



OFFICE OF THE EXECUTIVE SECRETARY  
OF THE  
SUPREME COURT OF VIRGINIA

REPORT ON AUDIT  
FOR THE YEAR ENDED  
JUNE 30, 2021

Auditor of Public Accounts  
Staci A. Henshaw, CPA

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## AUDIT SUMMARY

We audited select internal controls over fiscal, administrative and information technology processes for the Judicial Branch, which are the responsibility of the Office of the Executive Secretary (Executive Secretary) of the Supreme Court of Virginia, for the fiscal year ended June 30, 2021. Our primary focus with regard to these processes was to review corrective actions taken by the Executive Secretary to address findings included in prior reports as reflected in the Audit Scope Overview and [Findings Summary](#) sections of this report. Our audit found:

- proper recording and reporting of all transactions, in all material respects, in the retirement benefits system;
- matters involving internal control and its operation necessary to bring to management's attention;
- instances of noncompliance with applicable laws and regulations or other matters that are required to be reported;
- adequate corrective action with respect to a prior audit finding identified as resolved in the Findings Summary; and
- inadequate corrective action with respect to prior audit findings identified as repeat in the Findings Summary.

We did not review management's corrective action on prior year findings identified as deferred in the Findings Summary. We will follow up on these findings in a future audit.

The following entities of the Judicial Branch receive human resource and information technology services from the Executive Secretary, particularly from the department of Fiscal Services (Fiscal) and the department of Judicial Information Technology (Judicial Technology), and as a result, they should consider the results of this audit:

- Circuit Courts
- Combined District Courts
- Court of Appeals of Virginia
- General District Courts
- Judicial Inquiry and Review Commission
- Juvenile and Domestic Relations District Courts
- Magistrate System
- Supreme Court of Virginia
- Virginia Criminal Sentencing Commission

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## AUDIT FINDINGS AND RECOMMENDATIONS

### **Obtain and Retain an Information Security Officer**

**Type:** Internal Control and Compliance

**Repeat:** Yes (first issued in fiscal year 2016)

The Office of the Executive Secretary (Executive Secretary) of the Supreme Court of Virginia has not filled the classified full-time position of Information Security Officer (ISO). The Commonwealth's Information Security Standard, SEC 501 (Security Standard), Section 2.4, requires the agency head to designate an ISO that is responsible for developing and managing the information security program.

Without a classified full-time ISO, the Executive Secretary cannot effectively improve its planning and management of information security, which increases the risk of not protecting the confidentiality, integrity, and availability of sensitive Commonwealth information. The classified full-time ISO position has continued to be vacant since our prior audit performed for fiscal year 2019. While the Executive Secretary has advertised to fill the ISO position, the Executive Secretary has not found a qualified candidate.

The Executive Secretary should obtain and retain a qualified, classified full-time ISO to improve and maintain the information security program. Filling this position will strengthen the state and preparedness of Executive Secretary's information security program and reduce the risk of possible compromise of mission-critical or confidential data.

### **Maintain Oversight of Third-Party Service Providers**

**Type:** Internal Control and Compliance

**Repeat:** Yes (first issued in fiscal year 2016)

The Executive Secretary continues to not have an established process to maintain oversight over third-party service providers (providers). Providers are entities that perform outsourced tasks or functions on behalf of the Commonwealth.

The Security Standard, Section 1.1, states that management remains accountable for maintaining compliance with the Security Standard through documented agreements with providers and oversight of services provided. Additionally, the Commonwealth's Hosted Environment Information Security Standard, SEC 525 (Hosted Environment Security Standard), Section SA-1, requires the Executive Secretary to develop, document, and implement appropriate system and services acquisition policies and procedures. Also, SA-9-COV-3 requires the Executive Secretary to perform an annual security audit or review the annual audit report of a provider's environment conducted by an independent audit firm.

