

# Supreme Court of Kentucky

2024-35

## ORDER

**IN RE: Amendments to the Rules of Administrative Procedure AP Part XIX, Internal and External Audits of the Administrative Office of the Courts**

Pursuant to Sections 110(5)(b) and 116 of the Constitution of Kentucky, SCR 1.010, and KRS 27A.010, the Rules of Administrative Procedure (AP), Part XIX, Internal and External Audits of the Administrative Office of the Courts are hereby amended as follows:

### **PART XIX. INTERNAL AND EXTERNAL AUDITS OF THE ADMINISTRATIVE OFFICE OF THE COURTS.**

#### **SECTION 1 – Definitions**

As used throughout AP Part XIX, the following definitions apply:

1. “AOC” means the Administrative Office of the Courts.
2. “Advisory services” means a type of internal audit in which internal auditors provide advice to AOC stakeholders without providing assurance services or assuming management responsibilities. The scope of advisory services and activities to be performed are subject to agreement by the relevant AOC stakeholders.
3. “Assurance services” means a type of internal audit in which internal auditors perform objective assessments to increase confidence in the AOC’s governance, risk management, and control processes over an issue, condition, subject matter, or activity under review when compared to established criteria.
4. “Audit plan” means the document developed by the AOC Director of Audits that identifies all Division of Internal Audit engagements and Division of Audit Services audits to be provided during the year.

5. “Division of Audit Services” means the Division within the Office of Audits responsible for audits of Circuit Court Clerks, Master Commissioners, Domestic Relations Commissioners, and operating costs for Court Facilities.
6. “Division of Internal Audit” means the Division within the Office of Audits responsible for evaluating the AOC’s internal controls, including its governance, operations, information technology security, and accounting processes.
7. “Engagement” means an internal audit assignment or project to provide either assurance or advisory services that includes a defined scope and set of activities designed to accomplish a specific set of related objectives.
8. “External audit” means an audit of the AOC’s financial information performed by an independent auditor or auditing firm under contract with the AOC.
9. “External auditor” means an auditor or auditing firm under contract with the AOC to audit the AOC’s financial information.
10. “Internal audit” means independent, risk-based, and objective assurance and advisory services designed to add value and improve the AOC’s operations.
11. “Internal audit strategy” means a plan of action designed to achieve a long-term or overall objective.
12. “Office of Audits” means the AOC Office of Audits, comprised of the Division of Audit Services and the Division of Internal Audit, and directed by the AOC Director of Audits.
13. “Performance objectives” means specific measurable goals used to evaluate the performance of the AOC’s internal audit function relevant to the AOC’s business goals.
14. “Special investigation” means any matter that the Division of Internal Audit reviews that is not included in the audit plan, including matters brought to the attention of the Office of Audits through the fraud, waste, and abuse tip line.

## **SECTION 2 – Audit Oversight Committee**

### **(A) Purpose/Mission**

- (1) The Audit Oversight Committee (Committee) will assist the Chief Justice of the Commonwealth in fulfilling his or her oversight responsibility as executive head of the Kentucky Court of Justice (KCOJ).
- (2) The Committee must advise the Chief Justice on:
  - (a) The integrity and presentation of the financial and operational reporting process of the AOC;
  - (b) The qualifications, independence, and performance of independent external auditors, the audit services provided by the Division of Audit Services, and the internal audit function of the AOC;
  - (c) The system of internal controls within the AOC, including information technology security and controls, and including procedures for detecting fraud, waste, and abuse;
  - (d) The adequacy of the AOC’s strategic and operational risk management processes;
  - (e) The AOC’s compliance with applicable laws, Administrative Procedures of the KCOJ, and Rules of Court, and with all AOC policies and procedures;
  - (f) The adequacy of the AOC’s investigation processes;
  - (g) The AOC’s ethics, values, and culture; and
  - (h) Other matters as directed by the Chief Justice.

### **(B) Membership**

- (1) The Chief Justice is the Chair of the Audit Oversight Committee.
- (2) The Committee is comprised of the following additional members:
  - (a) A justice of the Kentucky Supreme Court, appointed by the Chief Justice;
  - (b) The AOC Director;

- (c) The Secretary of the Finance and Administration Cabinet or designee;
  - (d) The AOC Deputy Director;
  - (e) The AOC Chief Information Officer; and
  - (f) The AOC Director of Finance and Administration.
- (3) The AOC General Counsel or designee is an advisory member.

