapacitated, and the attorney for the ward. Either the ward or the ward's attorney may request a hearing concerning the adequacy of the report.

(2) Review of the initial guardianship report and representation of the ward during an objection thereto, if any, shall be the appointed attorney's final official action on behalf of the ward. Thereafter, the court-appointed attorney is no longer obligated to represent the ward.”

"S. 744.368 Responsibilities of the clerk of the circuit court.--

(1) In addition to the duty to serve as the custodian of the guardianship files, the clerk shall review each initial and annual guardianship report to ensure that it contains information about the ward addressing, as appropriate:
   (a) Physical and mental health care;
   (b) Personal and social services;
   (c) The residential setting;
   (d) The application of insurance, private benefits, and government benefits;
   (e) The physical and mental health examinations; and
   (f) The initial verified inventory or the annual accounting.

(2) The clerk shall, within 30 days after the date of filing of the initial or annual report of the guardian of the person, complete his or her review of the report.

(3) Within 90 days after the filing of the verified inventory and accountings by a guardian of the property, the clerk shall audit the verified inventory and the accountings. The clerk shall advise the court of the results of the audit.

(4) The clerk shall report to the court when a report is not timely filed.”

b. Clerk’s Optional Compliance Without Legal Statutory Authority:

The Clerk’s cooperative efforts to assist the Sixth Judicial Circuit Court have resulted in providing audit services for the following documents listed in the exhibit below.

<table>
<thead>
<tr>
<th>EXHIBIT 11</th>
</tr>
</thead>
<tbody>
<tr>
<td>OPTIMAL COMPLIANCE WITHOUT LEGAL AUTHORITY</td>
</tr>
<tr>
<td>THREE YEARS</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type of Document</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amended Accountings</td>
<td>$253,400</td>
</tr>
<tr>
<td>Discharges</td>
<td>$113,400</td>
</tr>
<tr>
<td>Final Accountings</td>
<td>$173,700</td>
</tr>
<tr>
<td>Interim Accountings</td>
<td>$2,000</td>
</tr>
<tr>
<td>Simplified Accountings*</td>
<td>$33,400</td>
</tr>
<tr>
<td>Trust Accountings</td>
<td>$54,100</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$630,000</strong></td>
</tr>
</tbody>
</table>

* On June 14, 2010, the Clerk proposed to the Chief Judge that the non-statutory work process noted herein be discontinued.
Simplified Accountings

There is no statutory authority for the performance of audits of Simplified Accountings by the Clerk. These accountings are generally found in cases where the assets are restricted accounts or the sums of assets are insignificant. These accountings have been audited by the Clerk to assist the Court in finding discrepancies in cases where the level of review is not quite as intensive as in typical Annual Accountings.

D. Increasing Guardianship Fees For Auditing All Guardianship Documents.

As previously discussed, twelve major Guardianship case documents are currently audited for the Court by Guardianship Audit Section auditors. Only two documents (Annual Accountings and Initial Verified Inventories) are subject to fees. Fees for these audits and other services totaled $415,000 for the three years ending September 30, 2009. Also, as previously discussed, the Probate Department’s direct departmental costs to provide these audit and other services exceeded its fees by $1,424,000.

The governing Florida Statute states:

“S. 744.3678 Annual accounting.--
(1) Each guardian of the property must file an annual accounting with the court
(2) The annual accounting must include
(a) A full and correct account of the receipts and disbursements of all of the ward’s property over which the guardian has control and a statement of the ward’s property on hand at the end of the accounting period. This paragraph does not apply to any property or any trust of which the ward is a beneficiary but which is not under the control or administration of the guardian.
(b) A copy of the annual or year-end statement of all of the ward’s cash accounts from each of the institutions where the cash is deposited.
(3) The guardian must obtain a receipt, canceled check, or other proof of payment for all expenditures and disbursements made on behalf of the ward. The guardian must preserve all evidence of payment, along with other substantiating papers, for a period of 3 years after his or her discharge. The receipts, proofs of payment, and substantiating papers need not be filed with the court but shall be made available for inspection and review at the time and place and before the persons as the court may order.
(4) The guardian shall pay from the ward’s estate to the clerk of the circuit court a fee based upon the following graduated fee schedule, upon the filing of the annual financial return, for the auditing of the return:
(a) For estates with a value of $25,000 or less the clerk of the court may charge a fee of up to $20.
(b) For estates with a value of more than $25,000 up to and including $100,000 the clerk of the court may charge a fee of up to $85.
(c) For estates with a value of more than $100,000 up to and including $500,000 the clerk of the court may charge a fee of up to $170.
(d) For estates with a value in excess of $500,000 the clerk of the court may charge a fee of up to $250. Upon petition by the guardian, the court may waive the auditing fee upon a showing of insufficient funds in the ward’s estate. Any guardian unable to pay the auditing fee may petition the court for a waiver of the fee. The court may waive the fee after it has reviewed the documentation filed by the guardian in support of the waiver.

(5) This section does not apply if the court determines that the ward receives income only from social security benefits and the guardian is the ward's representative payee for the benefits.”

We recommended Clerk’s Management:

1. Petition the Court for an Administrative Order establishing a fee structure in an amount sufficient to offset the Probate Department’s cost of all audit processes and services. The petition should also consider the cost associated with late filings of required documents and re-audits because the Guardian failed to submit a complete and/or accurate document.

   If this petition fails to be forthcoming, the Clerk should then notify the Court that all audit and related services for the Court without legal authority will be discontinued.

2. Submit a fee increase proposal to the State Legislature via the Florida Association of Court Clerks and Comptrollers that, if enacted, would provide sufficient funds for the Clerk to audit Guardianship case documents.

To facilitate the submission of this proposal, we have developed the following exhibits based on the current “Asset-Value” fee basis for audits of Annual Accountings (see F.S. 744.3678 above):

- Exhibit 12 – State’s portion of the proposed fees that we believe would generate approximately $96,000 annually. (The Clerk collected $9,100 during the year ending September 30, 2009 for the State.)

- Exhibit 13 – The Clerk’s portion of the proposed fees that we believe would recover the Probate Department’s direct department costs (“full costs”) to provide its present Guardianship case audit and other services.