Without a documented and established process to identify providers and gain assurance over providers' internal controls, the Executive Secretary cannot consistently validate that those providers have effective security controls to protect the Executive Secretary's mission critical and confidential data. The ISO is responsible for developing and managing the Executive Secretary's information security program to meet or exceed Commonwealth's information technology (IT) security policies and

procedures, including the development of a formal framework to maintain oversight of providers. While the Executive Secretary has hired an external firm to fill the ISO duties temporarily, the vacancy of a long-term and effective ISO has resulted in the Executive Secretary not implementing certain security measures.

The Executive Secretary should develop and implement a formal framework for identifying providers and gaining appropriate assurance over outsourced operations that affect its IT environment, sensitive data, or mission-critical processes. This process should include developing formal policies and procedures to maintain a list of all providers and obtaining independent audit assurance for the Executive Secretary's evaluation. The evaluation will allow the Executive Secretary to determine whether providers' security controls comply with the requirements described in the Security Standard, Hosted Environment Security Standard, and documented contract with the provider. To maintain consistency and continuity, the Executive Secretary should also develop and implement procedures for documenting final decisions and action items that result from its evaluation process.

#### **Properly Complete and Retain Employment Eligibility Forms**

**Type:** Internal Control and Compliance

**Repeat:** No

The Executive Secretary did not complete Employment Eligibility Verification (I-9) forms in accordance with guidance issued by the U.S. Citizenship and Immigration Services of the U.S. Department of Homeland Security. There were five instances where supporting documentation to verify employment eligibility was missing, two instances where the Executive Secretary did not complete the Preparer and/or Translator Certification box, and one instance where Section 1 did not match Section 2 of the I-9 form. Additionally, there was one instance where we could not determine that the employee signed Section 1 by the first date of employment.

The Immigration Reform and Control Act of 1986 requires that employers complete the I-9 form to verify both identity and employment eligibility for all employees. The U.S. Citizenship and Immigration Services sets forth federal requirements for completing the I-9 form in the Handbook for Employers M-274 (Handbook). Chapter 9 of the Handbook requires employers to retain a completed I-9 form on file for each employee. The employer must retain the completed I-9 form as long as the employee works for the agency and for a certain amount of time after employment ends. Chapter 3 of the Handbook requires employers to ensure employees properly complete all parts of Section 1 by the employee's first day of employment. Chapter 4 requires the employer to complete Section 2 and ensure that it matches the employee information in Section 1 of the I-9 form. Noncompliance with federal regulations related to employment verification could result in civil and/or criminal penalties and debarment from government contracts.

These instances resulted from a lack of oversight from management. The Executive Secretary should properly train hiring managers and those tasked with reviewing the I-9 forms in the processes for on-boarding employees and of all requirements to complete I-9 forms accurately. The Executive Secretary should retain all necessary documentation, ensure employees are aware of retention policies, and update the policies and procedures to communicate the I-9 form requirements to hiring managers.

### **Improve Retirement Benefits System Reconciliation Documentation and Procedures**

**Type:** Internal Control and Compliance

**Repeat:** Yes (first issued in fiscal year 2018)

**Prior Title:** Improve Documentation and Review of Retirement Benefits System Reconciliations

The Executive Secretary does not document its monthly reconciliations between the agency's human resources (HR) system and the Commonwealth's retirement benefits system. Without the proper documentation, the auditor was unable to verify that the Executive Secretary completed the reconciliations properly.

Per the Commonwealth Accounting Policies and Procedures (CAPP) Manual Topic 50410, an agency should perform a monthly reconciliation of its HR system to the Commonwealth's retirement benefits system to ensure that creditable compensation for the current month in the Commonwealth's retirement benefits system is accurate and that the agency assigned proper retirement plan codes for each employee. This process identifies and corrects errors prior to certifying the monthly contribution snapshot. Further, the agency should maintain employee enrollment information and any supporting documentation for audit purposes. The Executive Secretary has created reconciliation policies and procedures to document the tasks required to perform reconciliations; however, these policies and procedures do not outline what level of standard documentation staff should retain.

