

**Nassau County
Office of the Comptroller
Field Audit Bureau**



**Limited Financial Review
of the Nassau County Clerk's Office**

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March 20, 2007

**NASSAU COUNTY
OFFICE OF THE COMPTROLLER**

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Executive Summary

Background

The Nassau County Clerk's Office (the "Clerk's Office" or the "Clerk") is the official repository for public records relating to business, property ownership and civil and criminal cases, and is the County Registrar and the Clerk of the Supreme and County Courts. The Clerk's Office is charged with computing, collecting, and disbursing fees and taxes to Nassau County, New York State, and various local municipalities.¹ The Clerk's Office collects more revenue, apart from sales and property taxes, than any other County department. According to the Clerk's Annual Report (the "Annual Report"), the Clerk's Office collected the following fees and taxes in each of the past three years:

2005	\$315.8 million
2004	\$334.4 million
2003	\$251.9 million

The Clerk's Office has eight departments: Administration; Accounting; Court Records and Requisitions; Deeds, Mortgages and Maps; Land Recording; Legal Division/Receiving; Micrographics and Imaging; and Section/Block and Lot.

Because of the large sums passing through the Clerk's Office, the Comptroller's Office began planning an audit of the Clerk's Office in 2004 and included the proposed audit as part of the 2005 audit plan presented to the Independent Audit Committee. Despite extensive correspondence and discussion, the former Clerk, Karen Murphy, would not agree to a start date for the audit. Litigation resulted in a court order on October 28, 2005 recognizing the Comptroller's authority to audit the Clerk's Office.²

In November 2005, a new Clerk, Maureen O'Connell, was elected. The Comptroller and his staff met with the Clerk-elect in December and explained the need for the audit to proceed. The Clerk's Office would not permit our auditors to begin the audit until March 23, 2006. Although our fieldwork commenced at that time, the Clerk's Office placed significant limitations on our ability to conduct the audit (see section entitled "Scope Limitation"). As a result of these scope limitations, we terminated our fieldwork on September 22, 2006, before the audit was completed but after having documented the findings contained in this report.

This report describes material weaknesses in the control, oversight, and accounting for the hundreds of millions of dollars that flow through the Clerk's Office annually. Because of the deficiencies in controls and accounting described in this report, we were unable to determine whether the fees and taxes that the Clerk's Office is responsible for were properly collected and disbursed.

Revenues Received by County Clerk

The vast majority of the revenues collected by the Clerk are paid out to the State and local municipalities. In 2005, the Clerk reported \$315.8 million in revenues collected. Approximately 95% of the \$315.8 million was disbursed to the State, State authorities and local municipalities

¹ The Clerk's duties are outlined in Article XIX of the Nassau County Charter, Chapter XIX of the Nassau County Administrative Code and various sections of State law.

² *Weitzman v. Murphy*, Sup. Ct., Nassau Co. Index No. 14162/06 (Davis, J.).

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other than the County, in accordance with applicable law. The Clerk reported paying Nassau County \$15.9 million in 2005.

The table below illustrates the revenue collected by the Clerk's Office, by category, for the fiscal years 2003-2005³:

Revenue Category	2005	2004	2003
Mortgages*	\$ 245,870,967	\$ 255,729,932	\$ 190,832,864
Deeds	56,348,829	64,155,232	49,268,268
Court fees	10,399,185	12,007,665	9,233,185
Misc. Court Filing Fees	562,735	586,074	458,196
Interest Earned	542,348	205,889	124,331
Notary Fees	497,884	76,090	459,746
Searches, Copies, Certificates	462,742	508,026	459,406
Uniform Commerical Code	310,440	383,184	340,622
Judgments/IRS Revenue	284,456	301,366	196,880
Business Names	278,022	276,858	286,103
Desk and Locker Rentals	110,248	51,000	56,250
Other	55,018	5,668	76,138
Liens	31,339	119,730	88,407
Total	\$ 315,754,213	\$ 334,406,714	\$ 251,880,395
Nassau County Revenue	\$ 15,947,305	\$ 18,530,227	\$ 15,422,327

* Includes mortgage tax revenues and fees associated with mortgage satisfactions and assignments.

For purposes of this audit, we focused our review on mortgage tax revenues, which represented approximately 73% of all monies collected by the Clerk's Office in 2005. In 2005, \$231.2 million of mortgage tax revenue was disbursed as follows: \$115.8 million to State agencies and authorities, \$113.9 million to local municipalities and \$1.5 million to Nassau County. The Nassau County share represented administrative expenses and interest earnings.

Audit Scope, Objective and Methodology

The objective of our audit was to review internal controls surrounding receipts and disbursements, accounting, investing and bank reconciliations. The period audited was November 2004 through September 2006, when we terminated our fieldwork. We selected December 2005 for review, to understand the receipts and disbursements cycle and how data was

³ Source: Clerk's Annual Report (unaudited).

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accounted for and included in the Annual Report. We selected three days' work for detailed testing, including the first and last business days of the month. For those days, we examined how all cash receipts tied into monthly revenues and monthly disbursements, and attempted to verify that all funds collected were correctly deposited in the bank.

We selected mortgage tax receipts as our focus since they represented approximately 73% of the annual revenue collected by the Clerk's Office. We tested mortgage tax receipts through the accounting records, from daily receipts to monthly disbursements and into the Annual Report. Testing included examining the reports produced by BROWNtech, the Clerk's transaction recording system, tracing daily receipts to the Microsoft Excel-based spreadsheets ("Excel spreadsheets"), which the Clerk used instead of financial records, and to the bank statements, and tracing month-to-date Excel spreadsheets to the revenue and disbursement schedules in the Clerk's Annual Report. We also reviewed the accuracy of the Excel spreadsheets and selected transfers between the bank accounts maintained by the Clerk's office. For the test month selected, we reviewed the General and Mortgage Tax accounts used to deposit mortgage tax receipts, and the Excel spreadsheet records of these banking transactions. Our objective was to provide reasonable assurance that an effective system of internal controls was in place to safeguard cash and accurately report the revenues collected and disbursed by the Clerk's Office.

Scope Limitation

Our access to information, documentation and employees for observation and interview was limited by the Clerk's Office. These limitations hindered our ability to perform necessary audit steps essential to assess the effectiveness of the department's internal control system.

We were not permitted to observe the office's work as it was performed in a real time environment. Furthermore, despite our request to review original documentation such as bank statements, deposit slips and check registers, other than batch-out reports, we were provided with photocopies instead of originals for every type of document requested. We could not observe the transaction recording system, BROWNtech, in use in a real environment. All of our interaction with the Clerk's Office staff took place in the Clerk's conference room. One Deputy County Clerk (the "DCC") was our only contact person, and no contact with any other employee was permitted without first speaking to her. Another Deputy County Clerk, who was responsible for accounting functions (the "DCCA"), was made available for interviews on a limited basis. As questions arose from previous meetings or after reviewing documentation, we had to send an email request to the DCC to schedule a new meeting. There was no fluid interaction between our office and the Clerk's Office.

We obtained our understanding of cashier procedures by observing a cashier in a controlled environment using transactions chosen by the Clerk's Office. We were not permitted to observe any cashiers servicing walk-in customers. We observed cashiers opening mail chosen by the Clerk's Office in the Clerk's conference room.

Despite the limitations placed on the auditors, we found reportable the conditions that are discussed in the Audit Findings and Recommendation presented in this report. The scope limitations leave open the possibility that there are additional significant findings that are not reported on and the possibility that there may be compensating controls to the weaknesses identified in this report.

Significant Audit Findings

Internal Controls

During the course of our audit, we noted material weaknesses in the internal control structure of the Clerk's Office, including:

- insufficient segregation of duties;
- absence of written policy and procedures manuals;
- lack of managerial oversight;
- unauthorized transactions; and
- an inadequate financial and accounting reporting system.