- Exhibit 14 – The combination of the State and Clerk’s proposed fees.
### EXHIBIT 12
STATE DEPARTMENT OF REVENUE
PROPOSED FEES FOR AUDITING ALL GUARDIANSHIP DOCUMENTS

<table>
<thead>
<tr>
<th>Probate Activity Code</th>
<th>Document Type</th>
<th>Size of Guardianship</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Up to $25,000</td>
</tr>
<tr>
<td>AACT</td>
<td>Annual Accounting</td>
<td>$5</td>
</tr>
<tr>
<td>IVIG</td>
<td>Initial Inventory</td>
<td>$10</td>
</tr>
<tr>
<td><strong>CURRENT FEES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Follow-Up</td>
<td>Amended Accounting</td>
<td>$3</td>
</tr>
<tr>
<td>AACT</td>
<td>Annual Accounting</td>
<td>$18</td>
</tr>
<tr>
<td>PDIS</td>
<td>Discharge</td>
<td>$9</td>
</tr>
<tr>
<td>FACT</td>
<td>Final Accounting</td>
<td>$18</td>
</tr>
<tr>
<td>IVIG</td>
<td>Initial Inventory</td>
<td>$9</td>
</tr>
<tr>
<td>IACT</td>
<td>Interim Accounting</td>
<td>$6</td>
</tr>
<tr>
<td>OFRD</td>
<td>Order to File Required Documents*</td>
<td>$2</td>
</tr>
<tr>
<td>ODGR</td>
<td>Order to Disapprove Guardianship Report*</td>
<td></td>
</tr>
<tr>
<td>OTSC</td>
<td>Order to Show Cause</td>
<td>$2</td>
</tr>
<tr>
<td>CLRC</td>
<td>Plan (Initial/Annual)</td>
<td>$2</td>
</tr>
<tr>
<td>SIMP</td>
<td>Simplified Accounting*</td>
<td>$6</td>
</tr>
<tr>
<td>ATAC</td>
<td>Trust Accounting</td>
<td>$12</td>
</tr>
</tbody>
</table>

* On June 14, 2010, the Clerk proposed to the Chief Judge that the non-statutory work processes noted herein be discontinued.

---

**State: Methodology for Proposed Audit Fees**

The following process was used to develop the proposed State's fee schedule:

1. The basis for the State's fee schedule is the Clerk's Guardianship document/Asset-Value fee schedule.
2. Determined the relationship of the State's fees to the Clerk's fees for the Asset-Value ranges stipulated by Florida Statutes (F.S. 744.3676).
3. Applied the applicable State-to-Clerk percentage relationship to the Clerk's Guardianship document/Asset-Value schedule.
4. Rounded each Unit Fee amount from Step #3 to the nearest dollar, unless the rounded amount appeared incorrect when viewed as a part of the entire fee schedule.
5. Performed a reasonability review of all document fees within all Asset-Value classifications, assuring the comparability of data for identical and similar Unit Times.
## EXHIBIT 13
CLERK: FOR DOR FLORIDA CCOC
PROPOSED FEES TO RECOVER THE FULL COST OF AUDITING ALL GUARDIANSHIP DOCUMENTS

<table>
<thead>
<tr>
<th>Probate Activity Code</th>
<th>Document Type</th>
<th>Size of Guardianship</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Up to $25,000</td>
</tr>
<tr>
<td>AACT</td>
<td>Annual Accounting</td>
<td>$15</td>
</tr>
<tr>
<td>IVIG</td>
<td>Initial Inventory</td>
<td>$75</td>
</tr>
</tbody>
</table>

### CURRENT FEES

| Follow-Up | Amended Accounting | $9 | $43 | $88 | $131 |
| AACT      | Annual Accounting  | $52| $262| $528| $790 |
| PDIS      | Discharge          | $26| $131| $264| $395 |
| FACT      | Final Accounting   | $52| $262| $528| $790 |
| IVIG      | Initial Inventory  | $26| $131| $264| $395 |
| IACT      | Interim Accounting | $18| $99 | $192| $297 |
| OFRD      | Order to File Required Documents* | $7 | $38 | $77 | $115 |
| ODGR      | Order to Disapprove Guardianship Report* | $7 | $38 | $77 | $115 |
| OTSC      | Order to Show Cause| $6 | $33 | $66 | $99 |
| CLRC      | Plan (Initial/Annual) | $6 | $33 | $66 | $99 |
| SIMP      | Simplified Accounting* | $18| $99 | $192| $297 |
| ATAC      | Trust Accounting   | $36| $198| $384| $594 |

### PROPOSED FEES

* On June 14, 2010, the Clerk proposed to the Chief Judge that the non-statutory work processes noted herein be discontinued.
Clerk: Methodology for Proposed Audit Fees

The following process was used to develop the proposed Clerk’s fee schedule that, if approved by the Florida Legislature, is intended to recover the Probate Court Records Department’s Fiscal Year 2009 costs allocable to its Guardianship activities for FY09:

1. Determined the amount of costs allocable to the Guardianship activities: $662,726.
2. Developed an overall Hourly Rate for Guardianship audit activities based upon FY09 actual audit hours (4,674 hours): $141.79 per Hour.
3. Applied the $141.79 Hourly Rate to each of the 12 Guardianship documents subject to audit, based on the number of documents audited during FY09 (7,162 units) at the estimated Unit Time to audit each document. Total: $662,726.
4. Converted the results of the Hourly Rate-to-Time (Step #3) to Per Unit costs by dividing the Total amount for each document by the actual number of units audited of each document during FY09. The overall unit cost was: $92.28 per Unit.
5. Determined from Florida Statutes (F.S. 744.3678) the four Asset-Value ranges used to charge audit fees for Annual Accountings and the Clerk’s fee for each of the Asset-Value ranges. The overall average Clerk’s fee for the four ranges is: $116.25 per Unit.
6. Calculated the percent relationship of each (four) Asset-Value range fee (Clerk’s) to the overall average.
7. Applied each percent arrived at in Step #6 to the overall average of $92.28 per Unit to arrive at the four cost-based per Unit rates.
8. Multiplied the Average per Unit Cost for each document from Step #4 by the Asset-Value Range percentage from Step #7.
9. Rounded each Unit Fee amount from Step #8 to the nearest dollar, unless the rounded amount appeared incorrect when viewed as a part of the entire fee schedule.
10. Applied the actual FY09 Asset-Value mix for Annual Accountings to each of the 12 Guardianship documents to arrive at estimated Asset-Value numbers for each of the documents.
11. Applied the rounded fees from Step #9 to the estimated Asset-Value numbers from Step #10 to arrive at estimated fee collections for FY09. Total: $459,225
12. Since this result ($459,225) is 31 percent below Full Cost ($662,726) for FY09, an Experience Factor was developed by calculating the reciprocal of these amounts: 144 percent
13. Applied the Experience Factor to the Unit Fee Rates from Step #8, and then rounded these Experience Rates to the nearest dollar.
14. Repeated Step #11 using the new Experience Rates to arrive at new estimated collections for FY09. Total: $661,859 Result: 99.9 percent of Full Cost
15. Performed a reasonability review of all document fees within all Asset-Value classifications, ensuring the comparability of data for identical and similar Unit Times.
Status:

1. **Not Implemented.** Management stated that the recommendation is under consideration by the Clerk’s office.

2. **Not implemented.** Management stated that the recommendation is a legislative issue.

