

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Auditor - Controller	(2) MEETING DATE 11/26/2013	(3) CONTACT/PHONE Kerry Bailey 788-2979 Suzanne De Witt 781-4846	
(4) SUBJECT Submittal of a compliance audit of the Health Agency – Office of the Public Guardian for calendar year 2012.			
(5) RECOMMENDED ACTION It is recommended that the Board receive the item and file.			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. ___) <input type="checkbox"/> Board Business (Time Est. ___)			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input checked="" type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A    Date:	
(17) ADMINISTRATIVE OFFICE REVIEW			
(18) SUPERVISOR DISTRICT(S) All Districts -			

# County of San Luis Obispo



TO: Board of Supervisors  
FROM: James Erb, CPA, Auditor - Controller - Treasurer - Tax Collector  
DATE: 11/26/2013  
SUBJECT: Submittal of a compliance audit of the Health Agency - Office of the Public Guardian for calendar year 2012.

## **RECOMMENDATION**

It is recommended that the Board receive the item and file.

## **DISCUSSION**

Through the Conservatorship and the Public Representative Payee programs, the Public Guardian's office manages the property, finances and personal care needs of county individuals who are substantially unable to provide for themselves.

The purpose of our review was to determine the Public Guardian's compliance with selected Probate Code requirements and appropriate referral of clients as well as the accuracy of the collection and distribution of Public Guardian funds. Additionally, we reviewed the Office's internal controls over cash and non-cash assets.

We conducted our review in conformance with the *International Standards for the Professional Practice of Internal Auditing*. The International Standards for the Professional Practice of Internal Auditing require that the internal audit activity be independent and internal auditors be objective in performing their work. The Standards also require that internal auditors perform their engagements with proficiency and due professional care; that the internal audit function is subject to a program of quality assurance; and that the results of the engagements are communicated.

## **OTHER AGENCY INVOLVEMENT/IMPACT**

Public Guardian staff were interviewed, provided documentation, and responded to our findings.

## **FINANCIAL CONSIDERATIONS**

The Public Guardian held a monthly average of \$556,955 client funds in calendar year 2012.

## **RESULTS**

We determined all the conservatee and representative payee referrals sampled were handled in a timely manner, and outgoing referrals were handled appropriately. Funds received, invested and disbursed on behalf of clients were posted timely and accurately in the clients' accounts. Expenses sampled were authorized and appeared appropriate to client needs. A sampling of conservatees' investments indicated that the investments were made in accordance with the Public Guardian's Investment policy. Case files sampled were complete and indicated proper court and/or Social Security documentation and reports.

We found several weaknesses in internal controls. We also found instances where court required inventory and appraisements were not filed timely. The attached Public Guardian review report details our findings. The Public Guardian's office agrees with our report and has included a response to the findings.

Auditor-Controller-Treasurer-Tax Collector program reviews help maintain accountability and compliance with governing code and contribute to the County's vision of a well-governed community.

**ATTACHMENTS**

1. Public Guardian Review Report
2. Public Guardian Response 2013



**COUNTY OF SAN LUIS OBISPO**  
Office of the Auditor-Controller

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James P. Erb, CPA, CICA  
Auditor-Controller

James Hamilton, CPA *Assistant*  
Lydia Corr, CPA *Deputy*  
Tamara Kaizuka, CPA *Deputy*

TO: JEFF HAMM, HEALTH AGENCY DIRECTOR

FROM: JAMES P. ERB, CPA, AUDITOR-CONTROLLER-TREASURER-TAX COLLECTOR 

DATE: SEPTEMBER 26, 2013

SUBJECT: PUBLIC GUARDIAN REVIEW FOR CALENDAR YEAR 2012

Our office recently completed a review of the Public Guardian for calendar year 2012. Please respond to the Findings and Recommendations within 10 business days of receiving this report. The response should include the corrective action the Public Guardian will be making to address the Findings. Please note that no response is required for Suggested Improvements.

Purpose

The purpose of our review was to determine the Public Guardian's compliance with the selected Probate Code requirements and appropriate referral of clients. We also verified the accuracy of the collection and distribution of Public Guardian trust funds, and we reviewed the Office's internal controls over cash and non-cash assets.

Scope & Methodology

We conducted our review in conformance with the *International Standards for the Professional Practice of Internal Auditing*. The International Standards for the Professional Practice of Internal Auditing require that the internal audit activity be independent and internal auditors be objective in performing their work. The Standards also require that internal auditors perform their engagements with proficiency and due professional care; that the internal audit function is subject to a program of quality assurance; and that the results of the engagements are communicated.