Segregation of Duties

An effective system of internal controls requires segregation of duties. It is especially important that the functions of recording cash and checks, depositing receipts, initiating banking transactions, reconciling bank records, and maintaining accounting records be divided among several employees to reduce the risk of errors and fraudulent activities; no single individual should control most or all phases of a transaction.

The segregation of duties within the Clerk's accounting department was inadequate to such a degree as to create a material weakness. A single individual, the DCCA, had control over cash receipts and disbursements; recorded the daily accounting entries; deposited daily receipts in various bank accounts; transferred funds among bank accounts; calculated monthly disbursements to governments; invested excess cash; reconciled the bank statements; generated all financial reporting; had custody over petty cash; and executed the system administrator role for the BROWNtech documentation and transaction recording system. During the DCCA's absence, no one in the Clerk's Office assumed these duties, except for the daily deposit of receipts. There was no evidence of cross training within the accounting department.

Insufficient Oversight

Increased review of activities by a supervisor or another senior staff member can be a mitigating control where adequate segregation of duties does not exist. However, there was little evidence of oversight by management or other senior staff of the DCCA's responsibilities.

Procedure Manuals

Written manuals provide guidance and accountability because employees recognize that they must follow the procedures described in the manuals. As of September 22, 2006, the date that we terminated our field work, the Clerk's Office had no policy and procedures manuals to document activities, policies, and responsibilities for cash management, processing mail, receipt of revenue and disbursements, bookkeeping, accounting, banking or investing.

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Unauthorized Transactions

While we were informed that supervisors in the Clerk's Office must approve all waivers or changes to fees and taxes collected, the BROWNtech transaction-recording program permitted cashiers to waive or change fees and taxes without supervisor approval and cashiers waived charges without a supervisor's authorization. In addition, we saw no evidence that senior Clerk's Office personnel reviewed system reports that listed waived or revised charges. During the three days we tested, \$398,243 was reported as waived or revised charges.

Inadequate Financial Reporting

The DCCA used the Excel spreadsheets with manual input to prepare the annual statement of revenues received and disbursed which constituted the Clerk's Annual Report. Manually inputting the data increases the risk of errors. The accuracy of the revenues and disbursements in the Annual Report could not be confirmed.

Accounting Procedures and Records

The Clerk's Office did not have a double entry general ledger system, and did not use the Nassau Integrated Financial System ("NIFS"), which is the County's system of accounts prescribed by the Comptroller for use by all County Departments pursuant to the Nassau County Charter, except in limited instances. The Clerk used NIFS only to record its disbursements to the County for the County's share of the Clerk's collected revenues (which represented only 5% of the revenues collected by the Clerk), to record the mortgage tax revenues disbursed to the County Treasurer on behalf of the local municipalities, to purchase supplies and services, and pay related bills.

Due to the absence of a general ledger system, the Clerk's Office heavily relied on Excel spreadsheets to maintain its financial records. The Excel spreadsheets did not utilize dual-entry accounting and were not a substitute for an accounting system. The DCCA maintained these files without other senior staff members reviewing his entries or monthly reports. During his absences, the Excel spreadsheets were not updated. There were no written procedures documenting his accounting tasks and responsibilities. There were no instructions in the Excel spreadsheets; entries were numerous and not clearly explained and the Excel functionality used was very basic. The spreadsheets contained many unexplained manual adjustments. The Excel spreadsheets were only backed up monthly, so records prepared prior to monthly backup were at risk of being lost. Lotus spreadsheets were utilized to consolidate the monthly data for the Annual Report.

Investment of Excess Funds

The DCCA had control over all phases of the investment of funds. The Clerk's bank accounts were not sweep accounts, where funds are automatically invested at the end of each day. The DCCA monitored the bank accounts and when in excess of one million dollars was on deposit in the mortgage tax account, he invested the excess funds in short-term bank certificates of deposit ("CDs"). During a month, he would buy multiple CDs of varying maturities. During December 2005, \$31.1 million in CDs were purchased.

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We were informed that the CDs were purchased from three banks; the DCCA called each bank for its interest rates, and unilaterally selected the bank offering the highest rate. The DCCA stated that 99% of purchases were from State Bank of Long Island (“State Bank”), which had custody of the seven bank accounts maintained by the Clerk. The Clerk’s Office purchased CDs from State Bank via an inter-bank transfer, and from the other two banks by paper check. Upon maturity, the funds were transferred to the Mortgage Tax account on instruction from the DCCA, or the DCCA physically picked up a check from the bank.

There were no written procedures documenting the investment process. We found no evidence of a competitive selection process for the banks that had been approved for investment, and no mechanism for additional banks to be approved. We found no evidence of any review of the selection of the bank or the investment instruments. We found no records comparing the interest rates offered by State Bank to the banks that were not chosen. We are unaware of any log or ongoing record of the investments that may be monitored and reviewed by supervisors or other senior staff members.

Systems and System Reporting

The Clerk’s Office used the BROWNtech system to input all transactions and related revenue. The office had no system user manuals. We could not determine the system’s functionality, nor were we permitted to observe the system in use in a real environment. BROWNtech did not have any security in place to prevent cashiers from waiving or revising taxes without supervisor approval.

Adjustments were made to the data in BROWNtech on a retroactive basis. The data compiled in the Excel schedules prepared by the DCCA was obtained from BROWNtech system reports, however, due to manual adjustments of transactions in the BROWNtech system, the BROWNtech reports were not always an accurate reflection of transactions at a given point in time.

According to Dun & Bradstreet (“D&B”), BROWNtech was a six-employee firm, including the president (the owner) and treasurer, who ran the business out of their Massachusetts home. The County Department of Information Technology (“IT”) did not support the Clerk’s BROWNtech system or the server on which it resided, with the exception of limited services such as verifying daily backup. County IT did not have password access to the server. Technical support was provided personally by the president via remote access to the Clerk’s AS/400 server. This procedure may have exposed the Clerk’s Office, and the County, to unauthorized access to County data and the small size of the firm presented a risk should the company cease operations or stop supporting the program.

Annual Report

The Clerk’s Office issued an Annual Report to the Nassau County Legislature as required by State law.⁴ This report constitutes schedules detailing monies collected and disbursed by revenue category and government agency. During our testing, we attempted to trace a sample of daily mortgage tax receipts through to the Annual Report. We found significant discrepancies

⁴ New York State County Law §406.

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between the mortgage tax revenue stated on the Lotus spreadsheet and the amounts stated in the Annual Report, in addition to inconsistencies within the Annual Report.

Bank Accounts and Bank Reconciliations

The County Clerk's Office maintained its own bank accounts at State Bank, separate from the County's bank accounts. At any given time, the Clerk had millions of dollars on deposit. The bank accounts and deposit instruments were selected by the Clerk's Office without any evidence of consideration of the County's investment policy. The Clerk's Office kept no record of these accounts in the County's financial system, NIFS. According to the Clerk's staff, the Clerk's Office had seven such bank accounts. The DCCA was responsible for all bank deposits and reconciliations, internal and external wire transfers between the seven bank accounts and State agencies, and investment decisions with little or no oversight or review by a senior staff member.

In 2004, this Office reviewed all Non-NIFS bank accounts County-wide. Several of the findings concerning the Clerk's bank accounts noted in that report have not been corrected, including the need to document banking procedures.

Bank Deposits and Deposit Corrections

As part of our testing of the December 2005 transactions, we selected three days' activity to review from receipt of cash through to the accounting of the revenues received for each day. For two of the three days tested, the cash deposits did not agree to the end-of-day BROWNtech report of funds received. There were no notations on the daily reports explaining the differences.

While reviewing the Excel spreadsheets for the month of December 2005, we noted numerous deposit corrections listed on the December 2005 bank statement; these deposit corrections were noted as "adjustments" in the Excel spreadsheets. We were informed that the corrections represented errors on the original bank deposit slips, and that the number of deposit corrections had been significantly reduced since the audited month due to the departure of the individual who had been responsible for their preparation. We requested the original deposit slips and a more recent bank statement in order to verify these statements, but our requests were denied.