2. **Management Is Not Fully Utilizing Guardianship Case Data Resources To Compile Management Data Needed For Decision Making.**

   During our review of the overall guardianship process, we noted specific key areas as stated in (A) and (B) where management is not fully utilizing resources to compile management data.
needed for effective and informed decision making. Data should be effective, obtained efficiently and be useful in order for management to make sound decisions regarding its staff’s performance measures and to access pertinent case information.

A. Guardianship Performance Measures And Reporting Need To Be Improved.

Clerk’s Probate management is not utilizing reporting abilities to their full capacity. Management’s current performance measurements are output standards based on relative values of quantity of employee work production. Based on these relative values, Probate Audit Specialists are given an Excellent, Very Good, Good, Needs Attention or Unsatisfactory annual review rating.

Employees submit weekly summary reports to the Probate Audit Supervisor listing the quantity of tasks completed. The Supervisor maintains a monthly summary of employee statistics.

Management has not established performance measurements to review and analyze Guardianship data to determine its staff’s overall efficiency and effectiveness. Without measurement data and comprehensive reporting, it may be difficult for management to support its assessment of staff’s performance of the Guardianship audit functions.

Other performance measures that could be established include the following examples:

1. Number of new Guardianship filings by asset size (Up to $25,000; $25,000 to $100,000; $100,000 to $500,000; Over $500,000).
2. Number of completed Guardianship cases by size.
3. Number of cases requiring additional information.
4. Number of cases requiring the preparation of Orders to File Required Documents (a); to Show Cause; to Disapprove (a).
5. Standard time to complete each type of Order.
6. Number of audits by type of document audited (Initial Verified Inventory; Interim Accounting; Annual Accounting; Final Accounting; Amended Accounting; Simplified Accounting (a); Trust; Guardianship Plan).
7. Standard time to complete each type of audit.
8. Standard time for each probate auditor’s daily activities (i.e., audits and preparation of Orders).
9. Standard labor cost per hour for probate auditors.
10. Standard time to complete Guardianships by asset size.
11. Number of cases completed within standard time, by asset size.
12. Number of delinquent Annual Accounting filings.
13. Number of days Annual Accountings are delinquent.

(a) On June 14, 2010, the Clerk proposed to the Chief Judge that the non-statutory work processes noted above be discontinued.
Once performance measures are implemented and data is collected on a regular basis, reports may be created that allow management to monitor the status of key performance measures and provide the information necessary for more effective staff assessments.

Performance measures are meant to provide more complete information about an entity's performance than do traditional budgets or financial statements and schedules. Primarily, performance measures are concerned with the results of the services delivered by a governmental entity. Also, performance measures help provide a basis for assessing the economy, efficiency, and effectiveness of those services. Performance information is needed for:

- Setting goals and objectives.
- Planning program activities to accomplish these goals and objectives.
- Allocating resources to programs.
- Monitoring and evaluating results to determine if progress is being made toward achieving the goals and objectives.
- Modifying program plans to enhance performance.

**B. Guardianship Case Profile Information Is Incomplete, Resulting In Deficient Statistical And Budgeting Information.**

There is no identification in the case number or docket entry that differentiates the dollar value of the Wards' assets in relation to the sliding-scale audit fee as required by F.S. 744.3678(4).

In order to determine the value of the Ward's assets, Clerk's Probate staff would need to examine every individual Initial Verified Inventory document. Because there are over 2,200 open Guardianship cases, this effort would be very time consuming.

Since the Guardianship case Asset Value was important to the development of the proposed audit fee schedules outlined in this report, the Clerk's Inspector General staff sorted through the dollar amounts in the General Ledger accounts to determine how many cases fell within each level of the sliding scale fee for the cost-to-fee comparison.

The Asset Value levels are the basis for charging fees to Guardianships for auditing Annual Accounting (AACT) reports. Fees charged for auditing these AACT documents are made in accordance to F.S. 744.3678 within the following ranges:

- Up to $20 for assets up to $25,000
- Up to $85 for assets over $25,000 to $100,000
- Up to $170 for assets over $100,000 to $500,000
- Up to $250 for assets over $500,000
Clerk’s Probate does not keep track of these statistics. Reconciling the amount of fees collected for the Department’s auditing service is not possible without accurate Asset Value counts.

The case number/docket code does not identify whether the case is associated with a professional versus non-professional Guardian. All Guardianship cases are identified with the suffix “GD” in the case number. In order to determine whether the case is cared for by a professional Guardian or non-professional Guardian, we would have had to examine every petition to appoint a guardian.

Florida Statutes require all Court appointed Guardians attend the appropriate level of education and provide the Court with a certificate of completion. However, there has been a trend to waive some or the entire educational requirement for family Guardians (non-professional). With the vast majority of problems that exist for cases handled by non-professional Guardians, segregation of non-professional and professional cases would provide management with the information needed to determine the percentage of cases with waived education requirements.

We recommended management:

A. Establish performance measurements of its Probate audit staff, and determine and utilize reporting options to monitor the status of key Guardianship caseload activities. These performance measurements may be as follows:

1. Labor Efficiency Report:

   Comparison of auditors’ standard hours for completing their audit activities to actual time on a weekly, bi-weekly, monthly, quarterly and annual basis.

2. Cost Efficiency Report:

   Comparison of standard cost to actual cost of auditors’ weekly, bi-weekly, monthly, quarterly, and annual work output.

3. Case Status Report:

   At end of month, quarter, and year.

4. Recap Statistical Report:

   All data at end of the month, quarter, and year.
B. Accumulate key and relevant Guardianship data, at inception of the case, into a formal, electronic “Guardianship Case Attribute File” to include such items as:

1. Case number*
2. Docket number*
3. Date case originated*
4. Fees collected
5. Case description
6. Ward’s name
7. Ward’s case number
8. Ward’s Care Facility’s name
9. Ward’s Private Duty Care provider’s name
10. Subject to full, accounting requirements? Yes or No
11. Assigned Probate auditor’s name
12. Assigned Probate manager’s name
13. Asset-Value amount at beginning
14. Initial Verified Inventory (IVIG)? Yes or No
15. Real Estate Owned? Yes or No
16. Ward’s Real Estate Ownership interest percent
17. Guardian’s name
18. Guardian’s address
19. Guardian’s phone numbers
20. Guardian’s fax number
21. Guardian’s e-mail address
22. Guardian type (professional/non-professional/family)
23. Professional Guardian hourly charge rate (varies by experience)
24. Attorney-of-Record’s name
25. Attorney-of-Record’s address;
26. Attorney-of-Record’s phone numbers
27. Attorney-of-Record’s fax number
28. Attorney-of-Record’s e-mail address
29. Trustee’s name
30. Trustee’s address;
31. Trustee’s phone numbers
32. Trustee’s fax numbers
33. Trustee’s e-mail address
34. Asset-Value amount at completion
35. Date case reviewed by Probate manager
36. Date case completed.