Our review included an examination of judgmentally selected active cases and referrals to the conservatee and representative payee programs for calendar year 2012. We tested to determine if funds received, invested, and disbursed on behalf of clients were posted timely and accurately, were appropriately authorized, and were handled in accordance with the Probate Code and Public Guardian and Countywide policies. We also examined the treatment of non-cash assets received and held on behalf of clients to determine that the assets were properly appraised, documented and safeguarded.

Additionally we evaluated the case files for completeness and proper income tax, court and/or Social Security documentation and reporting. Our review also included an evaluation of internal controls over cash receipts and non-cash assets. Our evaluation of internal controls included inquiries of departmental staff and direct observations.

## Results

*Internal controls* – We gained an understanding of the organizational structure of the Office of the Public Guardian and the procedures used to obtain, administer and dispose of client assets. We found several weaknesses in internal controls which are detailed in the Findings and Recommendations section and the Suggested Improvements section of this report below.

*Case Referrals* – Referrals to the Public Guardian's Office are handled in a variety of ways dependent on the unique needs and circumstances of the case. All the conservatee and representative payee referrals sampled were handled in a timely manner, and outgoing referrals were handled appropriately.

*Receipts, Disbursements, and Investments* - Funds received, invested and disbursed on behalf of clients were posted timely and accurately in the clients' accounts. Expenses sampled were authorized and appeared appropriate to client needs. A sampling of conservatees' investments indicated that the investments were made in accordance with the Public Guardian's Investment policy.

*Non-cash Assets* - Non-cash assets received and held on behalf of clients were properly appraised, documented and safeguarded, with the exception noted in the Findings and Recommendations section of this report below.

*Case Files* - Case files sampled were complete and indicated proper court and/or Social Security documentation and reports.

Findings are issues which present a serious enough risk to require consideration by management and a written department response. Additionally, during fieldwork we identified some areas where improvements could be made, and we immediately provided the Department with suggestions for making these improvements. Suggestions for improvement are made for issues that the auditor considers not to be of an immediate serious nature and/or for issues which the department is able to correct at the time of the audit. Unlike formal audit findings, written departmental responses are not required for these issues.

## Findings & Recommendations

### **1. Cash Duties are Not Segregated**

The Public Guardian uses outside bank accounts for the deposit and disbursement of client funds. Transactions are not processed through the County's financial system nor are funds part of the County Treasury. We found that the deposits and disbursements are processed by the same staff person. Best accounting practices require that duties involving the custody of cash and the authorization or approval of related transactions affecting the cash be segregated. The duties have not been segregated due to a limited number of fiscal staff in the Public Guardian's office. The Public Guardian's Office has implemented compensating controls by requiring verification of deposits by a second staff person; however, the overall lack of segregation of duties increases the risk of misappropriation and/or misuse of assets.

#### Recommendation:

We recommend that the staff person responsible for issuing checks be removed from all depository duties. In addition, the preparation of the deposit should be handled by a person

who is not making the deposit at the bank. The person making the deposit should not work in the Public Guardian's office.

## **2. Untimely Deposits**

Based on our review of internal controls, we determined that deposits were not made in a timely manner. The County Auditor-Controller's Cash Handling Policy requires departments to deposit cash at least weekly or earlier if receipts exceed \$500. Staff was unaware of the Cash Handling Policy requirement. In addition staff stated that the bank used by the Public Guardian's Office charges a fee for each deposit. Undeposited cash receipts increase the risk of loss or misappropriation of conservatee assets.

### **Recommendation:**

Because the bank used by the Public Guardian charges a fee for each deposit, we recommend that the Public Guardian work with the San Luis Obispo County Treasurer to find a more cost effective financial institution. In the interim, we recommend that the Public Guardian submit a letter to the Auditor-Controller asking for a waiver allowing the Public Guardian to deposit funds weekly.

## **3. Authorized Bank Account Signatory Not on Organizational Chart**

We found that one of the signatories on the Public Guardian bank accounts is an administrator in the Public Health Department. The Public Health Administrator is not on the Public Guardian organization chart or in a position of authority over the Public Guardian's activities. Best business practices require that signatories on bank accounts have some authority over the operations of the accounts for which they are signing. The Public Health administrator was a signer on the account when the Public Guardian's Office was part of the Public Health Department. When the Health Agency reorganization took place, and the director of the Health Agency became the Public Guardian, the Public Health administrator was left on the bank account as an authorized signer. Having a signatory on the account who does not have authority over the operations of the accounts for which he or she is signing increases the risk that client funds could be disbursed for unauthorized purposes.

### **Recommendation:**

We recommend removing the Public Health Administrator from the Public Guardian bank accounts. If the Public Guardian requires another authorized signatory on the account, we suggest the Health Agency Deputy Director, who by the nature of his position has accountability for the financial activity of the entire Health Agency, be added.