Without sufficient reconciliation documentation, there is no evidence that the agency performed the monthly reconciliation to ensure the accuracy of the Commonwealth's retirement benefits system's contribution snapshot. Inadequate reconciliations can lead to improper confirmation of retirement contributions, which affects financial reporting and the sustainability of the retirement system.

The Executive Secretary should update its policies and procedures to ensure staff maintain the appropriate documentation related to monthly reconciliations of the agency's HR system to the Commonwealth's retirement benefits system as required by the CAPP Manual. Additionally, the Executive Secretary should properly train employees completing the reconciliations and communicate the policies and procedures surrounding the documentation requirements.

### **Continue Improving Intangible Capital Assets Expense Tracking and Reporting**

**Type:** Internal Control and Compliance

**Repeat:** Partial (first issued in fiscal year 2007, with limited progress in this area)

**Prior Title:** Correctly Document, Track, and Report Information Technology Project Costs

The Executive Secretary's Department of Judicial Information Technology (Judicial Technology) and Department of Fiscal Services (Fiscal) are not properly tracking and reporting expenses related to internal software development projects on the Construction in Progress (CIP) Schedule throughout the year. Judicial Technology records an estimated hourly rate as opposed to the actual hourly rate paid when reporting CIP expenses. In addition, Judicial Technology's timesheet approval and reconciliation process does not ensure proper reporting between the invoiced hours paid and the actual hours logged within the Project Management Office (PMO) system. The lack of effective controls resulted in at least 768.5 hours of unreported labor hours, or \$62,767 in unreported labor expenses, within the PMO system

during the one month reviewed in the current fiscal year. Fiscal is not properly reviewing the CIP Schedule to ensure the amounts Judicial Technology reports are accurate and reasonable based on actual expense supporting documentation. Additionally, Fiscal does not code expenses by project in the Commonwealth's capital asset system for recording and reporting actual expenses paid by project to ensure the CIP capitalizable expenses are complete and accurate. Furthermore, Fiscal is also not collecting and retaining sufficient information to support the accurate financial reporting of CIP including subproject name, invoice payment date, fund code, department or cost center, vendor name, actual payment expensed, actual payments capitalized, and date of reclassification.

Governmental Accounting Standards Board (GASB) Statement No. 51, Accounting and Financial Reporting for Intangible Assets, establishes the requirements for expensing and capitalizing internal software development costs. In accordance with CAPP Manual Topic 30310, Judicial Technology and Fiscal must maintain sufficient internal documentation to support changes made to CIP balances. In addition, Item 38, Paragraph E of Chapter 552 of the 2021 Virginia Acts of Assembly requires the Executive Secretary to submit to the Department of Planning and Budget (DPB) an annual report outlining the computer system improvement projects undertaken and the project status of each project. Each project in the report should include the life to date cost of the project, the amount spent on the project in the most recently completed fiscal year, the year the project began, the estimated cost to complete the remainder of the project, and an estimated project completion date. Additionally, CAPP Manual Topic 30310 requires the Judicial Technology and Fiscal to maintain sufficient internal documentation to support changes made to CIP balances, which includes the above required documentation. Once the agency capitalizes a project, the asset in CIP for financial reporting. CAPP Manual Topic 30310, Appendix 1: CIP Documentation Spreadsheet, provides an example of a CIP Schedule with all required information for financial reporting. Furthermore, in accordance with CAPP Manual Topic 30205, when constructed assets become operational, agencies should transfer the assets from the CIP account to the related building, infrastructure, or equipment accounts.