**(C) Responsibilities**

- (1) Key responsibilities of the Committee include but are not limited to:
- (a) Approving decisions regarding the appointment and removal of the AOC Director of Audits.
  - (b) Overseeing the audit function of the AOC, reviewing and approving its budget, resource plan, activities, and organizational structure with the AOC Director of Audits.
  - (c) Reviewing and approving the internal audit charter which is included within AP Part XIX.
  - (d) Assessing the independence of the internal audit function of the AOC.
  - (e) Reviewing and approving the internal audit strategy developed by the AOC Director of Audits.
  - (f) Reviewing and approving the audit plan established by the Office of Audits, including internal audits of the AOC as well as audits of Circuit Court Clerks, Master Commissioners, Domestic Relations Commissioners, and operating costs for Court Facilities. In connection with this review, the Committee is authorized to offer recommendations regarding programs or activities to be audited.
  - (g) Reviewing the results of audits performed by the Office of Audits.
  - (h) Assessing the adequacy of corrective action plans in response to audit findings and recommendations and recommending actions as necessary to address unresolved audit findings and recommendations.

- (i) Reaching a consensus regarding recommendations in final audit reports.
- (j) Reviewing quality assurance assessments of the Division of Internal Audit annually and quality assessment reviews in accordance with the Institute of Internal Auditors' (IIA's) *Global Internal Audit Standards* every five years.
- (k) Discussing any scope or resource limitations with the AOC Director of Audits and AOC senior management.
- (l) Reviewing and approving the proposed audit scope of any external auditors, including coordination of audit effort with the internal audit function.
- (m) Reviewing the performance of any external auditors and exercising final approval on the appointment or discharge of external auditors.
- (n) Reviewing and overseeing special investigations as needed.

**(D) Meetings**

- (1) The Committee must meet at least quarterly, or more frequently as circumstances may dictate, with the AOC Director of Audits. External auditors with pending business may meet with the Committee at those quarterly meetings as needed. Meetings may be called by the Chief Justice, the AOC Director, or the AOC Director of Audits. A majority of Committee members will constitute a quorum for any meeting.
- (2) All recommendations from the Committee must be reached by consensus of those members present at the meeting. If consensus cannot be reached, then any recommendations must be reached by a vote of a simple majority of the Committee members present and the various perspectives of the members noted in the minutes.
- (3) The AOC Director of Audits will prepare an agenda in advance of each meeting. Minutes must be prepared and maintained for each Committee meeting.
- (4) The AOC Director of Audits will staff and attend Committee meetings.
- (5) During the quarterly meetings, the AOC Director of Audits will present the audit plan and any adjustments thereto to the Committee and will deliver results of any audits, engagements, or special investigations to the Committee.

(6) Records

- (a) Pursuant to KRS 26A.200, all records received, generated, kept, or maintained by or on behalf of the Committee shall be the property of the KCOJ and are subject to the control of the Supreme Court of Kentucky.
- (b) All records created for or generated by the Committee shall not be considered Administrative Records of the AOC as defined by AP Part XVII.
- (c) Use of a report issued by the Office of Audits shall be restricted as described therein.

**SECTION 3 – Office of Audits**

**(A) Director of Audits**

- (1) The AOC Director of Audits will report functionally to the Chief Justice and administratively for day-to-day operations to the AOC Director's Office.
- (2) The AOC Director of Audits will have unrestricted access to and may communicate and interact directly with the AOC Director's Office, the Committee, and when necessary, the Chief Justice.
- (3) The AOC Director of Audits will have unrestricted access to and may communicate and interact directly with all AOC employees. This ability to communicate includes the ability to speak in private meetings without management present.
- (4) The AOC Director of Audits has the responsibility to:
  - (a) Oversee and supervise the Office of Audits, including the Division of Audit Services and the Division of Internal Audit.
  - (b) Establish and ensure adherence to policies and procedures designed to guide the Division of Audit Services and the Division of Internal Audit.