## **4. Inventory and Appraisal Not Filed Within 90 Days**

We found that three of seven cases tested did not have inventories and appraisements of the conservatees' estates filed with the clerk of the court within 90 days of appointment of conservatorship. Probate Code Section 2610(a) requires that within 90 days of appointment, the conservator must file an inventory and appraisal of the estate with the clerk of the court. Staff was uncertain as to the reason for the delays which ranged from 2 to 19 days. Noncompliance with the Probate Code increases the risk of loss or misappropriation of conservatee assets as well as potentially increasing the risk of litigation for the County.

Recommendation:

We recommend Public Guardian staff review current processes and update as necessary to ensure that mandated court reporting deadlines are met in every case.

## 5. Policies Out of Date

We found that many of the Public Guardian Policies had not been updated since January of 2002. Best business practices require the review and update of policies on a regular basis. Staff stated that the policies are based on legislation, which changes too quickly for updates to the manual to be effective. Policies that do not have the most current information can cause errors and miscalculations in staff performance.

Recommendation:

We recommend that Public Guardian staff review the Public Guardian's policies and update them as necessary.

### Suggested Improvements

#### 1. Safe Combination Not Changed

We found that it is likely that terminated, transferred or employees who no longer handle cash have knowledge of the safe combination. The County Cash Handling Policy requires that the safe combinations should be restricted to as few employees as possible and that the combination to the safe should be changed whenever an employee who has knowledge of the combination terminates County employment, is transferred to another department, or is removed from cash handling functions. Maintaining the same safe combination after employees with knowledge of the combination no longer require access puts the County's cash and other assets at risk. We recommend that the Public Guardian perform a risk assessment and cost/benefit analysis as to the value of changing the safe combination.

#### 2. Missing Vendor Invoices

Out of 101 payments tested, three payments were not supported by vendor invoices. Best accounting practices require that payments be made based on vendor invoices, and that copies of the invoices are kept for reference. Staff failed to place copies of the invoices in client's accounts payable file. The risk of errors, misuse and misappropriation of client funds increases when sufficient back-up for vendor payments is not kept. We recommend that the Public Guardian ensure that support for all payments made on behalf of clients is maintained in the client's accounts payable file.

#### 3. Subledger Balances Not Reconciled

We found three instances in account -51344 and four instances in account -33185 where the subledger amount for the last day of the month did not agree to the subledger amount for the first day of the following month, and the differences were not reconciled. Best accounting practices require reconciliation of variances between ending and beginning balances. The balances were not reconciled because staff was focused on validating the ending bank statement balance. The majority of the variances occurred because the Public

Guardian accounting software allows checks to be entered and held in the system and then printed in subsequent months. The risk of misappropriation of assets and the risk of material misstatement of accounting records increases when variances between ending balances and beginning balances are not reconciled. Staff immediately began checking that the month ending and prior month beginning balances of the subledgers agree. We recommend that staff run a report at the end of each month to review for checks that have been issued and held, but not yet printed.

4. Cash Handlers Did Not Certify Having Read the Cash Handling Policy

We determined no cash/check handlers had certified in writing that they had read the County Auditor-Controller's Cash Handling Policy (Policy). The Policy is required reading for all cash handlers, custodians, and managers. However, staff was unaware that written acknowledgement was required. Written acknowledgement by employees that they have read the Policy helps ensure consistent Countywide procedures for cash handling. Prior to the end of fieldwork we received verification that all employees with cash handling responsibilities had certified that they have read the Policy.

We appreciate the courteous attitude of your staff and the cooperation we received during the course of our review.



# SAN LUIS OBISPO COUNTY HEALTH AGENCY

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805-781-4719 • FAX 805-781-1273

*Jeff Hamm*  
Health Agency Director

*Michael R. Stevens*  
Deputy Health Agency Director

TO: JAMES P. ERB, AUDITOR-CONTROLLER  
FROM: JEFF HAMM, HEALTH AGENCY DIRECTOR *Jeff Hamm*  
DATE: OCTOBER 15TH, 2013  
SUBJECT: PUBLIC GUARDIAN REVIEW – DEPARTMENT RESPONSE

We've received your review of the Public Guardian for calendar year 2012. We thank you and your staff for their professionalism and responsiveness throughout this process. The following is a response to your findings and our corrective actions.

## **1. Cash Duties are Not Segregated**

The Public Guardian uses outside bank accounts for the deposit and disbursement of client funds. Transactions are not processed through the County's financial system nor are funds part of the County Treasury. We found that the deposits and disbursements are processed by the same staff person. Best accounting practices require that duties involving the custody of cash and the authorization or approval of related transactions affecting the cash be segregated. The duties have not been segregated due to a limited number of fiscal staff in the Public Guardian's office. The Public Guardian's Office has implemented compensating controls by requiring verification of deposits by a second staff person; however, the overall lack of segregation of duties increases the risk of misappropriation and/or misuse of assets.

