

**METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY**



October 12, 2018

Tim Townsend, Trial Courts Administrator  
State Trial Courts  
Metro Courthouse  
1 Public Square  
Nashville, TN 37201

Dear Mr. Townsend:

Please find attached the final monitoring report for the State Trial Courts' federal and state grants and other financial assistance for the fiscal years 2016, 2017 and 2018 listed in Appendix A. Staff from the Office of Financial Accountability concluded the fieldwork for this review in June 2018. You previously reviewed and responded to the preliminary report; your responses have been incorporated into this final report.

We appreciate the assistance provided by your department during the course of the review. If you have any questions, please call me at 615-880-1035.

Sincerely,

Fred Adom, CPA, CGMA, CICA  
Director

cc: Joe Werner, State Trial Courts  
Talia Lomax-O'dneal, Director of Finance, Department of Finance  
Gene Nolan, Deputy Director of Finance, Department of Finance  
Kim McDoniel, Deputy Director of Finance, Department of Finance  
Tony Neumaier, Budget Officer, Department of Finance  
Phil Carr, Division of Accounts, Department of Finance  
Mark Swann, Metropolitan Auditor, Office of Internal Audit  
Kevin Brown, CMFO, CICA, CFE, Office of Financial Accountability  
Essie Robertson, CPA, CMFO, CICA, Office of Financial Accountability

This page was intentionally left blank



**Metropolitan Government of Nashville and Davidson County**

# **STATE TRIAL COURTS**

**◆ Monitoring Report ◆**

**Conducted by**



**Office of Financial Accountability**

October 12, 2018

# MONITORING REPORT

---

## TABLE OF CONTENTS

INTRODUCTION .....	5
OBJECTIVES, SCOPE AND METHODOLOGY.....	7
RESULTS OF MONITORING.....	8
FINDINGS, RECOMMENDATIONS AND MANAGEMENT’S RESPONSE.....	9
APPENDIX A.....	13

## INTRODUCTION

---

The Office of Financial Accountability (hereinafter referred to as “OFA”) has completed a monitoring review of the federal and state grants and contracts administered by the State Trial Courts. The monitoring process included a review of the contracts in effect during the fiscal year ending June 30, 2016, 2017 and 2018. The contracts reviewed are listed in Appendix A. The OFA conducted the monitoring review along the major compliance areas identified in the Office of Management and Budget (hereinafter referred to as “OMB”) 2 CFR 200, “*Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.*”

### Department Background

The mission of the State Trial Courts (hereinafter referred to as “STC”) is to provide the public with equal and fair access to the judicial branch of government by providing a fair, independent and accessible forum for the just, timely and economical resolution of their legal affairs. The courts making up the department include six Criminal Courts, eight Circuit Courts, four Chancery Courts, and the State Trial Courts Administrator’s office. The STC offers treatment, probation and supervision programs for non-violent felons funded by a grant from the Tennessee Department of Corrections, provides forensic drug testing, manages all jury-related activities, and oversees administrative functions. In addition, the State Trial Courts manages the Davidson County Drug Court for which provides an intensive alcohol and drug Program funded primarily by grants from the U.S. Department of Justice and the Tennessee Department of Mental Health and Substance Abuse Services.

### Grants Reviewed:

The purpose of this review was to assess the State Trial Courts’ compliance with contractual requirements set forth in the following grant contracts that provided approximately \$10,485,696 of financial assistance to the State Trial Courts.

#### Community Corrections Services 14-17

The State Trial Courts was awarded \$4,392,942 from the Tennessee Board of Probation and Parole. The grant is for the Davidson County Community Corrections Program that is designed to divert felony offenders from the Tennessee prisons system by providing community supervision and treatment services. The program goal is to reduce recidivism rates among felony offenders while maintaining the safety of the community.

#### Courts Interpreter 17

The State Trial Courts was awarded \$82,557 from the Tennessee Administrative Office of the Courts to help with cost of interpreter services for defendants with limited English proficiency who have been found to be indigent and who are involved in a proceeding which he or she has a statutory or constitutional right to appointed council.

## **INTRODUCTION**

---

### **Courts Interpreter 18**

The State Trial Courts was awarded \$82,557 from the Tennessee Administrative Office of the Courts to help with cost of interpreter services for defendants with limited English proficiency who have been found to be indigent and who are involved in a proceeding which he or she has a statutory or constitutional right to appointed council.

