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Accounting and Information
Management Division

B-284968

April 20, 2000

The Joint Committee on Judicial
Administration, DC Courts
In care of the Honorable Annice Wagner, Chair

Subject: DC Courts: Processing Fiscal Year 1999 Defender Services Vouchers

Dear Members of the Joint Committee:

On January 27, 2000, we certified that certain District of Columbia Courts' (DC Courts) obligations lawfully incurred in fiscal year 1999 exceeded the obligational authority available to pay those obligations.¹ This certification, as provided for in the District of Columbia Appropriations Act, 2000, triggered the availability of certain funding sources to DC Courts for unpaid fiscal year 1999 obligations. To provide a basis for our certification, we audited the related obligations to determine if the vouchers were (1) legally incurred and (2) processed for payment in accordance with DC Court procedures. We also determined whether the obligations were recorded and reported correctly. During our review of the obligations, we identified several weaknesses in DC Courts' payment processing procedures.² This letter discusses those weaknesses and makes recommendations to resolve them.

Results in Brief

We identified several weaknesses in DC Courts' payment processing procedures. Specifically, we found that DC Courts did not (1) always follow its policies and procedures for processing vouchers for court appointed attorneys, (2) always properly track vouchers submitted for court appointed attorney services, and (3) have written procedures for reprogramming and obligating funds. While these matters were not significant to our certification, they have the potential, if not resolved, to affect future payment transactions. We are making recommendations to resolve these weaknesses. In response to a draft of this report, DC Courts agreed with and stated that it is currently implementing our recommendations.

¹DC Courts: Review of Fiscal Year 1999 Defender Services Obligations (GAO/AIMD/OGC-00-68R, January 27, 2000).

²We previously reported that DC Courts' voucher tracking system contained incomplete information – DC Courts: Planning and Budgeting Difficulties during Fiscal Year 1998 (GAO/AIMD/OGC-99-226, September 16, 1999).

Background

Under the Criminal Justice Act (CJA),³ Counsel for Child Abuse and Neglect (CCAN),⁴ and Guardianship⁵ programs, DC Courts appoints and compensates attorneys to represent persons who are financially unable to obtain representation on their own. The District of Columbia Appropriations Act, 2000, authorizes DC Courts to use interest earned on the fiscal year 1999 federal payment and funds from the fiscal year 2000 federal payment to the DC Courts to pay unpaid fiscal year 1999 obligations incurred under the CJA, CCAN, and Guardianship programs. The Appropriations Act, however, conditions this authority on our certifying that the amount of obligations lawfully incurred for the CJA, CCAN, and Guardianship programs during fiscal year 1999 exceeded the obligational authority available to pay the obligations. We issued our certification on January 27, 2000.

As reported in our certification letter, DC Courts' records indicated that during fiscal year 1999, it had approximately \$41 million of attorney vouchers (billings) to pay,⁶ while the total funds it reported as available for fiscal year 1999 to pay these vouchers was about \$36 million. It also reported that DC Courts had used approximately \$3.5 million in fiscal year 2000 funds to pay outstanding attorney vouchers under authority provided by a continuing resolution and awaited authorization to pay the remaining \$1.47 million under the District of Columbia Appropriations Act, 2000. Upon receipt of our certification letter, DC Courts used the funds identified above to pay the remaining fiscal year 1999 obligations during February 2000.

We conducted our work from December 1999 through March 2000. Our detailed scope and methodology are included in enclosure 1.

DC Courts Did Not Always Follow Its Policies and Procedures for Processing Vouchers for Court-Appointed Attorneys

DC Courts did not always adhere to its policies and procedures for processing court-appointed attorney vouchers. Under the CJA, CCAN, and Guardianship programs, DC Courts appoints and compensates attorneys to represent persons who are financially unable to obtain such representation on their own. Attorneys and other service providers submit vouchers to DC Courts detailing time and expenses involved in working on a case. Upon receipt by the Fiscal Office, each Superior Court voucher is audited by DC Courts' Fee Examination Unit and reviewed and approved by the

³D.C. Criminal Justice Act of 1974, as amended, D.C. Code Ann. Secs. 11-2601 through 11-2608 (1981) (1995 Replacement Volume, 1999 Supp.).