Judicial Technology not properly tracking and reporting expenses related to intangible capital assets on the CIP Schedule and ineffective timesheet approval and reconciliation procedures could result in inaccurate and incomplete recording of CIP and increases the risk of a misstatement related to asset capitalization. Furthermore, the Executive Secretary not properly reporting the actual expenses to DPB could result in loss of funding for completing computer system improvements. Additionally, without proper documentation of the amount reported as CIP and the correct acquisition method classification, management cannot support its certifications to the Comptroller of Virginia that the Executive Secretary accurately reported assets of the Supreme Court of Virginia for inclusion in the Commonwealth's financial statements.

We have communicated issues with intangible capital assets, CIP expense tracking, and reporting since the 2007 audit. As a result, Judicial Technology has implemented a PMO system for tracking hours by project as well as policies and procedures over CIP expense reporting. Judicial Technology and Fiscal have also implemented policies and procedures over CIP reporting; however, these policies and procedures have not fully addressed the recording of actual project expenses to the CIP schedule. Additionally, according to management, Judicial Technology did not follow the timesheet approval and reconciliation process and had failed during the month reviewed in the current fiscal year.

Fiscal and Judicial Technology should improve the policies and procedures over intangible capital assets, CIP expense tracking, and reporting, as well as timesheet approval and reconciliation, to ensure staff are tracking expenses by project and the expenses are accurate, reasonable, complete, and properly documented. Fiscal should perform a thorough review of the CIP Schedule to ensure proper support of all amounts with actual expenses paid and ensure recording of intangible capital asset project expenses in the Commonwealth's capital asset system by project code to assist in reconciling to the CIP Schedule, reporting to DPB annually, and reporting in Department of Accounts' financial statement submissions. Fiscal should also perform a thorough review of the CIP reporting process to ensure it maintains proper supporting documentation.



## AUDIT SCOPE OVERVIEW

There are 120 Circuit Courts in the 31 judicial circuits of Virginia. There are 124 General District and 122 Juvenile and Domestic Relations District courts in Virginia's 32 judicial districts. Within these courts there were over 2.7 million cases filed during calendar year 2021 ranging from traffic violations and simple civil suits to major felonies.

The Chief Justice of the Supreme Court serves as the head of the Judicial Branch. The court system, the magistrate system, and various judicial agencies comprise the Judicial Branch of government. The Executive Secretary aids the Chief Justice in this mission by providing administrative services to the Judicial Branch. The Executive Secretary consists of the following ten departments:

- Assistant Executive Secretary and Counsel
- Court Improvement Program
- Educational Services
- Fiscal Services
- Human Resources
- Judicial Information Technology
- Judicial Planning
- Judicial Services
- Legal Research
- Legislative and Public Relations

Our audit focused on fiscal and administrative services, primarily related to reviewing corrective actions taken by the Executive Secretary to address findings included in prior reports. The Fiscal and Human Resources departments implement internal controls and records and report payroll and benefits for all judicial agencies, except for clerks of the circuit courts and their direct staff. During the current audit, we tested retirement benefits system access, reconciliations, and data recording for the various judicial agencies as well as the employment eligibility verification process. We also reviewed corrective actions taken to address a prior finding related to the need to establish memoranda of understanding with the various judicial branch agencies for administrative services the Executive Secretary provides.

Judicial Technology serves as the information technology service provider to the judicial branch agencies, managing IT systems and projects for all judicial agencies. During our audit we reviewed corrective actions taken to address select prior findings related to internal controls surrounding information system security and technology related intangible capital assets.



# Commonwealth of Virginia

## Auditor of Public Accounts

Staci A. Henshaw, CPA  
Auditor of Public Accounts

P.O. Box 1295  
Richmond, Virginia 23218

December 16, 2022

The Honorable Glenn Youngkin  
Governor of Virginia

Joint Legislative Audit  
and Review Commission

We have audited select fiscal, administrative, and information technology internal control processes of the **Office of the Executive Secretary** (Executive Secretary) **of the Supreme Court of Virginia**, for the year ended June 30, 2021. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

### **Audit Scope and Objectives**

Our audit's primary objectives with regard to fiscal, administrative, and information technology internal control processes were to evaluate the accuracy of transactions in the retirement benefits system; review the adequacy of the Executive Secretary's internal controls; and test compliance with applicable laws, regulations, contracts, and grant agreements. Our primary focus was to review corrective actions for select fiscal, administrative, and information technology related audit findings from prior year reports. See the [Findings Summary](#) included in the Appendix for a listing of prior year findings and the status of follow-up on management's corrective action.