Checks Returned with Insufficient Funds

We were told that the Clerk's Office re-deposited dishonored checks without imposing a Nonsufficient Funds ("NSF") fee. If the check was returned a second time, the DCCA wrote a letter to the payor requesting payment and requiring that the new payment include an NSF fee of \$15. The Clerk's Office did not comply with County law, which imposed an NSF fee of \$20 with no grace period.

The Clerk's Office did not record NSF fee payments as revenue in the BROWNtech system. The NSF fees were merely deposited as part of the payment for the underlying tax or service into the General bank account and recorded in the Excel spreadsheets as cash. We could not determine the amount of NSF fees collected from the Excel spreadsheets. There were no controls in place to ensure that the NSF fees were collected or to safeguard these funds. NSF revenues were not remitted to the County or reported in the Clerk's Annual Report.

Processed Transactions Without Correct Payment

Cashiers entered transactions as paid into BROWNtech when in fact payment had not been made. If a check was written for an incorrect amount or was unsigned, the transaction remained in the database and was included in the report of daily revenues, even though no payment had been received. The procedure of recording transactions before the fees were collected increased the risk of lost or misappropriated funds and may have resulted in the Clerk's Office reporting that it owed revenue to the State and municipalities that had not been collected.

Other Findings

During the course of our audit, we noted other findings related to petty cash and mail processing that are detailed in this report.

On January 12, 2007, we submitted this report in draft to the County Clerk for comments. The matters covered in this report were discussed with Clerk's Office staff in an exit conference on February 20, 2007. We were provided with some additional documentation by the Clerk's staff after the exit conference and made some revisions to the report in light of the information provided. The Clerk's comments, received on February 20, 2007, and our responses to those comments, are included as an appendix to this report.

Audit Findings and Recommendations

Internal Controls

Audit Finding (1):

Effective internal controls reduce the possibility that errors or irregularities will occur or go unnoticed. Without proper controls, the accounting for and reporting of transactions may be materially misstated, resulting in erroneous disbursements to the State, the County and local municipalities.

The internal controls surrounding the Clerk's Office's cash receipts, revenue disbursements, accounting, reporting, and reconciliation functions were inadequate. All key duties were performed by one person, the DCCA, with no supervisory oversight or secondary review by another senior staff member, and no written policies and procedures explaining how to properly carry out these functions.

State and local governments issued a number of reports that are relevant to the internal controls and financial operations of the Clerk's Office. The New York State Comptroller has issued *Accounting Procedures for County Clerks*⁵, *Standards for Internal Control in New York State Government*⁶, and *Local Government Management Guide – Internal Controls*⁷. The Nassau County Comptroller has issued a *Directive on Internal Financial Controls*.⁸ These reports require implementation of internal controls to reduce the risk of undetected and uncorrected errors or irregularities. We noted that the Clerk's Office did not follow these directives, especially as they relate to internal controls.

Lack of Segregation of Duties

A key element in an effective internal control environment is the segregation of duties, which is primarily intended to provide reasonable assurance regarding the prevention or detection of unauthorized transactions or fraudulent activity. No one person should have control over all phases of a transaction. It is especially crucial that finance-related duties be segregated so that if controls are circumvented, errors or fraudulent activity may be detected on a timely basis and corrective action may be initiated.

The operational tasks of handling monies and keeping accounting records should be assigned to more than one employee; this prevents one individual from controlling all phases of a transaction from beginning to end. In general, the asset custody function (cash receipts, bank deposits, investments, and petty cash custody), accounting and reconciliation functions (recording daily activity into accounting records and bank reconciliations) and transaction approval (adjustments to accounting records and review of bank reconciliations) should each be performed by a different employee.

⁵ Office of the New York State Comptroller, *State of New York Accounting Procedures for County Clerks* (1992).

⁶ Office of the New York State Comptroller, *Standards for Internal Control in New York State Government* (2005), <http://www.osc.state.ny.us/audits/audits/controls/standards.htm>.

⁷ Office of the New York State Comptroller, *Local Management Guide – Internal Controls* (2003), http://www.osc.state.ny.us/localgov/pubs/lmgmg/internal_controls_nc.pdf.

⁸ Office of the Nassau County Comptroller, *Control Directive No 2: Internal Financial Controls* (2004), <http://www.nassaucountyny.gov/agencies/Comptroller/Docs/PDF/InternalControlsDirective.pdf>.

Audit Findings and Recommendations

The segregation of duties within the Clerk's accounting department was inadequate to such a degree as to create a material weakness. Under those conditions, it was not possible to reasonably ensure that assets were safeguarded and transactions were properly and accurately reported. The DCCA had control over all phases of some transactions and there was little or no oversight of his responsibilities. No policy and procedure manuals existed detailing his responsibilities, and except for daily deposits of cash receipts, no one performed his tasks during his absence. Based upon our review, his responsibilities included:

- asset custody – the DCCA, accompanied by an armed escort from the Police or Sheriff's Department, personally took daily cash receipts⁹ to deposit at the bank. In some cases the checks were sent to him by the payor.¹⁰ The DCCA was in charge of all banking. The DCCA transferred funds between bank accounts maintained by the Clerk, determined whether there were excess funds on hand and invested them several times a month by selecting, purchasing and redeeming short-term certificates of deposit at his sole discretion. The DCCA also wire transferred funds to the State and disbursed checks to the Treasurer, the State and State agencies (i.e., the Metropolitan Transportation Authority ("MTA") and the State of New York Mortgage Authority ("SONYMA")). The DCCA maintained custody of petty cash for the office. In the DCCA's absence, no one performed any of these functions other than daily cash deposits.
- accounting and reconciliation – the DCCA recorded the daily receipts in the Excel spreadsheets, prepared all other data input for the Excel spreadsheets, accounted for all investments, prepared the bank reconciliations, and provided the data used for the schedules in the Clerk's Annual Report. In the DCCA's absence, no one performed any of these functions.
- transaction approval - the DCCA processed adjustments directly into the BROWNtech transaction recording system and entered multiple adjustments without adequate explanation into the Excel spreadsheets. Adjustments were not subject to independent review or approval. The DCCA had system administrator authority over the BROWNtech system.

Involvement in these functions by anyone other than the DCCA was extremely limited. We were advised that bank deposits were made by a substitute in the DCCA's absence, checks for over one million dollars required two signatures, and the Clerk and one other Deputy Clerk shared on-line banking authority with the DCCA. We did not determine whether a second signature was required for wire transfers. These few examples of participation by other employees do not mitigate our finding that the Clerk's Office's internal controls were inadequate.

The DCCA informed us that he was scheduled to retire at the end of 2006, but he was still listed as an active employee on County records as of the date of this audit report. We were informed that the Clerk's Office anticipates that the DCCA will be retained as a consultant to the office post-retirement to assist with the transition of his responsibilities to a new deputy clerk.

⁹ "Cash receipts" or "cash" include cash and checks. During the test period, over 99% of daily receipts were by check. The Clerk's Office does not accept credit cards.

¹⁰ See discussion of the Prepaid Account in Audit Finding (6) "Bank Accounts and Bank Reconciliations."

Audit Findings and Recommendations

Reliance on one key individual exposes an organization to an increased risk of preventable errors or fraud going undetected and the possibility of an interruption in business should that individual be prevented from completing his or her tasks for a period of time.

Insufficient Oversight

Another important element of an effective internal control system is the monitoring and review of transactions, procedures and activity by various levels of supervisory staff. During our testing, we found no evidence of any secondary review of the tasks performed by the DCCA.

- The DCCA invested excess cash without written approval or review by a supervisor or any other senior staff member of any phase of the investment process. In December 2005, the DCCA purchased six CDs totaling \$31.1 million.
- Variances noted between cash receipts as recorded in BROWNtech and the batch-out reports, and cash deposits into the bank did not appear to have been reviewed by anyone other than the DCCA who performs the bank deposit function.
- We found no evidence that a supervisor or another senior staff member reviewed the Excel spreadsheets maintained by the DCCA.
- Adjustments processed by the DCCA, both in the BROWNtech system and within the Excel spreadsheets, did not appear to have been reviewed by a supervisor or another senior staff member.
- Bank reconciliations, prepared by the DCCA, showed no evidence of review by a supervisor or another senior staff member.