### **Drug Court (TDOC) 11-16**

The State Trial Courts was awarded \$4,910,000 from the Tennessee Department of Corrections to be utilized by the Davidson County Drug Court for the expenses of housing and treating non-violent felony offenders, including methamphetamine offenders from across the State and other offenders with co-occurring addiction and mental health disorders.

### **Governor's Highway Safety 15-16**

The State Trial Courts was awarded \$58,000.32 from the Tennessee Department of Transportation for The State Trial Courts to provide a program to reduce DUI repeat offender behavior and reduce the backload of pending DUI cases.

### **Governor's Highway Safety 17**

The State Trial Courts was awarded \$59,639.83 from the Tennessee Department of Transportation for The State Trial Courts to provide a program to reduce DUI repeat offender behavior and reduce the backload of pending DUI cases.

### **Residential Drug Court Treatment 16**

The State Trial Courts was awarded \$450,000 from the Tennessee Department of Mental Health and Substance Abuse Services to provide the Tennessee Certified Recovery Court Program (TCRCP) to enable the establishment of adult and juvenile drug court programs to address the needs of non-violent offenders with addiction and/or co-occurring mental health needs.

### **Residential Drug Court Treatment 17**

The State Trial Courts was awarded \$450,000 from the Tennessee Department of Mental Health and Substance Abuse Services to provide the Tennessee Certified Recovery Court Program (TCRCP) to enable the establishment of adult and juvenile drug court programs to address the needs of non-violent offenders with addiction and/or co-occurring mental health needs.

## OBJECTIVES, SCOPE AND METHODOLOGY

---

A monitoring review is substantially less in scope than an audit. The OFA did not audit the financial statements for the State Trial Courts and, accordingly, does not express an opinion or any assurances regarding the financial statements of the State Trial Courts or the Metropolitan Government of Nashville and Davidson County (hereinafter referred to as “Metro”). The OFA is responsible for the internal monitoring of Metro agencies that receive federal and state financial assistance, including cooperative agreements, and non-profit organizations that receive appropriations from Metro government. In summary, any agreement(s) that imposes performance and/or financial requirements on Metro government is subject to review by the OFA.

The overall monitoring objective was to determine the department’s compliance with grantors and Metro guidelines, policies, rules, and regulations. Specifically, we reviewed for the following objectives:

- To determine whether activities and costs of the program were made in accordance with OMB Circular 2 CFR 200; the minimum federal, state and local requirements; and grantor guidelines.
- To determine whether the minimum requirements for local matching contributions and/or adequate level of expenditures by other sources of funds are met.
- To determine whether grant funds were used exclusively during the period in which the funds were authorized.
- To determine the reliability and timeliness of the financial and programmatic reporting.
- To determine whether federal compliance requirements regarding sub-recipient oversight were met and whether the sub-recipient performed in accordance with the contract terms.
- To determine whether civil rights requirements are met.
- To determine whether program objectives were met.
- To determine whether the various Metro regulations were followed.

The scope of the work included the grants listed in Appendix A. The grant period reviewed was July 1, 2015 through June 30, 2018. Although the review focused on this specific time period, certain analyses required the consideration of financial transactions outside of this time period. The methodology adopted by the OFA encompassed various interviews and an objective review of fiscal and programmatic files, including:

- Financial transactions and supporting documentation
- Contract agreements and related amendments
- Federal and/or state financial reports
- Program reports and supporting documentation
- Correspondence between related parties.

## RESULTS OF MONITORING

---

### Overall Findings and Major Review Highlights

Our review revealed four discrepancies with policies and grant requirement guidelines. The State Trial Courts:

1. Should improve compliance with Metro Finance OMB Policy #13: Cash Balances,
2. Should improve compliance with granting reporting requirements,
3. Should improve compliance with Metro Finance Policy #20: Purchasing Policy, and
4. Should adhere to approved grant budget.

The section that follows provides more detailed information for the items listed above. Management is given an opportunity to respond to the findings.