### **Audit Methodology**

Management of the Executive Secretary has responsibility for establishing and maintaining internal control and complying with applicable laws, regulations, contracts, and grant agreements. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws, regulations, contracts, and grant agreements.

We gained an understanding of the overall internal controls, both automated and manual, as they relate to the audit objectives, sufficient to plan the audit. We considered significance and risk in determining the nature and extent of our audit procedures. We performed audit tests to determine whether the Executive Secretary's controls were adequate, had been placed in operation, and were being followed. Our audit also included tests of compliance with provisions of applicable laws, regulations, contracts, and grant agreements as they pertain to our audit objectives.

Our audit procedures included inquiries of appropriate personnel, inspection of documents, records, and contracts, and observation of the Executive Secretary's operations. We performed analytical procedures, including budgetary and trend analyses. We also tested details of transactions to achieve our objectives.

A nonstatistical sampling approach was used. Our samples were designed to support conclusions about our audit objectives. An appropriate sampling methodology was used to ensure the samples selected were representative of the population and provided sufficient, appropriate evidence. We identified specific attributes for testing each of the samples and when appropriate, we projected our results to the population.

### **Conclusions**

We found that the Executive Secretary properly stated, in all material respects, transactions recorded and reported in the retirement benefits system relating to the audit objectives.

We noted certain matters involving select fiscal, administrative, and information technology internal control processes and their operation and compliance with applicable laws, regulations, contracts, and grant agreements that require management's attention and corrective action. These matters are described in the section entitled "Audit Findings and Recommendations."

The Executive Secretary has taken adequate corrective action with respect to the audit findings reported in the prior year that are listed as resolved in the Findings Summary in the Appendix.

### **Exit Conference and Report Distribution**

We provided a draft of the report for review on December 6, 2022. Management's response to the findings identified in our audit is included in the section titled "Agency Response." We did not audit management's response and, accordingly, we express no opinion on it.

This report is intended for the information and use of the Governor and General Assembly, management, and citizens of the Commonwealth of Virginia and is a public record.

Staci A. Henshaw  
AUDITOR OF PUBLIC ACCOUNTS

KJS/vks

## FINDINGS SUMMARY

Finding	Follow Up Status	Year Issued
<b>Establish Memoranda of Understanding with Separate Agencies</b>	Resolved	2019
<b>Obtain and Retain an Information Security Officer</b>	Repeat*	2016
<b>Maintain Oversight of Third-Party Service Providers</b>	Repeat*	2016
<b>Continue Improving Intangible Capital Assets Expense Tracking and Reporting</b>	Repeat*	2007
<b>Improve Retirement Benefits System Reconciliation Documentation and Procedures</b>	Repeat*	2018
<b>Properly Complete and Retain Employment Eligibility Forms</b>	New	2021
<b>Continue to Improve Sensitive Systems Risk Assessment and Contingency Planning Documentation</b>	Deferred**	2019
<b>Perform Information Technology Security Audits</b>	Deferred**	2019
<b>Continue Performing a Risk Analysis for Exceptions to the Acceptable Use Policy</b>	Deferred**	2019
<b>Improve Disaster Recovery Controls</b>	Deferred**	2019
<b>Improve, Document, and Implement a Construction in Progress Reconciliation Process</b>	Resolved***	2017
<b>Perform a Physical Inventory of Capital Assets</b>	Resolved***	2017
<b>Evaluate the Useful Life of Capital Assets</b>	Resolved***	2017
<b>Improve, Document, and Implement a Capital Asset Addition Process</b>	Resolved***	2017

\*Follow-up status on prior year findings identified as “Repeat” indicates sufficient corrective action on a prior recommendation is not complete; therefore, the prior year finding has been fully or partially repeated.