Lack of Written Policies and Procedures

Written policies and procedures are another tool in an effective internal control environment. A management-approved policy and procedures manual should address significant activities, employee responsibilities, authorization levels and limits, control procedures, reporting responsibilities and performance standards. Policy and procedure manuals can also be helpful to a department in ensuring that business is uninterrupted should an employee be absent for a lengthy period.

The Clerk's Office did not have a written policy and procedure manual outlining the procedures, including: daily and weekly cash management; performance of the accounting function; investment policy; calculation of disbursements; or preparation of the Annual Report.

Unauthorized Transactions

Cashiers entered the type of transaction (e.g., recording of a deed) into BROWNtech and the computer system indicated the fee or tax related to the transaction. The system calculated the charge based upon a rate schedule input by the DCCA into BROWNtech. However, cashiers had the ability to waive, reduce or change fees outside of the pre-set fee or tax schedule.

Fees or taxes may be properly changed. For example, a judge may waive fees for an indigent litigant or taxes may have been paid directly to the State. According to the DCC, cashiers were required to obtain supervisor authorization for every revision to a fee or tax; however, if supervisors were busy, no systemized or written supervisor authorization was required.

Audit Findings and Recommendations

During the three days we tested, a total of \$398,243 appeared on the Exempted Transaction reports, which were generated by BROWNtech to show when a fee or tax is revised. We did not find evidence of supervisory review or approval of revised charges on the Exempted Transaction reports. Revising charges without proper authorization may result in under-collecting revenues due to incorrect overrides of the appropriate fee or tax. The cashiers' ability to adjust the authorized charge without supervisory approval presented a serious control deficiency.

Audit Recommendations:

The Clerk's Office should:

- a) reassign some of the duties performed by the DCCA to ensure the adequate segregation of duties, particularly to segregate the cash receipts, banking, disbursements, accounting and reporting functions. Reassignment may be by delegation to the Treasurer's Office, as discussed in Audit Findings (3) "Investment of Excess Funds", (6) "Bank Accounts and Bank Reconciliations" and (7) "Bank Deposits and Deposit Corrections";
- b) establish a system of checks and balances in the office, whereby any transaction processed, recorded, or approved by one employee is reviewed by a supervisor or senior staff member;
- c) promulgate a written policy and procedures manual for all departments within the office to follow;
- d) re-program BROWNtech to require a supervisor's code to authorize any adjustments to fees or taxes collected;
- e) assign a supervisor to review and approve the report of exempted transactions to ensure that all revised charges are in accordance with the Clerk's Office's policies. Ensure validity of exempt transactions through the periodic review of analytical data on composition of exemptions;
- f) cross-train staff so that in the absence of one individual, the duties can be performed by another;
- g) review and implement the directives outlined in "Control Directive 2: Internal Controls," issued by the Nassau County Comptroller, and the "Accounting Procedures for County Clerks," "Standards for Internal Control in New York State Government" and "Local Government Management Guide – Internal Controls" issued by the New York State Comptroller, with particular emphasis to be placed upon the guidelines detailing policies and procedures and the segregation of duties; and
- h) explore the possibility of using the County's Armored Car Service program for daily cash deposits. This will further segregate duties surrounding cash receipts and provide improved safeguarding of funds.

Audit Findings and Recommendations

Accounting Procedures and Records

Audit Finding (2):

Pursuant to the Nassau County Charter¹¹ and New York State County Law¹², the Comptroller is charged with the accounting responsibility for all departments of County government, including the Office of the County Clerk. The Comptroller has the authority to “prescribe the form of accounts,”¹³ and has exercised this authority for the County by prescribing the Nassau Integrated Financial System (“NIFS”) for this purpose.

The Clerk did not use the NIFS general ledger system for the vast majority of its collections and disbursements, except as described, nor did it use any other general ledger system. The Clerk’s failure to use NIFS or another general ledger to maintain all of its receipts and payments created a high level of risk that not all revenues were collected and properly recorded and disbursed, and presented the opportunity for misappropriation of funds.

The BROWNtech system, which recorded the daily transactions of the Clerk’s Office, did not have an accounting package linked to it. The DCCA had developed Excel spreadsheets in lieu of accounting records for the office. The Excel spreadsheets did not constitute a general ledger accounting system and were not double-entry bookkeeping records.

We requested a list of all Excel spreadsheets used by the DCCA and their purpose, but were not provided with this information. We also requested electronic copies of all the files used in any given month, and received approximately seventeen Excel and Lotus files containing thirty-seven spreadsheets; however, we did not receive any Excel spreadsheets for two of the bank accounts and without a list of files, we could not determine how many more were used for recording purposes each month. Due to the large number of spreadsheets and entries, which often included inadequately documented adjustments, the records could not be audited in the absence of the DCCA. We were informed that the Excel spreadsheets were only backed up on a monthly basis.

Based upon our review of the monthly Excel spreadsheets and our discussions with the DCCA, the Clerk’s Office used the following process to account for revenues and related disbursements:

- The DCCA created an Excel file, containing multiple spreadsheets, on a monthly basis to account for each of the seven Clerk bank accounts. These bank accounts were not recorded in NIFS, which is discussed in Audit Findings (6) “Bank Accounts and Bank Reconciliations” and (7) “Bank Deposits and Deposit Corrections”. At a minimum, each file contained a separate spreadsheet to record the daily fees and taxes collected, a bank account check register, and where applicable, the monthly disbursements.
- The Clerk’s Office used the BROWNtech system to record revenue from transactions. The DCCA and cashiers may have made adjustments to data in the BROWNtech system without any approval or review, and these adjustments were insufficiently documented. The DCCA manually entered the daily revenues collected, as reported in the BROWNtech system reports, into the Excel spreadsheets and accumulated totals on a month-to-date basis.

¹¹ Nassau County Charter §§ 401, 402(1), (5), (7).

¹² New York County Law §577(1)(e).

¹³ Nassau County Charter §402(7).

Audit Findings and Recommendations

- The DCCA also entered the daily cash deposits and cash adjustments, such as NSF checks, from the banking records into the Excel spreadsheets. Although the Clerk's Office had on-line banking functionality, data from the on-line banking system was not exported directly into the spreadsheets.
- Monthly disbursement spreadsheets listed the amounts remitted to the State, State agencies, the Treasurer, other municipalities, and private individuals or entities.
- The BROWNtech system generated month-to-date revenue reports from the daily totals, which the DCCA manually entered into a year-to-date Lotus file maintained for each transaction type. The year-to-date Lotus spreadsheets were used as the basis for the amounts reported in the Annual Report.¹⁴
- Based upon the totals in the Excel spreadsheets, the DCCA prepared monthly and quarterly reports to other County agencies, made distributions to the Treasurer, the State, State agencies, and local municipalities. The disbursements to the Treasurer and the local municipalities are recorded in the County NIFS system as described below.

During our testing, we found several exceptions in the accounting for and reporting of transactions, and the maintenance of the Excel spreadsheets:

- We successfully traced the daily revenues collected by transaction type from the BROWNtech report to the corresponding Excel spreadsheet for the three days tested. However, the cash receipts as recorded in the BROWNtech reports and Excel spreadsheets did not agree to the cash deposited according to the deposit slips and bank statements (see Audit Finding (7) "Bank Deposits and Deposit Corrections").
- Mortgage tax apportionments held for distribution pending the State's instructions on the division of the tax revenues were reported as "holds" by the Clerk's Office. We discovered that the December 2005 holds as of year-end, as reported to the State and the Treasurer, were approximately \$4,500 less than the total holds used to compute the mortgage tax revenues disbursed to the Treasurer on behalf of the local municipalities. As a result, it is possible that the mortgage tax revenues disbursed to local municipalities in December 2005 were understated by this amount.
- Open receivable balances that arose when a transaction was reported in BROWNtech, but before the payment was received, were recorded in an Excel log maintained by one of the supervisors and appeared only as footnotes in the Excel spreadsheets (see Audit Finding (9) "Processed Transactions without Correct Payment").