⁴Neglect Representation Equity Act of 1984, as amended, D.C. code Ann. Secs. 16-2304, 16-2326.1 (1981) (1997 Replacement Volume).

⁵D.C. Guardianship Protective Proceedings, and Durable Power of Attorney Act of 1986, as amended, D.C. Code Ann. Secs. 21-2001 through 21-2085 (1981) (1997 Replacement Volume).

⁶These vouchers included about \$6 million in amounts applicable to fiscal years 1998 and earlier, which were also properly payable with fiscal year 1999 funds.

presiding judge or hearing commissioner before payment is made. The Fee Examination Unit performs a post-audit review of Court of Appeals' vouchers after the audit by the CJA/CCAN Coordinator of the Court of Appeals' Clerk's Office and approval by its chief judge.

Up until September 1999, DC Courts' policy was to recognize an obligation against a fiscal year appropriation based on the date the voucher was approved. During September 1999, DC Courts modified its policy and, for accounting purposes, started recognizing obligations on the date a voucher is submitted to the Fiscal Office.⁷ Following an administrative review and approval by the presiding judge or hearing commissioner, the voucher is forwarded to the DC Courts, which prepares a list of payments to be made. The list is electronically submitted to the General Services Administration (GSA) for payment from DC Courts appropriated funds.⁸ Our work showed that the DC Courts did not always follow these procedures. During our review of 283 vouchers, we found the following exceptions to these procedures, which did not have a material impact on our certification that DC Courts' fiscal year 1999 total obligations exceeded its obligational authority.

- The Fee Examination Unit did not audit one voucher or perform its post-audit review of two vouchers. This audit determines whether vouchers are properly supported, accurate in amount, and in compliance with DC Courts payment criteria. Without this audit, the allowability of vouchered amounts is not certain and there is no assurance that the voucher is mathematically correct, the attorney has requested payment at the prescribed hourly rate, or whether documentation exists to support claimed amounts.
- The Fiscal Office processed five vouchers containing amounts billed that exceeded the statutory limits without the approval of a chief judge, as required.⁹ Pursuant to statute, claims in excess of statutory limits may be approved "for extended or complex representation whenever such payment is necessary to provide fair compensation."¹⁰ In those instances where an attorney is seeking reimbursement above the statutory limit, DC Courts' policies and procedures require that in addition to the review and approval by the presiding judge, a chief judge must review and approve the voucher. Without the required secondary approval by the chief judges, the payments of the excess amounts are not properly authorized.

⁷We informed the former Executive Officer "that upon submission of a CJA claim, DC Courts cannot delay the recognition of an obligation by withholding the voucher's approval" (B-283599, September 15, 1999). DC Courts changed its accounting to recognize an obligation when the voucher is submitted for approval.

⁸District of Columbia Appropriation acts for fiscal years 1998 (Pub. Law No. 105-100, November 19, 1997) and 1999 (Pub. Law No. 105-277, October 21, 1998) required DC Courts to contract with GSA to perform payroll and financial-related services.

⁹A voucher claim statutorily cannot exceed a maximum of \$1,300 for misdemeanor cases and \$2,450 for felony cases.

¹⁰D.C. Code § 11-2604(c) (1981, 1995 Replacement volume).

DC Courts Did Not Properly Track Vouchers Submitted for Court-Appointed Attorney Services

DC Courts' voucher tracking system did not have complete information from the time that a voucher was submitted to the Fiscal Office until the voucher was approved for payment by the presiding judges. DC Courts' personnel did not always input data into their tracking system about when vouchers were received, audited, or submitted for the judges' approval. As a result, DC Courts could not effectively use the tracking system during fiscal year 1999 or identify vouchers unpaid at the end of fiscal year 1999 until December 1999, when the vouchers were returned after the presiding judges' approval. DC Courts also incorrectly recorded some fiscal years 1998 and 2000 obligations as fiscal year 1999 obligations. In addition, DC Courts cannot determine the total amount of fiscal year obligations in accordance with its procedures (represented by vouchers that have been submitted for payment) since its records do not consistently track vouchers and the amounts requested for payment by the date they were received by the Fiscal Office.