- (c) Submit an Office of Audits budget to the Committee for review and approval.
- (d) Submit to the Committee for review and approval, at least annually, an audit plan for the Office of Audits, containing the proposed Division of Internal Audit engagements and Division of Audit Services audits to be performed in the coming year.
- (e) Communicate to the Committee the impact of resource limitations on the audit plan.
- (f) Review and adjust the audit plan, as necessary, in response to changes in the AOC's business, risks, operations, programs, systems, and controls.
- (g) Communicate to the Committee any significant interim changes to the audit plan.
- (h) Ensure each engagement and audit identified in the audit plan is executed, including the establishment of objectives, scope, and activities, the assignment of appropriate and adequately supervised resources, the documentation of work programs and testing results, and the communication of engagement or audit results with applicable conclusions, findings, and recommendations to appropriate parties when applicable.
- (i) Follow up on any engagement or audit findings to confirm implementation of recommendations or adherence to corrective action plans when applicable.
- (j) Communicate the results of all engagements and audits to the Committee and AOC senior management periodically and for each engagement or audit as appropriate.
- (k) Confirm the principles of integrity, objectivity, confidentiality, and competency are applied and upheld.
- (l) Certify the Office of Audits collectively possesses or obtains the knowledge, skills, and other competencies needed to meet the requirements of these rules.

- (m) Validate trends and emerging issues that could impact the AOC and communicate to the Committee as appropriate.
- (n) Ensure adherence to the AOC's relevant policies and procedures, unless such policies and procedures conflict with these rules. Any such conflicts will be resolved by or otherwise communicated to the Committee.
- (o) Document conformance of the Office of Audits with the standards set forth in these rules.
- (p) Develop, implement, and maintain a quality assurance and improvement program that covers all aspects of the AOC's internal audit function.
- (q) Coordinate and assist in external audits as required by Section 4 of these Rules.
- (r) Receive and respond to all claims of fraud, waste, and abuse made to the KCOJ Courts Tipline and investigate or refer as appropriate.
- (s) Develop and implement an internal audit strategy that supports the KCOJ's strategic objectives.
- (t) Establish internal audit performance objectives and a measurement approach, with input from the Committee.
- (u) Track and report progress with performance objectives.
- (v) Ensure that internal auditors conform with the IIA's *Global Internal Audit Standards*, including the principles of Ethics and Professionalism: integrity, objectivity, competency, due professional care, and confidentiality.
- (w) Understand and contribute to the AOC's expectations for the proper use of public resources, property, funds, and work time, recognize behaviors that are contrary to those expectations, and report to the Committee when those behaviors may represent an agency-wide concern. When those behaviors are observed as it



relates to a specific person(s), the report should be made to the appropriate investigatory body.

**(B) Independence and Objectivity of the Office of Audits**

- (1) The AOC Director of Audits will ensure that the Office of Audits remains free from all conditions that threaten the ability of the Office to carry out its responsibilities in an unbiased manner, including matters of audit selection, scope, procedures, frequency, timing, and report content.
- (2) If the AOC Director of Audits determines that independence or objectivity may be impaired in fact or appearance, the details of impairment will be disclosed to the Committee.
- (3) Office of Audits employees will maintain an unbiased mental attitude that allows them to perform audits and engagements objectively.
- (4) The Office of Audits will have no direct operational responsibility or authority over any of the activities audited. Accordingly, Office of Audits employees will not implement internal controls, develop procedures, install systems, prepare records, or engage in any other activity that may impair their judgment, including:
  - (a) Assessing specific operations for which they had responsibility within the previous year.
  - (b) Performing any operational duties for the AOC or other judicial branch offices.
  - (c) Initiating or approving transactions external to the Office of Audits.
  - (d) Directing the activities of any AOC employee not employed by the Office of Audits, except to the extent that such employees have been appropriately assigned to auditing teams or to otherwise assist the Office of Audits.
- (5) Where the AOC Director of Audits has or is expected to have roles and/or responsibilities that fall outside of the Office of Audits, safeguards will be established to limit impairments to independence or objectivity.

(6) Office of Audits employees will:

- (a) Disclose any impairment of independence or objectivity, in fact or appearance, to the AOC Director of Audits.
- (b) Exhibit professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined.
- (c) Make balanced assessments of all available and relevant facts and circumstances.
- (d) Take necessary precautions to avoid conflicts of interest, bias, and undue influence.

(7) The AOC Director of Audits will disclose to the Committee any interference and related implications in determining the scope of internal audit, performing work, and/or communicating results.

### **(C) Division of Internal Audit**

(1) There is established a Division of Internal Audit within the Office of Audits.