\*\*Follow-up status on prior year findings identified as “Deferred” indicates review of management’s corrective action on a prior year finding will be performed in a future audit.

\*\*\*These findings were followed up on and resolved during the fiscal year 2020 Cycled Agency Capital Assets Special Report.

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## SUPREME COURT OF VIRGINIA



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December 16, 2022

Ms. Stacy A. Henshaw, CPA  
Auditor of Public Accounts  
James Monroe Building  
101 North 14th Street 8th Floor  
Richmond, VA 23219

Dear Ms. Henshaw:

Thank you for providing the Office of the Executive Secretary of the Supreme Court of Virginia the opportunity to review the Audit Findings and Recommendations that are being considered for inclusion in the audit report. The Office of the Executive Secretary (OES) takes internal controls and compliance very seriously and strives to maintain reasonable assurance of the integrity of all fiscal, administrative and information technology processes. The following items were communicated in the audit draft report on December 6, 2022 and our responses are listed below:

### **Obtain and Retain an Information Security Officer**

A classified full-time Information Security Officer was hired on July 7, 2022. The candidate already possesses significant institutional knowledge and continues to work on several projects, including the enhancement of the third-party provider oversight program that is currently in place.

### **Maintain Oversight of Third-Party Service Providers**

With the hiring of a classified full-time Information Security Officer, the process of maintaining oversight of third-party providers has been completed and is currently operational. All third-party vendors have been identified and their current SOC2 and other security information is on file. The frequency of reviews has been established and each contract is tracked to ensure ongoing evaluation and monitoring.

### **Properly Complete and Retain Employment Eligibility Forms**

Human Resources has undergone significant staff turnover and will ensure new policies and procedures are put in place to track and maintain employment eligibility forms. We are confident that all new hires were properly screened and verified through the completion of I-9 forms and will ensure the record retention process is better organized and implemented going forward. Future internal reviews will monitor and evaluate the presence and function of the controls.

### **Improve Retirement Benefits System Reconciliation Documentation and Procedures**

Human Resources has undergone significant staff turnover, including the position that was responsible for retirement benefits system reconciliations. Policies and procedures will be further documented and implemented to ensure reconciliations are completed according to CAPP manual guidelines. We understand the importance of the retirement reconciliation process and the need to improve document retention and will continue to evaluate and improve the controls through internal reviews.

### **Continue Improving Intangible Capital Assets Expense Tracking and Reporting**

Fiscal Services and DJIT will continue to evaluate policies and procedures regarding the tracking and reporting of intangible capital assets and CIP reporting. Several controls are already in place to monitor and track third-party contractor invoices and we will continue to review the methodology and procedures used to report and reconcile internal software development projects. We acknowledge the reporting/invoice reconciliation exception that was noted but maintain that controls are in place to track and report those expenses.

Fiscal Services has been in contact with the Department of Accounts and hasn't received clear guidance about the use of project numbers in the FAACS system. We have consulted with other agencies who use the same procedures and have tested the procedures recommended by APA and have yet to obtain the desired outcomes. Policies and procedures will continue to be reviewed and updated but we still assert that management can support its certifications to the Comptroller of Virginia that OES accurately reported assets of the Supreme Court of Virginia for inclusion in the Commonwealth's financial statements.

With best wishes, I am

Very truly yours,

A handwritten signature in black ink, appearing to read 'K R Hade'.

Karl R. Hade

**OFFICE OF THE EXECUTIVE SECRETARY  
OF THE SUPREME COURT OF VIRGINIA**

As of June 30, 2021

The Honorable S. Bernard Goodwyn  
Chief Justice

Karl R. Hade  
Executive Secretary