## FINDINGS, RECOMMENDATIONS, AND MANAGEMENT'S RESPONSE

---

### 1. Should improve compliance with Metro Finance OMB Policy #13: Cash Balances

#### Finding

The State Trial Courts failed to adhere to Metro Finance OMB Policy #13: Cash Balances as a result of not taking advantage of the opportunity to draw down a portion of the grant funds in advance and by failing seeking reimbursement of grant expenditures in a timely manner. Per Metro Finance OMB Policy #3, *“Metro grant recipients should always take advantage of grant advances or drawdowns available prior to incurring grant related expenditures. When grant terms and conditions require that Metro departmental grant recipients make expenditures prior to receiving grant funds, the department administering the grant program should be aware that the grant program is in effect borrowing from the Metro Investment Pool (MIP) and will incur interest expense that will be charged to the department’s operating budget in most circumstances.”* The policy further states that *“To mitigate interest expense, any available grant funds or local match drawdowns must be processed in a timely manner, which the earliest possible time allowed by the grant provisions.”*

The State Trial Courts failed to seek the advancement of the available grant funds under the Community Correction Services 14-17 grant program. Per section C.3 payment methodology of the grant contract, *“the grantee shall be compensated for actual, reasonable, and necessary costs based upon the grant budget, not to exceed the maximum liability established in section C.1. In each annual period of the grant contract, payment to the grantee shall be Two Hundred Nineteen Thousand Six Hundred Forty Seven Dollars (\$219,647.00) paid in advance and thereafter, upon progress toward the completion of the work, as described in Section A of this grant contract, the grantee shall submit invoices prior to any reimbursement of allowable cost.*

In addition, the State Trial Courts failed to submit and seek reimbursement of grant expenditures in a timely manner for both the Court Interpreter 17 and Court Interpreter 18 grant programs. The STC submitted two invoices for the Court Interpreter 17 grant, the first invoice was submitted on October 20, 2016 for the period of July – December 2016 for exactly half of the grant award and the second invoice was submitted on April 20, 2017 for the period of January – June 2017 for the remaining grant funds. The State Trial Courts submitted only one invoice for the Court Interpreter 18 grant on February 2018 seeking reimbursement for the entire grant award. Per the Court Interpreter 17 and 18 contracts, section C.3. Payment Methodology: *“The Grantee shall be compensated for actual, reasonable, and necessary costs based upon the Scope of Services detailed in Section A, not to exceed the maximum liability established in Section C.1. Payment to the Grantee can be made monthly, quarterly or semi-annually as agreed upon by the parties.”* Therefore, the STC should have submitted monthly reimbursement request in order to mitigate any interest expense.

#### Recommendation

The State Trial Courts should ensure that grant funds are requested as soon as the grant contracts allow, in order to avoid incurring interest expense. The STC should further ensure,

## **FINDINGS, RECOMMENDATIONS, AND MANAGEMENT'S RESPONSE**

---

when allowed, grant funding should be drawdown in advance of incurring grant program expenditures.

### **Management Comments**

**We concur.** The State Trial Courts will draw down grant funds as soon as permitted by the grant contracts. We will also begin requesting an advance of grant funds for the Community Corrections program at the beginning of each new fiscal year.

### **2. Should improve compliance with grantor reporting requirements**

#### **Finding**

The State Trial Courts failed to fully comply with reporting requirements as stated within the grant contracts.

The State Trial Courts failed to complete and submit the required disbursement reconciliation and close out reports for the Governor's Highway Safety Office 15-16 and the Governor's Highway Safety Office 17 grants. Per section C.7, Disbursement Reconciliation and Close Out, of both grant contracts, *"the grantee shall submit any final invoice and a grant disbursement reconciliation report within sixty (60) days of the grant contract end date, in form and substance acceptable to the State."* The contracts further states under item c of Section C.7, *"the grantee's failure to provide a final grant disbursement reconciliation report to the State as required by this grant contract shall result in the grantee being deemed ineligible for reimbursement under the grant contract, and the grantee shall be required to refund any and all payments by the State pursuant to this Grant Contract."*

#### **Recommendation**

The State Trial Courts should ensure that the required reports are completed timely and accurately. The State Trial Courts should complete the required final disbursement reconciliation reports under the Governor's Highway Safety grants and submit to the grantor.

### **Management Comments**

Management concurs. The State Trial Courts works closely with our grantors and has provided all the reports requested by the grantor in the format they requested. However, the STC will work with the grantor to amend future contract language to more accurately reflect the reports wanted by the grantors.

## FINDINGS, RECOMMENDATIONS, AND MANAGEMENT'S RESPONSE

---

### 3. Should improve compliance with Metro Finance Policy #20: Purchasing Policy

#### Finding

The State Trial Courts failed to adhere to Metro Finance Policy #20: Purchasing Policy. Test revealed that the State Trial Courts incurred expenditures to vendors in excess of \$10,000.00, for which exceeded the department's delegated purchasing authority and without a fully executed valid contract. Per the State Trial Court's delegated purchasing authority, "*For non-contract purchases in excess of \$10,000 must be issued by the Procurement Division and all contracts for purchase and/or sale, of any amount, must be issued and awarded by the Procurement Division.*" Per Metro Finance Policy #20: Purchasing Policy, "*formal competitive sealed bids or request for proposals*" are required for purchases of \$10,000 and above.