### **Recommendation:**

We recommend that the staff person responsible for issuing checks be removed from all depository duties. In addition, the preparation of the deposit should be handled by a person who is not making the deposit at the bank. The person making the deposit should not work in the Public Guardian's office.

### **Agency Response:**

Effective September 26, 2013, Public Guardian staff will be implementing a new bank deposit process. The new process complies with the recommendation made by the Auditor and removes depository duties, including the physical deposit at the bank, from the person responsible for issuing checks. A Public Health staff member will now be responsible for delivering the deposit to the bank.

**2. Untimely Deposits**

Based on our review of internal controls, we determined that deposits were not made in a timely manner. The County Auditor-Controller's Cash Handling Policy requires departments to deposit cash at least weekly or earlier if receipts exceed \$500. Staff was unaware of the Cash Handling Policy requirement. In addition staff stated that the bank used by the Public Guardian's Office charges a fee for each deposit. Undeposited cash receipts increase the risk of loss or misappropriation of conservatee assets.

**Recommendation:**

Because the bank used by the Public Guardian charges a fee for each deposit, we recommend that the Public Guardian work with the San Luis Obispo County Treasurer to find a more cost effective financial institution. In the interim, we recommend that the Public Guardian submit a letter to the Auditor-Controller asking for a waiver allowing the Public Guardian to deposit funds weekly.

**Agency Response:**

The Public Guardian office submitted a letter to the Auditor-Controller asking for a waiver allowing the Public Guardian to deposit funds weekly. Due to the low volume of checks received by the Public Guardian office on a weekly basis, the more efficient alternative is a once a week deposit or depositing on an as needed basis for large receipts. The Public Guardian office is also working with its current bank to eliminate the fee charged per deposit.

**3. Authorized Bank Account Signatory Not on Organizational Chart**

We found that one of the signatories on the Public Guardian bank accounts is an administrator in the Public Health Department. The Public Health Administrator is not on the Public Guardian organization chart or in a position of authority over the Public Guardian's activities. Best business practices require that signatories on bank accounts have some authority over the operations of the accounts for which they are signing. The Public Health administrator was a signer on the account when the Public Guardian's Office was part of the Public Health Department. When the Health Agency reorganization took place, and the director of the Health Agency became the Public Guardian, the Public Health administrator was left on the bank account as an authorized signer. Having a signatory on the account who does not have authority over the operations of the accounts for which he or she is signing increases the risk that client funds could be disbursed for unauthorized purposes.

**Recommendation:**

We recommend removing the Public Health Administrator from the Public Guardian bank accounts. If the Public Guardian requires another authorized signatory on the account, we suggest the Health Agency Deputy Director, who by the nature of his position has accountability for the financial activity of the entire Health Agency, be added.

**Agency Response:**

As noted, the Public Guardian's office was part of the Public Health Department prior to an internal reorganization changing its reporting structure to the Director of the Health Agency. Based on the recommendation of the Auditor, the bank signatory page has been updated to remove the Public Health Administrator and added the Deputy Director of the Health Agency instead.

#### **4. Inventory and Appraisal Not Filed Within 90 Days**

We found that three of seven cases tested did not have inventories and appraisements of the conservatees' estates filed with the clerk of the court within 90 days of appointment of conservatorship. Probate Code Section 2610(a) requires that within 90 days of appointment, the conservator must file an inventory and appraisal of the estate with the clerk of the court. Staff was uncertain as to the reason for the delays which ranged from 2 to 19 days. Noncompliance with the Probate Code increases the risk of loss or misappropriation of conservatee assets as well as potentially increasing the risk of litigation for the County

#### **Recommendation:**

We recommend Public Guardian staff review current processes and update as necessary to ensure that mandated court reporting deadlines are met in every case.

#### **Agency Response:**

The Public Guardian office will review their processes to ensure that the mandated court reporting deadlines are met in a timely manner.

#### **5. Policies Out of Date**

We found that many of the Public Guardian Policies had not been updated since January of 2002. Best business practices require the review and update of policies on a regular basis. Staff stated that the policies are based on legislation, which changes too quickly for updates to the manual to be effective. Policies that do not have the most current information can cause errors and miscalculations in staff performance.

#### **Recommendation:**

We recommend that Public Guardian staff review the Public Guardian's policies and update them as necessary.

#### **Agency Response:**

The Public Guardian office utilizes policies and procedures to ensure compliance with applicable conservatorship laws. We agree that many of the documents are outdated. The bulk of the policies are restatements of statutory language. We plan to eliminate those policies. We also plan to replace the bulk of the office's procedures and instead rely on the newly developed California Association of Public Administrators, Public Guardian and Public Conservators Best Practice Guidelines.