(2) Purpose and Mission

- (a) The purpose of the Division of Internal Audit is to provide the Committee and AOC management with independent, risk-based, and objective assurance and advisory services as to the AOC's risk management, governance, and internal control processes.
- (b) The mission of the Division of Internal Audit is to maintain the public trust and confidence in the AOC through the provision of independent, risk-based, and objective assurance and advisory services.
- (c) The Division of Internal Audit will bring a systematic, disciplined approach to evaluate and improve the effectiveness of governance, risk management, and control processes.

(3) The Division of Internal Audit will evaluate the AOC's internal controls, including its governance, operations, information technology security, and accounting processes. It will:

- (a) Ensure compliance with applicable laws, Administrative Procedures of the KCOJ, and Rules of Court, and with all AOC policies and procedures;
  - (b) Provide support in accurate and timely financial reporting and data collection; and
  - (c) Help maintain operational efficiency by identifying problems and correcting lapses before they are discovered in an external audit.
- (4) The AOC Director of Audits and employees of the Division of Internal Audit must be unbiased and objective in the performance of their job duties and must be independent from the operations they evaluate.
- (5) Professional Standards
- (a) The AOC Director of Audits must comply and govern itself with the IIA's *Global Internal Audit Standards*.
  - (b) The Division of Internal Audit must be staffed with qualified, skilled, and experienced people who work in accordance with the IIA's *Global Internal Audit Standards*.
- (6) Authority of the Division of Internal Audit
- (a) The Division of Internal Audit must have full, free, and unrestricted access to all functions, records, property, and personnel pertinent to carrying out any audit, subject to accountability for confidentiality and safeguarding of records and information.
  - (b) The Division of Internal Audit must allocate resources, set frequencies, select subjects, determine scopes of work, apply techniques required to accomplish audit objectives, and issue reports.
  - (c) The Division of Internal Audit must obtain assistance from any AOC personnel, as necessary or appropriate, as well as other specialized services from within or outside the AOC, in order to complete an engagement.

(7) Scope of the Division of Internal Audit

- (a) The scope of assurance and advisory services provided by the Division of Internal Audit covers the entire breadth of the AOC, including all the AOC's activities, assets, and personnel.
- (b) The scope of activities to be performed as part of any engagement may encompass, but is not limited to, objective examinations of evidence to provide independent assurance and advisory services to the Committee and AOC management on the adequacy and effectiveness of governance, risk management, and control processes for the AOC.
- (c) The audit plan may include engagements that evaluate whether:
  - (i) Risks relating to the achievement of the AOC's strategic objectives are appropriately identified and managed.
  - (ii) The actions of the AOC's officers, directors, management, employees, and contractors are in compliance with applicable laws, Administrative Procedures of the KCOJ, and Rules of Court, and with all AOC policies and procedures.
  - (iii) The results of operations or programs are consistent with established goals and objectives.
  - (iv) Operations or programs are being carried out effectively and efficiently.
  - (v) Established processes and systems enable compliance with applicable laws, Administrative Procedures of the KCOJ, and Rules of Court, and with all AOC policies and procedures.
  - (vi) Information and the methods used to identify, measure, analyze, classify, and report such information are reliable and have integrity.
  - (vii) Resources and assets are acquired economically, used efficiently, and protected adequately.

- (d) The Division of Internal Audit may perform advisory services consistent with this subsection as may be agreed to with the applicable AOC stakeholders, provided the Division of Internal Audit employees do not assume any management responsibility. Any opportunities for improving the efficiency of governance, risk management, and control processes identified during the advisory services engagement will be communicated to the applicable AOC stakeholders and appropriate level of AOC management.
- (8) The AOC Director of Audits will meet quarterly with the Committee and report periodically as needed regarding:
- (a) The Division of Internal Audit's performance relative to the audit plan.
  - (b) The Division of Internal Audit's conformance with the IIA's *Global Internal Audit Standards*, and corrective action plans to address any significant conformance issues.
  - (c) Any significant risk exposures and control issues identified, including fraud risks, governance issues, and other matters requiring the attention of, or requested by, the Committee.
  - (d) The results of the Division of Internal Audit's engagements.
  - (e) The resource requirements related to the Division of Internal Audit's engagements.
  - (f) Any response to reported or known risks by AOC management that may be unacceptable to the AOC or the Supreme Court.
- (9) The AOC Director of Audits may rely upon the work of other internal and external service providers as needed.
- (10) Quality Assurance and Improvement Program
- (a) The Quality Assurance and Improvement Program will include two types of assessments:

- i. External assessments must be performed once every five years in accordance with the IIA's *Global Internal Audit Standards*.
  - ii. Internal self-assessments must be performed annually and include ongoing monitoring of the AOC's internal audit function for conformance with the IIA's *Global Internal Audit Standards* and progress toward performance objectives.
- (b) The results of all assessments must be communicated to the Committee.
- (c) The Quality Assurance and Improvement Program will assess, if applicable, compliance with laws and/or regulations relevant to internal auditing. The assessment will also include plans to address the AOC's internal audit function deficiencies and opportunities for improvement, if applicable.

**(D) Division of Audit Services**

- (1) There is established a Division of Audit Services within the Office of Audits.
- (2) Purpose and Mission
- (a) The purpose of the Division of Audit Services is to provide independent and objective audits relating to the financial activities of elected and appointed officials and the operating costs for court facilities and to facilitate the resolution of financial accounts when an elected or appointed official takes office.
  - (b) The mission of the Division of Audit Services is to maintain the public trust and confidence in the judicial branch by performing required annual audits and other investigations as warranted.
- (3) The AOC Director of Audits and employees of Audit Services must be unbiased and objective in the performance of their job duties and must be independent from the operations they evaluate.
- (4) Audit Services must be staffed with qualified, skilled, and experienced people.

(5) Authority of the Division of Audit Services

- (a) The Division of Audit Services must have full, free, and unrestricted access to all functions, records, property, and personnel pertinent to carrying out any circuit court clerk, master commissioner, domestic relations commissioner, or court facility operating costs audit, subject to accountability for confidentiality and safeguarding of records and information.
- (b) The Division of Audit Services must allocate resources, set frequencies, select subjects, determine scopes of work, apply techniques required to accomplish audit objectives, and issue reports.

(6) Scope of the Division of Audit Services

- (a) The Division of Audit Services will perform a financial and compliance audit of at least 40 Circuit Court Clerk's offices per year.
  - (i) The Division of Audit Services should conduct an audit in each Circuit Court Clerk's office at least once every three years.
  - (ii) The Division of Audit Services will issue the audit report to each Circuit Court Clerk audited. Copies of audits containing critical findings will be sent to the AOC Director.
  - (iii) Pursuant to KRS 431.531(4), the AOC Office of Communications must publish an annual report on the KCOJ website no later than December 1 each year listing the amount of funds collected by each Circuit Court Clerk pursuant to KRS 30A.120 for the preceding fiscal year.
- (b) The Division of Audit Services will complete annual audits of Master Commissioners in accordance with AP Part, Part IV.
- (c) The Division of Audit Services will complete annual audits of Domestic Relations Commissioners in accordance with the Family

Court Rules of Procedure and Practice (FCRPP) 4 and the Domestic Relations Accounting Procedures Manual Section 100.1.

- (d) The Division of Audit Services will perform annual operating costs audits for court facilities in accordance with KRS Chapter 26A and the AOC Policies for the Operation and Maintenance of Court Facilities.
- (7) The AOC Director of Audits will meet quarterly with the Committee and report periodically as needed regarding:
- (a) The Division of Audit Services' performance relative to the audit plan.
  - (b) Any significant risk exposures and control issues identified, including fraud risks and other matters requiring the attention of, or requested by, the Committee.
  - (c) The results of the audits.
  - (d) Any resource requirements related to performing the audits.
  - (e) Any response to risk by an appointed or elected official that may be unacceptable to the Supreme Court.

#### **SECTION 4 – External Audits**

The AOC shall:

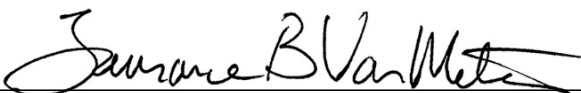
- (1) Issue requests for proposals to conduct an annual external audit of its financial information, beginning with Fiscal Year 2021; and
- (2) Make public any report resulting from an external audit.



This Order shall be effective upon entry and until further Order.

Entered this 7th day of November 2024.

All sitting; all concur.

  
CHIEF JUSTICE