[*Currently being captured]
Status:

A. **Partially Implemented.** Statistical case report data is now more efficiently collected and displayed in a weekly, monthly, and annual basis format.

B. **Not Implemented.** Management does not see the recommendation as cost justified.

3. **Some Orders To Disapprove (Audit Discrepancies) For Guardianship Reports Are Unnecessary.**

The Clerk’s Probate Guardianship Audit Section’s policies and procedures do not empower the Probate Audit Specialists to contact the Guardians, Attorneys, or the General Magistrate to resolve minor issues that could save both the Clerk and Court costs by preventing follow-up time, such as Orders to Disapprove Guardianship Reports.

An Order to Disapprove an audited Guardianship report is a Court Order that stipulates the types of discrepancies found during the Guardianship document audit process. It is delivered to the Guardian and/or the Attorney-of-Record for the Ward for timely action. The Probate Audit Specialists prepare this document, which is reviewed by the General Magistrate, and reviewed and signed by the Probate Judge.

Presented below is the cycle for the processing of an Order To Disapprove. It should be emphasized that the cycle is standardized and represents only the minimal amount of processing necessary. Several discussions among the Clerk’s Inspector General’s Auditor, General Magistrate, and/or the Probate Audit Specialists regarding the discrepancies stated on the Order to Disapprove could result in additional steps in the cycle. As noted previously in Opportunity For Improvement No. 1, unfunded costs, net of allocated fees, (not mandated under Florida Statutes) for the past three fiscal years associated with preparing the Orders to Disapprove amounted to approximately $84,000, which did not include any Court-related processing costs. Preparing the Order to Disapprove is the first step in the cycle. The other steps in the cycle represent additional processing time that would contribute to increased overall costs.
We conducted interviews with Guardians, Attorneys, and Court Personnel to gather insight about their concerns and/or suggestions involving the processing of Guardianship cases by Clerk’s Probate and the Clerk’s Inspector General. The most significant concern expressed by those interviewed was the nature of the discrepancies listed on the Orders to Disapprove a Guardianship report. Those interviewed stated that a majority of the discrepancies could be handled by a simple phone call or e-mail to their office to avoid incurring additional time to
resolve issues. Furthermore, those interviewed stated that they would welcome the phone calls and/or e-mails, and would provide assistance with little or no delay of services.

Our interviews and review of several Orders to Disapprove revealed several discrepancies that potentially could have been resolved with the Guardian or Attorney by phone, e-mail, or fax. These discrepancies include:

- Proof of payment for audit fees
- Proof of investigative fees
- Missing Attorney signatures
- Missing Guardian signatures
- Missing checks
- Physician’s Report not filed
- Annual Plan not filed
- Disaster Plan not filed
- Proof of bond premium payment
- Certificate of Service
- Proof of Guardianship Education Requirement (Family Guardians)
- Incomplete Accountings (blank pages)
- Proof of reimbursement of Examining Committee fees

F.S. 744.368 defines the responsibilities of the Clerk of the Circuit Court as:

"(1) In addition to the duty to serve as the custodian of the guardianship files, the clerk shall review each initial and annual guardianship report to ensure that it contains information about the ward addressing, as appropriate:
(a) Physical and mental health care;
(b) Personal and social services;
(c) The residential setting;
(d) The application of insurance, private benefits, and government benefits;
(e) The physical and mental health examinations; and
(f) The initial verified inventory or the annual accounting.

(2) The clerk shall, within 30 days after the date of filing of the initial or annual report of the guardian of the person, complete his or her review of the report.

(3) Within 90 days after the filing of the verified inventory and accountings by a guardian of the property, the clerk shall audit the verified inventory and the accountings. The clerk shall advise the court of the results of the audit.

(4) The clerk shall report to the court when a report is not timely filed."

In addition to the Clerk’s stipulated responsibilities, the Clerk has committed to maximizing cost savings while providing excellence in customer service.
Probate Management stated that they prefer to have written documentation of correspondence with Guardians and Attorneys-of-Record. However, phone conversations with Guardians, Attorneys, and Court personnel could be documented in the Case 360 Paperless Software System by the Probate Audit Specialists. In addition, e-mails and faxes serve as valid correspondence and could be easily imaged as additional pages of the Guardianship report.

On June 14, 2010, the Clerk proposed to the Chief Judge that the preparation of Orders to Disapprove (a non-statutory requirement) be discontinued; however, contacting the Guardian and/or Attorney-of-Record for minor audit discrepancies will contribute to cost savings for both the Probate Department and the Court.

We recommended Clerk’s Probate management establish a policy and implement procedures empowering the Guardianship Audit Section staff to resolve minor audit discrepancies with Guardians, Attorneys-of-Record, and Court personnel.

Status:

Implemented. Probate management stated that policies and procedures have been implemented that empowers the Guardianship Audit Section staff to resolve minor audit discrepancies with Guardians, Attorneys-of-Record, and Court personnel.

4. Job Descriptions For Probate Audit Supervisor And Senior Audit Specialist Do Not Require Auditing Experience.

The Clerk’s Probate Guardianship Audit Section does not provide the necessary training, communication, and advanced auditing skills needed by staff to develop as a proficient, experienced auditor.

The Guardianship Audit Section consists of:

- 4 Probate Audit Specialists
- 1 Senior Audit Specialist
- 3 Court Records Specialists
- 1 Probate Audit Supervisor

The Audit Specialists report directly to the Probate Audit Supervisor. The vast majority of audits are performed by the Probate Audit Specialists. These audits are referred to as Level I Audits and are guided by standardized forms known as Audit Checklists.

We reviewed and compared the minimum qualifications and knowledge, skills, and abilities’ sections on the job descriptions for the Probate Audit Specialist, the Senior Audit Specialist, and the Probate Audit Supervisor to determine if the qualifications are sufficient to meet the
minimum background needed to perform Guardianship report and accounting audits. We noted that the knowledge, skills and abilities’ requirements were similar in nature for all positions. However, our comparison indicated that the Probate Audit Specialist job description, an entry-level type auditing position, is the only position that lists the need for governmental auditing experience as part of the position’s requirements.

Supervisor and lead positions should have substantial Guardianship auditing knowledge to assist in training, resolving questionable items, and providing on-going suggestions for improving the overall efficiency and effectiveness of the Guardianship Audit Section.

**Audit is defined by F.S. 744.102(2) Definitions as –**

"Audit means a systematic review of financial and all other documents to ensure compliance with S. 744.368, rules of court, and local procedures using generally accepted accounting principles."

The term “generally accepted accounting principles” (known as GAAP) is used to refer to the standard framework of guidelines for financial accounting used in any given jurisdiction. GAAP includes the standards, conventions, and rules accountants follow in recording and summarizing transactions, and in the preparation of financial statements.