As of September 30, 1999, DC Courts reported that it had used \$4.1 million of fiscal year 1999 funds to pay obligations incurred during fiscal year 1998¹¹ for court-appointed services for the CJA, CCAN, and Guardian programs. However, DC Courts did not reconcile the obligations and payments for the CJA, CCAN, and Guardianship programs to the GSA-recorded payments to assure themselves that the reported total reflected all vouchers that had been paid.

We found 15 CJA and CCAN vouchers that were incorrectly identified as fiscal year 1999 obligations even though the presiding judges had approved the vouchers by September 30, 1998. Based on its procedures in effect at the time, DC Courts should have recognized these additional amounts as fiscal year 1998 obligations.

Based on our work, DC Courts revised the amount of fiscal year 1998 obligations that it reported as paid with fiscal year 1999 appropriations from \$4.1 million to \$6.2 million. The additional \$2.1 million reflected \$1.8 million for CJA programs and \$300,000 for CCAN programs that were fiscal year 1998 obligations. The additional fiscal year 1998 obligations identified by DC Courts contained 9 of the 15 vouchers identified above. However, six vouchers remained that DC Courts continued to incorrectly identify as representing fiscal year 1999 obligations. As a result, DC Courts did not determine the correct amount of obligations for fiscal years 1998 and 1999.

We identified another CJA voucher that was incorrectly recognized as a fiscal year 1999 obligation. The voucher amount should have been recorded as part of the obligations recognized for fiscal year 2000 since the Fiscal Office received it on October 25, 1999. A DC Court official stated that this error occurred because of a lack of accounting oversight and that action would be taken to correct this error.

¹¹The District of Columbia Appropriations Act, 1999, provided that funds appropriated for CJA, CCAN, and Guardianship programs were available for obligations incurred in prior years (Pub. Law No. 105-277, 112 Stat. 2681-127).

DC Courts officials attributed their inability to distinguish between fiscal year obligations to a voucher system breakdown, or "crash" in January 1999. As a result of the crash, DC Courts officials had no assurance that voucher information was complete for the first 4 months of fiscal year 1999. In addition to the crash, because of the changed criteria for determining the fiscal year during which an obligation should be recorded, DC Courts staff manually tracked vouchers during September 1999 in batches and did not enter data from individual vouchers into the tracking system. Without complete data for fiscal year 1999 in DC Courts' tracking system, DC Courts officials could not easily determine whether the fiscal year 1999 payments related to obligations for fiscal years 1998, 1999, or 2000.

In addition, DC Courts officials and its Joint Committee on Judicial Administration stated that a contractor is currently installing a new voucher system designed to track all vouchers from the assignment of attorneys and the distribution of vouchers by the court clerks to the initiation of payment by GSA.¹² DC Courts' inability to account for and properly track vouchers submitted by fiscal year would continue to lead to unidentified obligations that could misstate the spending of its appropriation for court-appointed attorney services and result in delays in paying attorneys.

DC Courts Did Not Have Written Procedures for Reprogramming and Obligating Funds

DC Courts did not have written procedures for reprogramming or obligating funds. Reprogramming is the use of funds in an appropriation account for purposes other than those contemplated at the time of the appropriation. If carried out properly, reprogramming is an appropriate way to apply funds for different purposes and uses than originally intended. Obligating is the process of recording an amount against an appropriation account as the result of an action that will result in a disbursement during the current or subsequent fiscal year.¹³ According to DC Courts officials, due to an oversight, DC Courts (1) reprogrammed funds to the court-appointed attorney programs in a manner that was different from the notification it gave to the Congress and (2) did not properly obligate fiscal year 1999 funds.