Use of the Excel spreadsheets raised the following concerns:

- Double-entry accounting was not utilized within the Excel spreadsheets, increasing the risk that input errors may go undetected.
- Excel spreadsheets can be edited without leaving an audit trail, increasing the risk of errors and unwarranted adjustments.

¹⁴Lotus is a spreadsheet program that pre-dates Microsoft Excel. Subsequent to our testing period, the Lotus spreadsheets were converted to an Excel format.

Audit Findings and Recommendations

- The Excel spreadsheets were voluminous and basic, and Excel functionality was not being used to its full capability.
- Entries listed in the Excel spreadsheets as adjustments were not adequately documented so that someone other than the DCCA could understand them.
- Data was not linked among the different Excel files. The many duplicate manual entries into the Excel spreadsheets presented an opportunity for error and for the manipulation of data.
- No “frozen” copies of prior years’ reporting were available. Adjustments processed in BROWNtech may be applied retroactively and with no method of reconciling to the already issued Annual Reports. When we requested that a copy of the year-to-date transaction report for 2005 be generated and provided to us, we were informed that the data in the report would not agree to the information released due to the large number of retroactive adjustments that could not be reconciled.
- The DCCA maintained all the Excel spreadsheet files with no secondary review of his entries or monthly reports by another senior staff member. No one else in the office was knowledgeable enough about his tasks or the Excel spreadsheets to prepare or review the spreadsheets without him.
- There were no written procedures that documented how the BROWNtech system reports and the Excel spreadsheets were utilized or how they interrelated. There were no instructions in the Excel spreadsheets to make them understandable or user friendly.
- Because the Excel spreadsheets were only backed-up once per month, there was a significant risk that files could be lost. There was no contingency plan in place should the records become inaccessible which may result in costly reconstruction of the records or loss of assets.

Records Contained in NIFS: Mortgage Tax Revenues

The monthly disbursement spreadsheet for mortgage tax revenues showed the amounts paid to State agencies, and the amounts paid to the Treasurer on behalf of the local municipalities and the County. For December 2005, the DCCA prepared five paper checks drawn on the Mortgage Tax Account. The two checks to SONYMA and the MTA were not recorded in the Agency and Trust Fund in NIFS. The three checks to the Treasurer remit the County’s share of the interest earned on mortgage tax receipts, the reimbursement for the allowable administrative expenses incurred in the collection of mortgage tax, and the mortgage tax payable to local municipalities. The three checks to the Treasurer were entered into NIFS; the County payments were entered in the General Fund and the Nassau County local municipalities payment was recorded in the Agency and Trust Fund and the money was invested by the Treasurer.

The Treasurer’s Office signed the monthly “Statement of Mortgages Recorded” prepared by the DCCA, and acknowledged receipt of the checks. Pursuant to State law, the disbursements to the Nassau County local municipalities were made quarterly. Pursuant to local law, the County Clerk and the Treasurer’s Office prepared a joint quarterly report of the mortgage tax payable to

Audit Findings and Recommendations

the local municipalities.¹⁵ We were informed that the DCCA provided the mortgage tax revenue amount and the Treasurer's Office provided the interest earned on these funds during their County custody. After the County Legislature enacted a resolution authorizing the distribution of the funds to the towns, cities and villages, based on calculations prepared by the Office of Legislative Budget Review, the Treasurer's Office sent manual checks to the local jurisdictions and entered a summary journal entry into NIFS to reflect the payment from the Agency and Trust Fund.¹⁶

¹⁵ Nassau County Administrative Code §5-1.2[b] (2006).

¹⁶ This office has previously criticized the Treasurer's Office's use of manual checks for these payments. See Office of the Nassau County Comptroller, *Limited Review of the Treasurer's Office Internal Control Procedures for the Issuance of Manual Checks* (2005), <http://www.nassaucountyny.gov/agencies/Comptroller/Docs/PDF/ManualChecksReport06-05.pdf>.

Audit Findings and Recommendations

Audit Recommendations:

To improve the accounting and reporting function and internal controls surrounding those functions, the Clerk's Office should:

- a) create a procedure manual outlining all daily, monthly and annual accounting and reporting tasks;
- b) discontinue the use of the Excel spreadsheets and use NIFS. The County has a functioning general ledger system, which has been prescribed by the Comptroller for use by all departments;
 - 1. the Excel spreadsheets are not a general ledger system and consequently, the Clerk's financial data should be recorded in NIFS. Therefore, the Clerk's Office should work with the Comptroller's staff to reconstruct the Clerk's financial information for the entry of data into NIFS; and
 - 2. the IT Department and the Clerk's Office, in consultation with the Comptroller's Office, should determine the requirements to generate an interface from the BROWNtech data into NIFS, or, alternatively, whether it is necessary to purchase a general ledger package from an established reputable vendor that would interface with NIFS;
- c) enter all financial data into the general ledger on a daily basis in place of its current use of monthly spreadsheets; and
- d) assign a supervisor to review accounting exceptions and records.

As long as the Clerk's Office continues to use the Excel spreadsheets, it should also:

- a) develop written instructions for the preparation and maintenance of the Excel spreadsheets, including those used to compile the Annual Report;
- b) adopt a policy of saving and storing a copy of the final year-end reporting files for audit purposes;
- c) reassign the clerical data entry required to maintain the Excel spreadsheets from the DCCA; and
- d) perform daily backup of the spreadsheets and related schedules and maintain the backup records offsite to ensure that the records are safeguarded.

Audit Findings and Recommendations

Investment of Excess Funds

Audit Finding (3):

We reviewed the mortgage tax revenues as part of this audit. Excess mortgage tax revenues were periodically invested. The DCCA had total and exclusive control over all phases of the investment of the funds held by the Clerk's Office. He invested in certificates of deposit over the course of a month when he determined that there were excess funds, typically, when the bank balance exceeded \$1 million in an account. In our test month of December 2005, he invested \$31.1 million in CDs. He described his practice as follows: When he decided that excess funds need investment, he purchased short-term CDs in one of three designated "County Clerk Banks", after calling the three banks to determine which was offering the highest interest rates for CDs. He did not explain how the three banks were chosen or what procedure existed to become a "County Clerk Bank." There were no records to show a procurement process for bank selection.

If the bank selected was State Bank, where the Clerk's Office maintains its accounts, then the purchase and redemption of the investment was completed via transfer and the Office paid a wire transfer fee; if it was one of the other two banks, then the DCCA withdrew the funds from the mortgage tax account and physically delivered a paper check to the other bank. Upon maturity of the CD, the DCCA obtained a check for the maturing CD and physically deposited the check into the mortgage tax account at State Bank. The interest earned was distributed on a pro-rata basis to the State agencies, the County, and the Nassau County local municipalities.

We reviewed CDs purchased in December 2005 and January 2006. We found that 100% of the CDs were purchased from State Bank, where the Clerk's Office's seven working bank accounts were also maintained. We did not see any records of the interest rates offered by the other "County Clerk Banks" to demonstrate why State Bank was chosen for the CD purchases.

There were no controls in place surrounding the purchase or redemption of the CDs. The DCCA determined the amount, timing and bank from which the CD was purchased, and he was responsible for the funds upon maturity. There was no oversight of this investment function by any other senior staff members to act as a mitigating control. There were no written policies concerning the investment function. A record of the investments was not maintained in NIFS.