In the Institute of Internal Auditors’ (IIA) publication “The Professional Practices Framework For Internal Auditing” (aka the “Red Book”), a globally accepted definition of internal auditing is stated, as follows:

"Internal Auditing is an independent, objective assurance and consulting activity designed to add value and improve an organization’s operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes."

Government accountants and auditors that work in the public sector maintain and examine the records of government agencies and audit private businesses and individuals whose activities are subject to government regulations or taxation. Accountants employed by Federal, state, and local governments ensure that revenues are received and expenditures are made in accordance with laws and regulations.

Performance of Guardianship audits are a unique type of accounting for which certain skills are necessary to ensure compliance with:

- Probate Laws
- Administrative Orders
- Florida Statutes
The audit of Guardianships also includes an “accounting” function by Probate Audit Specialists to reconcile several different types of “Accountings” submitted by the Guardian and/or Attorney on behalf of the Ward. In addition, an internal audit function is performed by Probate Audit Specialists. Guardianship documents submitted to the Probate Audit Section are reviewed for mismanagement, waste, and/or fraud by Guardians. In addition, the Probate Audit Specialists’ audits, which identify discrepancies, are subject to the Clerk’s Inspector General staff’s audits, which are performed in accordance with the IIA’s *International Standards for the Professional Practice of Internal Auditing* and the AIG’s *Standards for Offices of Inspector General*.

The Institute of Internal Auditors’ publication (aka “Red Book”) defines the Standards for the Professional Practice of Internal Auditing as follows:

> "The Standards consist of Attribute Standards, Performance Standards, and Implementation Standards. The Attribute Standards address the characteristics of organizations and parties performing internal audit activities. The Performance Standards describe the nature of internal audit activities and provide quality criteria against which the performance of these services can be evaluated. While the Attribute and Performance Standards apply to all internal audit services, the Implementation Standards apply to specific types of engagements."

An Internal Auditor from the Clerk’s Inspector General’s office is assigned to the Guardianship Audit Section to perform more complex audits, referred to as Level II and Level III Audits. Level II and Level III Audits were initiated by the Clerk’s Inspector General as a means to protect Wards’ assets through intensified audit efforts.

Clerk’s Inspector General staff surveyed the following counties to gain insight on the organizational structure of other Guardianship audit departments:

- Pasco County
- Hillsborough County
- Broward County
- Orange County

In Orange County, all accounting related functions for guardianship audits are performed by degreed Accountants in the Financial Services Department. The Guardianship Auditors in the Probate Department complete all other functions as outlined in the exhibits below.

The exhibits below summarize the types of audits and activities performed, and compare the job descriptions, education requirements, and the approximate number of guardianship cases for each County surveyed. The number of employees that perform the Guardianship Audits are noted under each job description in parenthesis. County population statistics were included to demonstrate relevance to the number of guardianship cases maintained.
### EXHIBIT 15
SURVEYED COUNTIES
TYPES OF AUDITS PERFORMED

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<th>Pinellas Activity Code</th>
<th>Document Type</th>
<th>Pinellas</th>
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<th>Hillsborough</th>
<th>Orange</th>
<th>Pasco</th>
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(a) On June 14, 2010, the Clerk proposed to the Chief Judge that the non-statutory work processes noted herein be discontinued.

* Performed by the Clerk’s Division of Inspector General
Management may not have determined the knowledge and skills needed to perform the Senior Audit Specialist and Probate Audit Supervisor responsibilities. Without the necessary education and experience, supervisors and/or lead personnel may not have the knowledge, skills, and competence to oversee the important responsibilities of Guardianship auditing.

One of the most important factors in the successful operation of a system of internal controls is personnel. Personnel must be qualified and properly trained for the functions they perform in order for controls to operate in a manner intended. The control environment includes integrity, ethical values, and the competence of an organization’s staff. It is the foundation for all other components of internal control, providing discipline and structure. Since an internal control depends on the participation of all employees, a broad understanding of responsibilities is essential.
We recommended Clerk's Probate management:

A. Update the Probate Audit Supervisor and Senior Audit Specialist job descriptions to include audit experience.

B. Update the Probate Audit Specialist, Senior Audit Specialist, and Supervisor job descriptions to include a college degree as part of the minimum education requirements.

Status:

A. Partially Implemented. Probate Management is in the process of updating the job descriptions for the specified positions.

B. Partially Implemented. Probate Management is in the process of updating the job descriptions for the specified positions.

5. Internal Controls Should Be Enhanced For The Oversight Of Guardianship Audit Processes.

Internal Controls include the following processes:

- Information and Communication - systems or processes that support the identification, capture, and exchange of information in a form and time frame that enable people to carry out their responsibilities.
- Control Activities - the policies and procedures that help ensure management directives are carried out.
- Monitoring - processes used to assess the quality of internal control performance over time.

During our review of the various guardianship audit processes, we noted the following internal control deficiencies:

A. Guardianship Audit Procedures Are Not Current.

The Guardianship Audit Section's Policies & Procedures Manual (Manual) as of July 2010 is not current. The Manual’s title page is dated August 12, 1999, and several updates, revisions, and supplemental information have not been included. The Manual was last updated in September 2008.

Clerk's Probate converted to a paperless system on January 26, 2009. Management stated that it would be beneficial to delay writing the Guardianship Audit Section’s procedures until the Case 360 Paperless Software System’s process changes and updates are finalized. A few procedures dated in March 2009 have been written for Case 360; however, the software
system's paperless procedures do not integrate with the overall Guardianship Audit Section processes.

Both new employees and trained Clerk's Probate audit staff should have access to written policies and procedures. During transition periods, such as software implementation, communication regarding procedures, updates and revisions to the audit process should be documented to provide employees with reliable and consistent information in the interim until a revised Manual is completed. Management should save written documentation where all Clerk's Probate staff may access the information, such as on a shared drive.

Without written procedures, the Guardianship Audit Section's activities may be inconsistent and unauthorized, thereby causing processing errors and negatively affecting productivity. In addition, written procedures provide guidance that is necessary to carry out required activities properly and consistently at an acceptable level of quality. The establishment of current, written procedures provides an opportunity for management to ensure that adequate processes and internal controls have been established.

It is management's responsibility to establish written internal procedures covering key processes. These procedures should be in sufficient detail to provide standard performance criteria and reduce the risk of misunderstanding and/or unauthorized deviations that could cause processing errors. The development of the procedures could prevent the establishment of unnecessary controls or steps that negatively affect productivity. Established procedures also support the cross training and back up for key staff functions.

**B. There Are No Written Procedures For The Probate Audit Supervisor's Review Process Of The Guardianship Document Audit Checklist.**

Written procedures have not been developed for the Probate Audit Supervisor's oversight of completed Guardianship document Audit Checklists prepared by the Clerk's Probate Audit Specialists.