Section 116 of the District of Columbia Appropriations Act, 1999, requires DC Courts to give notice to the Senate and House Appropriations Committees 30 days prior to reprogramming funds in certain specified situations. By letter dated June 21, 1999, DC Courts notified the Senate and House D.C. Appropriations subcommittees that because of an expected shortfall of funding for the CJA program and anticipated excess of CCAN and court operation funds for fiscal year 1999, it needed to reprogram up to \$1 million from the CCAN program and various projects under the court operations to the CJA program. DC Courts never reprogrammed the funds from the CCAN program to the CJA program. However, it did reprogram about

¹²As of March 2000, DC Courts' officials stated that the new voucher system would be run parallel with the existing voucher tracking and payment systems until September 30, 2000. Once the new system is completely tested and implemented, DC Courts will discontinue use of the current systems.

¹³The transaction may be, for example, the placing of an order, awarding of a contract for goods or services, or similar transactions.

\$150,000 from the CCAN program to the Guardianship program. When asked about the notification to reprogram amounts from the CCAN program to the Guardianship program, a DC Courts budget official referred us to the June 21, 1999, notification letter. The DC Courts budget official stated that he believed that the June 21, 1999, notification was sufficient to reprogram funds from CCAN to the Guardianship program. We do not agree that the June 21, 1999, letter was adequate notice since it did not accurately identify the program benefiting from the reprogramming.

In regard to obligating funds, DC Courts used over \$400,000 of fiscal year 2000 funds¹⁴ to pay fiscal year 1999 CCAN obligations even though unobligated fiscal year 1999 funds were available for CCAN. A DC Courts budget official stated that because the Fiscal Office staff had not adequately monitored the availability of obligational authority remaining for these services, fiscal year 2000 CCAN funds were used to pay some of the unpaid CCAN obligations for fiscal year 1999. During our audit, DC Courts identified some available obligational authority for fiscal year 1999 and determined the amount of unpaid obligations for fiscal year 1999. A DC Courts' budget official stated that the fiscal year 2000 funds would be deobligated and the obligations would be charged to fiscal year 1999 funds up to the amount available. On March 16, 2000, DC Courts deobligated \$392,000 of the fiscal year 2000 appropriation and charged this amount to the fiscal year 1999 appropriations for CCAN.

Conclusion

Because of the weaknesses we have identified in the DC Courts' controls over processing vouchers and reprogramming and disbursing funds, it cannot ensure that all vouchers were properly tracked or accurate and paid on time and that the amounts DC Courts' reports to internal and external users are accurate.

Recommendations

To improve DC Courts' processing of vouchers, reporting of obligations, and payments for court-appointed attorney services, we recommend that the Joint Committee direct the Fiscal Officer to take the following actions:

- Adhere to existing procedures in the processing of payment vouchers to court-appointed attorneys. Specifically, require that the (1) Fee Examining Unit review every voucher submitted for processing and (2) Fiscal Office only submit vouchers for payment that have been approved by the presiding judges and, when required, the chief judges.
- Track individual vouchers submitted by court-appointed attorneys from receipt by the Fiscal Office to the actual payment made by GSA to ensure that all vouchers are promptly accounted for and the resulting obligations are properly recognized and paid. Once the new voucher system is fully implemented, DC Courts should

¹⁴The payments were made between October 1, 1999, and November 28, 1999, when DC Courts was funded by a joint resolution making continuing appropriations for fiscal year 2000 (Pub. Law No. 106-62, 113 Stat. 505, September 30, 1999, as amended).

track all vouchers through the entire process beginning with the assignment of vouchers to court-appointed attorneys through payment by GSA.

- Develop written procedures for taking reprogramming actions and, when necessary, promptly notifying the Senate and House Appropriations committees of the specific reprogramming action intended.
- Develop written procedures for promptly and accurately charging obligations to the correct fiscal year's appropriations.