The State Trial Courts incurred grant expenditures under the Drug Courts11-16 grant for nursing services, in excess of \$10,000 without a contract or sole source documentation. There also did not appear to be any documentation showing assistance from the Procurement Division.

In addition, it was noted that the State Trial Court, under the Community Corrections Services grant, was incurring grant related expenditures for medical services on an expired contract.

The State Trial Courts' delegated purchasing authority grants the department the ability "*to use Metro issued credit cards by the Treasury Division for non-contract purchases made in compliance with the procurement code, pre-approved travel, emergency purchases, and conference registration.*" During the course of the review, the OFA noted that the State Trial Courts had obtained store charge cards from Home Depot and Lowes. The department's delegated authority does not grant the STC the ability or authority to obtain store issued charge cards. It was also noted that the State Trial Courts had Metro issued credit cards as well and therefore, there is not any need or justification for them having the store issued credit cards.

#### Recommendation

The State Trial Courts should immediately review the professional services expenditures and contracts to ensure they are in compliance with Metro's Procurement Policies.

The State Trial Courts should immediately cancel and cease using the Home Depot and Lowes Credit Cards.

#### Management Comments

**Management concurs.** We will immediately begin working with Metro's Procurement Division to procure a contract for psychiatric services in Community Corrections. We will also research alternatives to the store cards currently being used. These store cards are used to purchase wood and supplies for the woodworking shop at the Drug Court. Drug Court residents are

## FINDINGS, RECOMMENDATIONS, AND MANAGEMENT'S RESPONSE

---

taught vocational skills such as woodworking. Since the purchase of these supplies (which are usually less than \$1,000) does not appear to meet the criteria for an allowable purchase on a Metro credit card and since there is no Metro-wide contract for these supplies, we will work with the Procurement Division to find an alternative that is as safe and efficient as the store cards.

With regard to the nursing services, the STC stopped contracting for nursing services on August 1, 2016 subsequent to a previous OFA review.

#### 4. Should adhere to approved grant budget

##### Finding

The State Trial Courts failed to adhere to the Drug Courts 11-16 approved grant budget for the period of July 1, 2015 – June 30, 2016. The fiscal year 2016 approved budget included \$61,500.00 for professional fees; however, test revealed that the State Trial Courts had incurred approximately \$87,000.00 in professional fees during that time period without seeking a budget revision. Per section C.6 Budget Line-items of the grant contract, *“Expenditures, reimbursements, and payments under this grant contract shall adhere to the grant budget. The grantee may vary from a grant budget line-item amount by up to five percent (5%) of the line-item amount, provided that any increase is off-set by an equal reduction of other line-items amount(s) such that the net result of variances shall not increase the total grant contract amount detailed by the grant budget.”*

##### Recommendation

The State Trial Courts should adhere to the approved grant spending plan and any deviation should be requested in writing prior to incurring grant expenditures for activities that were not approved.

##### Management Comments

**Management concurs.** In the future, we will seek written approval from the grantor to adjust the grant budget to insure that individual spending categories are not surpassed. It should be noted, however, that other budget categories during this time were under budget and the total spending for the fiscal year did not exceed the budgeted amount.

## APPENDIX A

Grant	Resolution #	Grant Period		Award Amount	Findings
Community Correction Services	RS2014-1146	7/1/2014	6/30/2017	\$4,392,942.00	Y
Court Interpreter 17	RS2016-388	7/1/2016	6/30/2017	\$82,557.00	Y
Court Interpreter 18	RS2017-748	7/1/2017	6/30/2018	\$82,557.00	Y
Drug Courts11-16	RS2011-1745	7/1/2011	6/30/2016	\$4,910,000.00	Y
Governor's Highway Safety 15-16	RS2015-24	7/1/2015	6/30/2016	\$58,000.32	Y
Governor's Highway Safety 16-17	RS2016-418	7/1/2016	6/30/2017	\$59,639.83	Y
Residential Drug Court Treatment 16	RS2015-1576	7/1/2015	6/30/2016	\$450,000.00	Y
Residential Drug Court Treatment 17	RS2016-247	7/1/2016	6/30/2017	\$450,000.00	Y