Audit Checklists are prepared by the Guardianship Audit Section's staff to assess the accuracy and completeness of Guardianship Plans, Verified Initial Inventories, and Accountings prepared and submitted by Guardians and/or Attorneys-of-Record on behalf of their Ward. These documents are required to be filed and audited in accordance with Florida Statutes and Probate Laws for all open Guardianship cases. Based on the criteria provided on the Audit Summaries and on a pre-determined basis, the Probate auditors will recommend whether documents should be approved or prepare an Order to Disapprove for the Court (to be replaced with a list of discrepancies).

The Guardianship Audit Section Supervisor stated that spot checks are performed on the Audit Checklists and Orders to Disapprove. Spot checks are performed before or after the Checklists have been forwarded to the Clerk's Inspector General's Internal Auditor and/or the Sixth Judicial Circuit Court General Magistrate for review. However, there is no evidence that the review process is performed and whether discrepancies were noted by the Supervisor.
Standardized procedures dictate which completed Audit Checklists and applicable documents are forwarded to the Clerk's Inspector General's Internal Auditor or directly to the Court's General Magistrate for further review. There are no written procedures that mandate the Probate Audit Supervisor's review of the Audit Checklists prior to the standardized flow of these Checklists and related documents through the Courts.

Although there are procedures that exist prior to the Judge's final approval or disapproval of documents filed, there should be accountability held by Clerk's Probate management and the Probate Audit Supervisor to determine if controls are effective (i.e., compliance with procedures established for preparation of the Audit Checklists). This process could:

- Help identify specific errors
- Determine if additional training is needed
- Provide feedback for employee performance reviews
- Assist in training the Senior Audit Specialist for Supervisor back-up responsibilities

Any problems that may be discovered should result in the analysis of potential causes and identification of any corrective actions to strengthen the control and resolve the problem.

Written procedures provide guidance that is necessary to carry out activities properly and consistently at an acceptable level of quality. The establishment of procedures provides an opportunity for management to ensure that adequate processes and internal controls have been established.

It is management's responsibility to establish written internal procedures covering key processes. The procedures should be in sufficient detail to provide standard performance criteria and reduce the risk of misunderstanding and/or unauthorized deviations that could cause processing errors. The development of the procedures could prevent the establishment of unnecessary controls or steps that negatively affect productivity. The procedures also support the cross training and back up for key staff functions.

Internal controls usually fall into one of these major categories:

- Documentation
- Recording of specific transactions and events
- Authorization
- Separation of duties
- Supervision
- Access to and accountability for resources

Supervisory oversight helps staff do their jobs effectively and ensures proper completion of job duties in compliance with established written policies and procedures. A review process should
be cost-effective, and therefore, management should determine what procedures would best benefit the Department.

Procedures for supervisory oversight of the guardianship audits should be sufficient to detect audit activities that are not in compliance with department procedures or acceptable auditing standards. Although it is Management’s decision to determine an adequate level of audits to review, we suggest 25% of open guardianship cases subject to audit be reviewed on a weekly basis. For example, as stated in the background information, there are 2,281 open guardianship cases. Assuming a 52 week calendar year, this would dictate for approximately 11 cases rounded \((\text{2,281 times 25\% } = 570 \text{ divided by 52 } = 11)\) to be reviewed each week by the Supervisor. The Audit Checklist reviews should be performed for all Probate Specialists; however, based on the employee’s performance level, the percentages could vary.

The Probate Audit Specialists currently document the total number of audits and related activities performed on a daily basis, which supplies the overall monthly totals. Procedures to monitor staff performance should include more specific measures to determine efficiency. The following are examples of some attributes of guardianship cases that should be documented for monitoring efficiency of the audit activities performed by the Probate Audit Specialists:

- The dollar value of inventory assets
- Types of assets
- Disbursements
- Professional Guardians
- Non-professional Guardians
- Types of documents being audited
- Number of “red flags” identified by document audited
- Time devoted to each audit document
- Pending matters for each audit
- Whether there was an order to disapprove prepared, prior audit issues, etc.

These attributes will have an impact on the timeliness of performing audits. Once the attributes are implemented as part of the monitoring process, benchmarks for average time completions can be established based on the complexity of each audit and therefore assist with job performance evaluation.

Probate Management stated that Case 360 does not have the capability of tracking specific information over an extended period of time due to the fact that the data is not stored. It may be beneficial for Probate Management to consider the implementation of a separate database that would track case activities on a continuous basis to produce reliable and efficient statistics in a report format.

Documentation of supervisory oversight can be established by utilizing the Case 360 paperless software. The Supervisor can select various audits to review and comment directly on the Audit Checklist in Case 360. The Supervisor should provide a listing of all audits reviewed to
Probate Management as part of the overall procedures that would be developed. To ensure that supervisory oversight is performed on an ongoing basis, the Probate Assistant Manager and/or Manager can also comment on the reviewed Audit Checklists in Case 360.

Procedures developed should include a resolution plan for results of the review that negatively impact the audit process. A course of action for the results might include additional staff training, adjustments to the Audit Checklists and/or guardianship audit procedures for the Probate Audit Specialists. The course of action taken should also be documented by the Supervisor.

C. There Is No Process For Monitoring Compliance With The Standard Guardianship Audit Procedure Requirements Of Administrative Orders.

Management has not established a basis for monitoring compliance with the Standard Guardianship Audit Procedures. These procedures should conform to the Clerk’s Inspector General’s policies and procedures as these policies and procedures are based on the Court’s Administrative Order No. 2006-079. This Administrative Order was replaced with Administrative Order No. 2009-036 on June 30, 2009. However, the Clerk’s Inspector General’s policies and procedures remain in effect, and accordingly, should be the basis for monitoring compliance and the guide for a consistent approach to Guardianship audits conducted by the Clerk’s Inspector General on behalf of the Court.

A key standard of these procedures is that Guardianship reports will be considered for Level II or Level III audits, as appropriate. Accordingly, the Clerk’s Probate Division staff will provide IAD* staff all:

- Initial, Annual, Interim and Final Accountings with discrepancies and/or financial irregularities, including all proposed Orders To Disapprove.
- Audit worksheets of all Final Accountings with a net value of at least $25,000.00 (with or without discrepancies).
- Audit worksheets of Trust Accountings.

* IAD refers to the Clerk’s Internal Audit Division that was renamed the Division of Inspector General on February 3, 2010.