General Municipal Law §11[5] grants the Clerk authority to invest "money collected on behalf of the State until such time as the money is required to be remitted to the state," in certain investments, including certificates of deposit. The Nassau County Legislature adopted an investment policy for the County pursuant to General Municipal Law §39. Under that policy, the Treasurer has exclusive authority to invest the County's excess cash, generating investment income where appropriate.¹⁷

¹⁷ Resolution 254-1999. The investment policy "applies to all moneys . . . available for deposit and investment by the County Treasurer on behalf of the County and on behalf of any other entity or individual." The County Legislature did not authorize the Clerk to invest funds when it adopted the County's investment policy. While GML §11[5] authorizes County Clerks in New York State to invest excess funds until they are payable to the State, and Tax Law §261 provides that the Clerk is obligated to pay mortgage recording tax funds to SONYMA and the MTA, the Nassau County Charter, which was also established by State law, establishes a duty to transmit all funds, including funds payable to others, to the Treasurer weekly or more frequently if the Treasurer directs more frequent payments. Charter §2205. Moreover, it is not clear where the County Clerk might derive the authority to invest the County's portion

Audit Findings and Recommendations

While we understand that the Clerk may have authority separate from the Treasurer's to invest funds pursuant to General Municipal Law §11[5], we believe that the Clerk did not have the staff, expertise or internal controls to invest millions of dollars annually. We reviewed CD's purchased in December 2005, and January 2006. Furthermore, we compared the interest rates received by the Clerk's Office from State Bank, where the Clerk's Office's seven working bank accounts were maintained to those received by the Treasurer during that same time period. We found that the rates received by the Treasurer were higher than those received by the Clerk's office. Thus it would have been more economical for the Clerk's office to aggregate its accounts with the Treasurers' so it could take advantage of the higher interest rates received by the County and obtain a higher return on investment.

Audit Recommendations:

It would be more prudent to have the Treasurer manage the investment function, consistent with the County's existing investment policy, and it would be more cost effective for County taxpayers to consolidate the investment function in one County department. Therefore, we recommend that the Clerk transfer the investment function to the Treasurer's Office.

If, however, the Clerk retains the investment function, the Clerk should implement the following procedures:

- a) segregate key responsibilities to ensure than no one individual controls most or all phases of the investment function;
- b) establish written procedures for every aspect of the investment function, including how to determine when funds are excess and should be invested, how to select banks for investments, documenting the interest rates offered by the banks at the time of the investment, and review of the investment decisions;
- c) discontinue the use of paper checks for the purchase or redemption of CDs, and instead, transfer funds electronically;
- d) maintain a monthly log of all CD purchases, maturities and interest earned on the investments with supervisory sign-off indicating proper approval; and
- e) record the assets and interest earned in NIFS.

of these funds. The County Attorney should review whether the Treasurer is legally obligated to assume all or part of the Clerk's banking and investment functions.

Systems and System Reporting

Audit Finding (4):

Systems

The Clerk's Office uses an information technology program provided by a company called BROWNtech, which was described on its website as a provider of electronic document management and imaging systems.¹⁸ The BROWNtech system has been in place since 1999, according to testimony before the Special Meeting of the Nassau County Government Services and Operations Committee, October 2, 2002. BROWNtech was used by the Clerk's Office for document tracking, including imaging of property records and transaction reporting. The financial transaction and reporting component of the BROWNtech system appears to have been customized for the Nassau County Clerk's Office.

The company reports no financial data to D&B, a major credit reporting service. According to D&B, BROWNtech had six employees including the owner, who is the company's president, and the business operated from his residence in Massachusetts.

The application ran on an AS/400 server; neither the server nor the application was supported by the County's IT department, with the exception of limited services such as verifying daily backup. County IT reported that they did not have password authorization to work on the server and the DCCA had to come to Bethpage where the server resides to enter a password for IT when they needed access. Upgrades, patches and software modifications were performed by the president of BROWNtech and applied to the AS/400 server via remote access. Remote access to a County server by a third-party vendor presented a security risk of unauthorized access to County records.

When we requested user manuals for the system, the deputy clerks could not locate any documentation to provide to us. There were no written procedures in the Clerk's Office that detailed the use of the reports, which were generated from the data entered into the system, the relationship of one report to another, or how to trace the reports to the Excel or Lotus spreadsheets. The DCCA indicated that the reports were menu driven, allowing the user to set variable parameters to provide the user with various versions of the report (i.e., daily, monthly, annually or detailed versus summarized). Given our limited access, we could not determine the full extent of reporting functionality available from the system, nor the inter-relationships between the reports.

County records show that the Clerk's Office has spent \$295,000 since 2000 on BROWNtech for upgrades, maintenance, support, and license fees. While the Clerk's Office is not currently in possession of the source code for the system, it appears that the contract with BROWNtech provides that in the limited circumstances where BROWNtech were to default on the contract and cease conducting business, the County would be granted rights to the source code. This clause of the contract provides some very minimal protection to the Clerk's Office in the event that BROWNtech ceases to do business. However, since this is the only scenario when the County will receive the source code, it would be very difficult for the Clerk's Office to terminate its relationship with the vendor because it will not have the source code and therefore will be unable to transfer its data to another system.

¹⁸ See <http://www.browntech.com>. The website appears to have been last updated in 2001.

Audit Findings and Recommendations

Adjustments may be applied to prior periods in BROWNtech; when we requested the Clerk's Office provide us with a prior period report, we were told that if the report were re-generated, the data would not agree to what had been previously reported. Although we saw a system-generated report that listed adjustments processed in a given day, we found no evidence that the report was being used by the office to reconcile the adjustments to prior reporting. The DCCA indicated that although an adjustment went back to correct the original BROWNtech records, the adjustment was processed in the current period for purposes of the records kept on Excel spreadsheets.

In the absence of any process for review of adjustments, it would be very easy for unauthorized changes to be made to the system's records without anyone's knowledge. In addition, this process inherently created numerous reconciling items between the system reports and the Excel spreadsheets. While the BROWNtech website stated that the system offered audit controls and the Clerk's Office ran an adjustment report, due to the limitations placed on the scope of our audit, we were unable to review the program to determine the extent of the audit controls and whether they applied to document tracking or revenue recognition. Even if the functionality existed, the Clerk's Office was not using the audit control function.

The system was configured to permit the same individual to record a transaction and override the existing fee or tax. This presented a substantial risk that incorrect fees or taxes were being collected. (See the discussion "Unauthorized Transactions" in Audit Finding (1) "Internal Controls.")

The Clerk's Office had two system administrators, the DCCA and one other Deputy County Clerk. We requested but were not provided with any documentation regarding system administrator privileges for the BROWNtech system.

System Reporting

As part of our testing of the December 2005 transactions, we selected three days' activity to review from receipts through to the accounting of the revenues received for each day. For two of the three days tested, the total cash deposits did not agree to the end-of-day BROWNtech report, which detailed the funds received. There were no notations on the daily reports explaining the differences. This issue is discussed in Audit Finding (7) "Bank Deposits and Deposit Corrections."¹⁹

During our review of the mortgage tax revenues, we noted that BROWNtech's method for reporting the release of apportionment holds resulted in the overstatement of mortgage tax revenues. The DCCA explained the process of recording the apportionment holds as follows:

- An apportionment exists when a property straddles more than one county or township. In these situations, the mortgage tax is shared among the local municipalities.
- When a cashier in the Clerk's Office enters the Section/Block/Lot of the related property, the system is programmed to flag the transaction as an apportionment "hold"; the cashier collects the taxes, however, the system cannot distribute the fees among the different municipalities.

¹⁹ Differences in the third day resulted when a petty cash reimbursement check was cashed out of the day's receipts rather than in accordance with the procedures outlined in Office of the Nassau County Comptroller, *Control Directive 1: Petty Cash Accounts* (2003), <http://www.nassaucountyny.gov/agencies/Comptroller/Docs/PDF/PettyCashDirective.pdf>.

Audit Findings and Recommendations

- The transaction requires follow-up as the taxes must be shared among more than one municipality.
- The DCCA transmits an apportionment form to the State to determine the correct split of the mortgage tax among the local municipalities. Until the State responds to the Clerk's Office, the transaction and taxes are included in the Excel spreadsheets as mortgage tax revenues, but are not disbursed.
- When the State responds with the correct distribution, the DCCA will process an adjustment in the BROWNtech system to "release" the apportionment.
- The effect of this adjustment in the system is to re-record the mortgage tax revenue with an offsetting entry to "Other Fees." This entry overstates mortgage tax revenue and understates Other Fees.
- When the consolidated BROWNtech reports are generated at the end of the month, the DCCA must manually adjust the data on the report for the apportionments released during the month to arrive at the correct mortgage tax revenue collected and to be disbursed.