DC Courts' Comments

DC Courts agreed with our observations and recommendations and described corrective action plans that are currently being implemented to address each issue. Comments from the District of Columbia Courts are reprinted in enclosure 2.

We are sending copies of this letter to Senator Richard Durbin, Senator Kay Bailey Hutchinson, Senator George Voinovich, Representative Thomas M. Davis III, Representative Ernest J. Istook, Representative James P. Moran, and Representative Eleanor Holmes Norton in their capacities as Chair or Ranking Minority Member of Senate and House Committees and Subcommittees. We are also sending copies of this letter to the Honorable Jacob J. Lew, Director, Office of Management and Budget, and Grace Mastelli, Deputy Assistant Attorney General, Department of Justice. Copies will be made available to others upon request.

If you have any questions, please contact me at (202) 512-4476 or by e-mail at jarmong.aimd@gao.gov or Steven Haughton, Assistant Director, at (202) 512-5999 or by e-mail at haughtons.aimd@gao.gov. Key contributors to this letter were Jeffrey Isaacs and Louis Fernheimer.

Sincerely yours,



Gloria L. Jarmon
Director, Health, Education, and Human Services
Accounting and Financial Management Issues

Enclosures

Scope and Methodology

To enable us to make the certification provided for in the District of Columbia's Appropriations Act, 2000, we reviewed (1) the total amount of the DC Courts' reported fiscal year 1999 obligations for the CJA, CCAN, and Guardianship programs, (2) whether the reported fiscal year 1999 obligations appear to have been lawfully incurred, and (3) whether the reported obligations exceeded DC Courts' obligational authority available to pay such amounts.

To accomplish our objectives, we performed the following work:

- We obtained the total amount of obligations incurred under DC Courts CJA, CCAN, and Guardianship programs for fiscal year 1999 from the Voucher Payments System, GSA's General Ledger, and from manual voucher records maintained by DC Courts.
- Using dollar unit sampling at a 95-percent confidence level, we selected a sample of unpaid vouchers and obligations that were paid with fiscal year 1999 appropriated funds and with continuing resolution funds for fiscal year 2000.
- Using this sample, we tested each voucher for accuracy and determined whether it was a valid transaction. We verified that each voucher included (1) supporting documentation for the work performed, (2) a signature by an eligible attorney, (3) the court-assigned case number, (4) approval by the Fee Examination unit within the Financial Operations Division, and (5) approval by the presiding judge or hearing commissioner.
- We reviewed the defender services information (that is, payment voucher records) provided by DC Courts, which reconciled this to the financial records reported by GSA.
- We determined whether the total obligations under CJA, CCAN, and Guardianship programs exceeded the programs' obligational authority by comparing the total obligations reported for fiscal year 1999 against the programs' obligational authority.

We also met with the Executive Officer, Acting Fiscal Officer, and with officials from the Financial Operations Division and the Data Processing Division. We conducted our review from December 1999 through January 2000 in accordance with generally accepted government auditing standards. We requested comments on a draft of this report from the acting Executive Officer of DC Courts. The acting Executive Officer of DC Courts provided written comments that are discussed in the "DC Courts' Comments" section and are reprinted in enclosure 2.

Comments From the District of Columbia

Note: GAO's comment supplementing those in the letter appears at the end of this enclosure



District of Columbia Courts
500 Indiana Avenue, N.W.
Washington, D.C. 20001



April 13, 2000

Ms. Gloria L. Jarmon
Director, Health, Education, and Human Services
Accounting and Financial Management Division
United States General Accounting Office
Washington, D.C. 20548

Dear Ms. Jarmon:

On behalf of the Joint Committee on Judicial Administration in the District of Columbia, I submit herewith the responses of the District of Columbia Courts to the draft "Management Letter on Processing Fiscal Year 1999 Defender Services Vouchers." It is our understanding that this response will be made an attachment to GAO's final letter.

Sincerely yours,

A handwritten signature in cursive script that reads "Anne B. Wicks".

Anne B. Wicks
Acting Executive Officer and Secretary to
the Joint Committee

Enclosure as stated

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