Discussions with the Clerk’s Division of Inspector General (Clerk’s Inspector General) staff indicate that there were several instances where Audit Checklist forms for Trust Accountings were not forwarded to the Clerk’s Inspector General staff for review as required by the above procedures. The Probate Audit Supervisor stated that there is no process to monitor whether or not the Clerk’s Inspector General is receiving the necessary Guardianship reports, Orders to Disapprove and Audit Checklist forms for Accountings. The assumption by Clerk’s Probate’s Management is that Probate auditors are adhering to the Guardianship Audit Section’s policies and procedures that include the list of forms required to be submitted to the Clerk’s Division of Inspector General.
Oversight of the Guardianship Audit Section’s policies and procedures is management’s responsibility. Management may enhance the importance of the compliance position and improve its function to ensure compliance with Administrative Order 2009-036 by developing a process to monitor the submission of required Guardianship reports and accountings to the Clerk’s Inspector General.

A monitoring process has not been developed by Clerk’s Probate’s Management. Without a proper process to monitor Guardianship audit policies and procedures, there is no assurance that internal controls are effective, efficient and in compliance with Administrative Order No. 2009-036.

Internal controls are essential to ensuring the accomplishment of goals and objectives. An internal control system should be designed to discourage occurrences of errors or irregularities and to identify, within a reasonable time frame, errors, or irregularities that may occur. Internal control systems need to be monitored, a process that assesses the quality of the system’s performance over time. On-going monitoring occurs in the ordinary course of operations, and includes regular management and supervisory activities, and other actions personnel take in performing their duties that assess the quality of internal control system performance.

D. Guardianship Fraud/Red Flags Are Not Established And/Or Documented.

Clerk’s Probate management stated that there is not a listing of Fraud/Red Flags (Red Flags) maintained by the department to identify circumstances that are unusual in nature or vary from the normal activity. Management does not believe it is necessary to compile a list of Red Flags on an on-going basis because the Probate Audit Checklist form contains the common criteria associated with fraud risks. Although the Checklist includes criteria to evaluate the compliance of Guardianship documents with the Florida Statutes, several unusual circumstances could potentially evolve into a common Red Flag situation.

On several occasions, during higher-level reviews of Guardianship reports performed by the Clerk’s Inspector General staff, it was noted that fraud risks were not identified by the Probate Audit Specialists during Level I audits. These fraud risks should be documented in a Red Flag file or list with the Probate Audit Supervisor’s oversight. Some of these instances and other Red Flags for fraud are documented below.

Examples of Red Flags for potential Guardianship fraud include:

- Loans to Guardians, without a Court Order.
- Reverse Mortgages.
- Personal Service Contracts.
- Withdrawals from restricted accounts, without a Court Order.
• Monies disbursed prior to Petitions and Orders filed.
• Disbursements exceeding Court Orders.
• Cash Withdrawals, without an explanation or receipts filed.
• Expenses exceed income.
• No IRS Form 1099 or time sheets for Companion Fees.
• No receipts or explanations submitted for unusual or large transactions.
• Ward paying for 100% of household expenses for additional household members.
• No monthly budget for Ward and all members of the household.
• Significant increase in monthly expenses, without an explanation or Court Order.
• Sale of Real Estate, without a Court Order.
• Guardians filing repeated Petitions for Extensions.
• Multiple sibling Guardianship cases.
• Income not reported (i.e., Annuities, Settlements).
• Guardian has an appraiser value the Ward’s Assets, then hires the same appraiser to sell the same assets.
• Undervalued Inventory.
• Opening or adding names to bank accounts on behalf of Ward, without a Court Order.
• Transferring title or re-encumbering of real property, without a Court Order.
• Sudden, unexplained transfers of assets, particularly real property.
• Refinancing Ward’s property, using equity for cash expenditures.
• Significant increases in credit or debit card activity.

During interviews with the Probate Audit Specialists, it was stated that there are high-profile Guardianship cases that contain higher risk exceptions. These high-profile cases could be included with the Red Flag listing to alert other employees that are not familiar with these types of cases.

The communication link between Probate Audit Specialists, Probate Audit Supervisors, Clerk’s Probate Management, the Clerk’s Inspector General internal auditor, and the General Magistrate should have a process, such as a Red Flag identifier, to inform each other of potential fraud scenarios. It could also provide management with a tool for evaluation of any common risks that should be added to the Audit Checklist form. Lack of communication regarding potential Red Flag situations could inhibit awareness of potential fraud.

Red Flags provide possible warning signs of fraud. A good internal control system detects Guardianship risks, such as noncompliance with Federal and State laws and regulations, and misappropriation of funds. Effective fraud prevention and detection requires an understanding of the elements of fraud and the ability to detect Red Flags that may be indicative of fraud.
We recommended Clerk’s Probate Management:

A. Expedite writing their revised Policies and Procedures Manual.

B. Include forms and instructions used for employee training in the Manual to provide overall guidance.

C. In the interim, all written documentation pertaining to new or revised procedures to the audit process and Case 360 Paperless Software System should be saved in a segregated location (i.e., shared drive) by management for staff to access and reference.

D. Prepare written procedures for the Probate Audit Supervisor’s review of Guardianship Audit Checklists.

E. Develop a monitoring process to ensure that all required Guardianship reports and accountings are submitted to the Clerk’s Inspector General for review in compliance with Administrative Order No. 2009-036.

F. Develop a process to track Red Flag occurrences to provide the Guardianship Audit Section staff with on-going awareness of the potential for Guardianship fraud.

Status:

A. Partially Implemented. Management stated the Probate Department went live with the Odyssey software system on September 3, 2013 and as a result has added new procedures for all staff via the SharePoint site. Management stated that the procedures will be updated on a continuous basis to correlate with the new processes of the Odyssey system.

B. Partially Implemented. Management stated that the procedures for the Case 360 paperless software system are updated as issues related to the go live with the Odyssey software system are resolved.

C. Implemented. Management stated that the Probate procedures are available for all Probate staff on the SharePoint site.

D. Implemented. Management has implemented a schedule and procedure that is followed by the Probate Audit Supervisor for the review of the Guardianship Audit Checklists.

E. Implemented. Management stated that the Audit Supervisor is reviewing the audit logs on a weekly basis and verifies each audit completed by her staff for compliance. Required audits are being referred to the Clerk’s Inspector General Auditor to comply with Administrative Order No 2009-036.
F. Implemented. Management stated that the Probate Audit Section is informing the General Magistrate of Red Flag occurrences on the Audit Review form and solicit revisions to the form.

6. The Probate Guardianship Audit Function Needs To Be Upgraded To Improve Its Effectiveness.

The current organizational structure of the Clerk’s Probate’s Guardianship Audit Section does not provide for the necessary training, including communicating skills and advanced auditing techniques, needed by its staff to develop into proficient, experienced auditors. In addition, when evaluating best practices for Probate auditing, local governmental units should consider the following:

- The effectiveness of its current practices and organizational structure.
- The appropriateness of its Individual workload levels.
- The benefits of alternative organizational structures.