As a result, the BROWNtech system reports for mortgage tax revenue and the Excel spreadsheets maintained by the Clerk did not agree by the amount of the apportionment released. There were no written procedures documenting this process, nor were adequate explanatory notations made on the system-generated reports indicating what adjustments have been processed.

There were several risks inherent with this process. First, the "release" entry into BROWNtech rendered the system-generated report unreliable as the entry overstated Mortgage Tax revenues and understated Other Fees. Second, the DCCA was the only individual who was aware of the adjusting entry necessary to release the apportionment in the system. Third, there were no written procedure manuals to document this process. If the adjusting entry was not made, the amount disbursed to the State agencies and municipalities may be overstated.

Audit Findings and Recommendations

Audit Recommendations:

The Clerk's Office should renegotiate the contract so that it will receive the source code upon termination of the BROWNtech contract for any reason.

The Clerk's Office should then replace the BROWNtech transaction reporting system with a software package supported by a more established company having multiple employees capable of supporting the software.

As long as the Clerk's Office continues to use the BROWNtech system for transaction reporting it should:

- a) obtain system manuals from the vendor and retain them in the office;
- b) implement processes to ensure that all prior period adjustments made into the BROWNtech system are authorized, reviewed for accuracy and indicated on the Excel spreadsheets; and
- c) modify the program to:
 1. process apportionments without "double-counting" upon the release of the apportionment holds;
 2. require supervisory approval for any modification or override of fees or taxes; and
 3. automate preparation of the monthly and annual reports, thereby reducing the risk of manual error and improving the system of internal controls. Special attention should be given to the following areas:
 - i. ability to interface and export data into NIFS or an approved general ledger package and until the office adopts NIFS, the ability to export data into Excel;
 - ii. consolidated reporting at year-end to eliminate the need for the multiple Excel spreadsheets to prepare the Annual Report; and
 - iii. maintain a "frozen" record of the year-end report and supporting detail that corresponds to the Annual Report.

Audit Findings and Recommendations

Annual Report

Audit Finding (5):

The Annual Report prepared by the Clerk's Office, and submitted to the Nassau County Legislature, is a certified schedule of all monies received, by type of fee, tax or other revenue, and a list of all monies disbursed during the year.²⁰ The report includes supporting schedules showing revenues collected and disbursed during the fiscal year and prior year.

As part of our testing, we requested electronic copies of all Excel files used by the DCCA in the preparation of monthly reports and any other files that would allow us to trace the monthly records to the Annual Report. We were provided with seventeen files with thirty-seven spreadsheets that recorded month-to-date and year-to-date December 2005 revenues collected. We attempted to use the data contained within these files to support the data included in the Annual Report. In accordance with the scope of our audit, we selected the mortgage tax revenues and disbursements for testing.

Our testing of the mortgage tax revenues included tracing the December 2005 revenues to the supporting Excel spreadsheets, which were used to generate the Annual Report. We successfully traced the December 2005 mortgage tax receipts of \$19,644,458, which excluded the apportionments released in December, to the Lotus file that schedules and consolidates the revenues earned and attributed to mortgages, but could not trace that total through to the Annual Report.

The Lotus spreadsheet used to consolidate all mortgage revenues, including assignments and satisfactions, reported a year-to-date total for mortgage tax receipts of \$231,438,933. However, the 2005 Annual Report reported total mortgage taxes collected of \$230,814,943; this was \$623,990 lower than what was found in the Lotus file. We could not identify the cause of the difference.

We also found inconsistencies within the Annual Report. In the 2005 Annual Report, the monies received totaled \$315,754,213 and the monies disbursed were \$317,639,733. We were unable to reconcile the two amounts to ensure that all funds received were satisfactorily disbursed. The Annual Report included a supporting schedule listing all monies received and disbursed during the year. Pursuant to the schedule, the total amount received was \$315,046,311, which did not agree with the total of \$315,754,213 per the certified page contained in the report submitted to the Legislature. Due to the scope limitations placed on the audit we could not determine what the \$707,902 difference was comprised of, although it may include \$341,652 of apportionments received but not disbursed as of year-end; the remainder of \$366,250 is unknown. The Annual Report did not reconcile these two amounts, nor did it reconcile the amount received with the amount disbursed in 2005.

²⁰ The report is required by New York County Law §406.

Audit Findings and Recommendations

Audit Recommendations:

The Clerk's Office should:

- a) ensure that all schedules reconcile and provide an additional reconciliation between monies collected and monies disbursed; and
- b) prepare financial reports from transactions recorded in NIFS or another general ledger package, so that the underlying reports are reconciled.

Audit Findings and Recommendations

Bank Accounts and Bank Reconciliations

Audit Finding (6):

Bank Accounts

The Clerk maintained seven bank accounts in State Bank of Long Island. Hundreds of millions of dollars were deposited into these accounts during the course of a year. The Clerk's Office managed the bank accounts independently of the Treasurer's Office, who is the official custodian of monies paid to the County.²¹ No record of these bank accounts was maintained in NIFS. As discussed in Audit Finding (3) "Investment of Excess Funds," even if State law authorizes the Clerk to perform a banking function, it is not prudent for banking to be performed outside of the Treasurer's Office. The Clerk's Office lacked the same level of personnel, policies, knowledge and protections that surrounded the Treasurer's Office's performance of banking on behalf of the County. It would be more cost effective for County taxpayers if all banking functions were consolidated in one office rather than building a treasurer function within the Clerk's Office.

The Clerk's Office maintained seven bank accounts:

1. General Account: The majority of daily receipts, such as the mortgage tax receipts, were deposited into this account and transferred into a corresponding account. This was primarily a pass-through account.
2. Mortgage Tax Account: Mortgage tax revenues were deposited into the General Account and transferred into this account on a weekly basis. All disbursements, including interest, were sent by check to the MTA, SONYMA and the Treasurer. Approximately 73% of revenues collected by the Clerk passed through this account.
3. Records Management Account: All receipts were deposited into the General Account on a daily basis and transferred to this account approximately once a month.
4. State of New York Unified Court System Account:²² All Court fees were deposited daily into this account and wire-transferred to the State weekly.
5. Real Estate Transfer Tax ("RETT") Account: Revenues collected were deposited daily into the General Account and transferred to the RETT account approximately twice a month. The RETT was disbursed to the State and the Treasurer. The County received 50% of the interest earned on the account, plus statutorily authorized fees.
6. Refund Account: When cashiers "batched-out" each day, the refunds due to customers were listed in the system-generated report. The DCCA deposited the total reported daily refund amount per the report into the refund account. The Clerk's Office did not give refunds of overpayments in an amount less than \$10 unless customers requested them. Overpayments that were not refunded were reported and disbursed as revenue to Nassau County. Checks were manually written to disburse the refunds to the correct parties. In December 2005, over 300 refund checks were written. See also Audit Finding (7) "Bank Deposits and Bank Corrections."

²¹ Nassau County Charter §§502; 2205. We recommend that the County Attorney review whether the Clerk should defer to the Treasurer's Office for banking under the Charter and State law, as discussed in footnote 18, at 12.

²² New York Judiciary Law §39(e).

Audit Findings and Recommendations

7. Prepaid Account: The Clerk's Office sets up "prepaid" accounts for repeat customers, such as title companies. The customer will give the Clerk's Office a check in advance for services, and each time the customer uses a service, the cashier will draw down on the account. The DCCA indicated that he prepared and sent monthly statements to the account owners. "Prepaid" checks are deposited into this account. As services are used, the DCCA transfers the funds from this account to the General Account.