Performance of Guardianship audits is a unique type of accounting for which specialized skills are necessary to ensure compliance with:

- Administrative Orders
- Florida Statutes
- Probate Laws

The audit of Guardianships also includes an “Accounting” function by Probate Audit Specialists to reconcile several different types of “Accountings” submitted by Guardians and/or Attorneys on behalf of Wards. In addition, guardianship documents submitted to the Probate Audit Section are reviewed for mismanagement, waste, errors, omissions, and possible fraud by Guardians.

Supplementing the Probate Auditors’ audits, an internal auditor from the Clerk’s Inspector General’s office is assigned to the Guardianship Audit Section to perform more complex audits, referred to as Level II and Level III Audits. (Level II and Level III Audits are initiated by the Clerk’s Inspector General with the approval and cooperation of the Probate, Guardianship, and Mental Health Division of the Sixth Judicial Circuit Court as a means to protect Wards’ assets from Guardians’ errors and oversights through intensified audit efforts.)

The effectiveness of the Probate function may be improved with better training opportunities, more advancement opportunities, and enhanced communication opportunities for Probate auditors. Further, to carry out this important work, auditors should be supervised by an individual with the knowledge, skills, and professional competence required to detect and prevent mismanagement, waste, errors, omissions, and fraud by Guardians.
If the Guardianship Audit function is reorganized to conform to the preceding best practices, there is the potential to decrease the exposure of Wards’ assets to loss and theft, and increase the likelihood that mismanagement, waste, errors, omissions, and fraud will be detected. Further advantages are:

- Professional training opportunities enhancing the Probate Auditor’s knowledge with respect to fraud awareness, accounting issues, Guardian concerns and issues, and exposure to auditing standards.

- Court communication improvements resulting from the personal interactions by Probate auditors with General Magistrates/Judges with questions/concerns of audit findings.

- Improvements in relations with Guardians and Attorneys-of-Record resulting from the personal interactions of Probate auditors with Guardians/Attorneys by phone, e-mail and/or fax.

- Professional audit supervision controlling and monitoring Probate auditors work, thereby ensuring an effective review of the auditor’s performance.

- Audit process-streamlining opportunities through the development of up-to-date “Audit Checklists” and other standardized procedures.

Five Florida counties’ Probate operations were surveyed during this audit and compared to the Pinellas County’s Probate operations. As the following exhibits show, Pinellas compares favorably with these other counties.

<table>
<thead>
<tr>
<th>Pinellas Activity Code</th>
<th>Document Type</th>
<th>County</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Pinellas</td>
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<tr>
<td>Follow-Up</td>
<td>Amended Accounting</td>
<td>x</td>
</tr>
<tr>
<td>AACT</td>
<td>Annual Accounting</td>
<td>x</td>
</tr>
<tr>
<td>PDIS</td>
<td>Discharge</td>
<td>x</td>
</tr>
<tr>
<td>FACT</td>
<td>Final Accounting</td>
<td>x</td>
</tr>
<tr>
<td>IVIG</td>
<td>Initial Inventory</td>
<td>x</td>
</tr>
<tr>
<td>IACT</td>
<td>Interim Accounting</td>
<td>x</td>
</tr>
<tr>
<td>OFRD</td>
<td>Order to File Required Documents (a)</td>
<td></td>
</tr>
<tr>
<td>ODGR</td>
<td>Order to Disapprove Guardianship Report (a)</td>
<td>x</td>
</tr>
<tr>
<td>OTSC</td>
<td>Order to Show Cause (a)</td>
<td>x</td>
</tr>
<tr>
<td>CLRC</td>
<td>Plan (Initial/Annual)</td>
<td>x</td>
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### EXHIBIT 15
SURVEYED COUNTIES
TYPES OF AUDITS PERFORMED

<table>
<thead>
<tr>
<th>Pinellas Activity Code</th>
<th>Document Type</th>
<th>County</th>
<th>Pinellas</th>
<th>Broward</th>
<th>Hillsborough</th>
<th>Orange</th>
<th>Pasco</th>
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<tbody>
<tr>
<td>SIMP</td>
<td>Simplified Accounting (a)</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
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<tr>
<td>ATAC</td>
<td>Trust Accounting</td>
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<td>Audit &quot;Level III&quot;</td>
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<td></td>
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</tbody>
</table>

(a) On June 14, 2010, the Clerk proposed to the Chief Judge that the non-statutory work processes noted herein be discontinued.

* Performed by the Clerk’s Division of Inspector General

As noted above, in Orange County, all accounting related functions for guardianship audits are performed by degreed Accountants in the Financial Services Department.

### EXHIBIT 16
SURVEYED COUNTIES
JOB DESCRIPTIONS AND EDUCATIONAL REQUIREMENTS

<table>
<thead>
<tr>
<th>County</th>
<th>Job Description</th>
<th>Number</th>
<th>Education &amp; Certification Requirements</th>
<th>Annual Salary Ranges</th>
<th>Number of Guardianship Cases</th>
<th>County Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pinellas</td>
<td>Probate Audit Specialists</td>
<td>Four</td>
<td>College Degree not required</td>
<td>$31,138 - $47,778</td>
<td>2,300</td>
<td>929,855</td>
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<tr>
<td></td>
<td>Audit Specialists II</td>
<td>Two</td>
<td>Associate Degree</td>
<td>$27,019 - $43,222</td>
<td>5,000</td>
<td>1,742,915</td>
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<td></td>
<td>Senior Audit Specialists</td>
<td>Two</td>
<td>Bachelor Degree</td>
<td>$43,514 - $69,618</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hillsborough</td>
<td>Accountant III</td>
<td>One</td>
<td>Associate, Bachelor, or Masters Degree (DOE)*</td>
<td>$53,435 - $84,822</td>
<td>3,000</td>
<td>1,195,619</td>
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<td>Orange</td>
<td>Guardianship Auditors II</td>
<td>Two</td>
<td>College Degree not required</td>
<td>$32,094 - $51,293</td>
<td>1,700</td>
<td>1,105,931</td>
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<tr>
<td></td>
<td>Temporary</td>
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<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pasco</td>
<td>Probate Guardianship Examiners</td>
<td>Two</td>
<td>Bachelor Degree</td>
<td>$32,419 - $54,600</td>
<td>700</td>
<td>438,951</td>
</tr>
</tbody>
</table>

* Depending On Experience
We recommended Probate Guardianship Audit Section management develop and implement policies and procedures for its Probate audit function that will improve the auditors' professionalism, establish auditing standards, and streamline audit procedures.

Status:

Not Implemented. Probate Management stated they will not take any action regarding the recommendation.
DIVISION OF INSPECTOR GENERAL
KEN BURKE, CPA
CLERK OF THE CIRCUIT COURT & COMPTROLLER
PINELLAS COUNTY, FLORIDA

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Public Integrity Unit
Division of Inspector General
510 Bay Avenue
Clearwater, FL 33756