The DCCA informed us that deposits were made on a one-day lag after cash and checks were received. If there was a delay in processing mail (see Audit Finding (10) "Mail Processing"), then the delay in deposit of receipts may be more significant.

While the Clerk's Office maintained its seven bank accounts separate from the Treasurer's Office, the accounts were under the County's Federal Tax Identification number, the same federal tax ID used to identify the County Treasurer's Office.

In 2004, this Office reviewed all County bank accounts not maintained by the Treasurer and recorded in NIFS.²³ Several of the findings concerning the Clerk's bank accounts²⁴ have not been corrected, significantly:

- There were no written procedures in place for the accounting and maintenance of the bank accounts.
- Bank reconciliations were not always signed and dated by the preparer or approved by a supervisor or another senior staff member.
- Checks were outstanding for six months or more (this was also noted in a 1998 audit of accounts not maintained by the Treasurer).
- Bank reconciliations did not fully disclose all charges and did not document the department's efforts to have erroneous charges reversed.

Bank Reconciliations

The DCCA prepared the reconciliations for all Clerk bank accounts. The bank statements were reconciled to the Excel spreadsheets, which he also maintained. There was no evidence that the bank reconciliations were reviewed by anyone other than the DCCA. Having the same person responsible for banking transactions, bank reconciliations and accounting for finances is an internal control deficiency, as noted in Audit Finding (1) "Internal Controls".

As part of our testing, we examined the December 2005 bank statements for four bank accounts: General, Prepaid, Refunds and Mortgage Tax. Daily cash receipts were deposited into the first three accounts; mortgage tax revenues were transferred from the General Account to the Mortgage Tax Account on a weekly basis. We were not permitted to examine the original check registers. We were also informed that confirmations of inter-bank and wire transfers were printed out and retained, but we did not see any evidence of this procedure.

²³ Memorandum from Howard S. Weitzman to Thomas R. Suozzi, "Non-NIFS Bank Accounts," dated January 24, 2005.

²⁴ Memorandum from Howard Weitzman to Karen Murphy "Examination of Bank Account Information County Clerk's Office Non-NIFS Bank Accounts," dated January 25, 2005.

Audit Findings and Recommendations

Of the four bank reconciliations reviewed, only two were signed and dated by the preparer. There was no evidence of supervisory review on any of the four reconciliations.

We noted outstanding checks on one of the December 2005 bank reconciliations that dated back to March 2003. Voided checks were not accounted for in the check register maintained in the Excel spreadsheets (the "Excel check register"). Checks written in December 2005 and cleared through the bank were also omitted from the Excel check registers.

During our testing, we found check numbers that were not recorded in the Excel check registers:

- General Account – check numbers 1437 and 1438 were unaccounted for in the Excel check register for December 2005 and January 2006, and were not noted in the December 2005 or January 2006 bank statements. There was no record of these checks having been issued or voided.
- Refund Account – check number 10790 for \$92.06 was issued and cleared the bank on January 25, 2006, but was not recorded in the Excel check register. Check number 10791 was not found in the Excel check register, or in the bank statements, although subsequent check numbers were noted in the January 2006 bank statement.

Other errors were found in the check register. One check number was input into the check register 18 times, and there were gaps in the sequence of check numbers with no explanations as to the status of the unlisted checks.

Numerous exceptions were noted in the bank reconciliations:

- 126 out of 407 outstanding checks, totaling \$13,966, and listed in the December 2005 Refund Account bank reconciliation, were outstanding for seven to twelve months. Some of the checks listed as outstanding dated back to 2003. The checks issued from this account were printed with "Void after 180 days". This was a repeat finding; in the 2004 review of Non-NIFS accounts, the Refund Account's bank reconciliation for November 2003 included 90 checks that had been outstanding for more than six months.
- There were many adjustments reported on the bank reconciliation with little or no explanation; the adjustments appeared to be reconciling items to tie checks written to the amounts disbursed per the bank statement. On the December 2005 bank reconciliation for the Refund Account, we found eight "encoding" errors dating back to 2004, seven "encoding" errors for 2005 and adjustments for six 2005 checks issued for incorrect amounts.
- While reviewing the December 2005 bank reconciliation for the Refund Account, we found a check in the amount of \$39.62 that was drawn to United Parcel Service for the cost of shipping the November 2005 Real Estate Transfer Tax TP584 Form, which evidences prepayment of Real Estate Transfer Tax. These forms are sent to the State after the documents are processed in the Clerk's Office. This payment was an inappropriate use of the funds in the Refund Account.
- During the audit we noted that a check for \$17 dated March 13, 2003 cleared the bank in December 2005 even though the check itself had "Void after 180 days" printed on it. According to the bank reconciliation, a stop payment had been issued for this check,

Audit Findings and Recommendations

however, we requested a copy of the bank advice evidencing the date of the request but it was never supplied.

The DCCA managed all deposits and disbursements for the Prepaid Account. Prepayment checks were delivered directly to the DCCA. The DCCA maintained the accounts receivable records within the BROWNtech system for these balances and deposited the funds into a specially designated bank account. As services were used, the DCCA transferred funds from the Prepaid bank account into the General bank account. He sent out monthly statements to the prepaid customers.

Missing Records

During our testing, we noted that on December 30, 2005, the DCCA processed 144 Record Indexing transactions, totaling \$2,880, into the BROWNtech system. These fees were charged against the Prepaid accounts. We found no BROWNtech reports supporting these transactions.

Audit Recommendations:

The Clerk's Office should record all of its bank account and certificate of deposit activity in NIFS and use the Treasurer's Office staff to manage all bank accounts, including the receipt and reconciliation of bank statements.

If, however, the Clerk's Office retains banking responsibility, it should:

- a) develop written procedures for the accounting, maintenance and reconciliation of all bank accounts;
- b) undertake a competitive process to maximize interest on all accounts;
- c) segregate duties associated with banking, reconciling bank accounts and accounting for finances;
- d) require that all bank reconciliations be signed and dated by the preparer, that all adjustments to the reconciliations be explained and documented, and subject reconciliations to managerial review;
- e) investigate, and if appropriate, issue stop payments on outstanding checks on a timely basis;
- f) disclose all charges in bank reconciliations and document the department's efforts to have erroneous charges reversed.
- g) cease direct delivery of customer prepaid accounts to the DCCA. Implement a procedure to have a cashier or staff member account for the checks received and include them with the daily deposits; and
- h) investigate the possibility of utilizing "positive pay"²⁵ services for all cash disbursements, particularly the refund account due to its significant volume of written checks.

²⁵ A Positive Pay system prevents check fraud by providing the bank with a register of the checks issued, date of issuance, name of the payee, and the amount of the check. Before honoring the check, the bank

Audit Findings and Recommendations

Bank Deposits and Deposit Corrections

Audit Finding (7):

Daily Cash Deposits

Each cashier completed a “batch-out” report each day; typically, cashiers batch-out at least twice a day. The batch-out report was a manual reconciliation of the receipts collected, and should agree to the BROWNtech report, which was run for each cashier each time he or she batched-out. We were informed that supervisors were required to review and initial the manual batch-out report and confirm the cash and checks received.

As part of our testing of the daily work for the month of December 2005, we selected three days’ work for detailed testing, including the first and last business day of the month. We reviewed revenues received in order to verify that all funds collected were correctly deposited into the bank. At the end of each day, the BROWNtech CB145RP report was generated; this report displayed a summary of fees and taxes collected by transaction type and a summary of fees and taxes collected by payment method, such as, total payments collected in cash, total payments received by checks, total refunds and total on-account drawdowns. The fees or taxes collected in cash and by check, as reported on the CB145RP report, should agree to the deposits made into the bank accounts. This report represented the consolidation of all cashier transactions for the day.

For each of the three days selected, December 1, December 7 and December 30, 2005, the cash deposits did not agree to the CB145RP report. There were no reconciling notations made to the “batch-out” reports or daily BROWNtech reports to indicate the reason for the differences. The Excel spreadsheet merely reported cashier shortages for the differences. There were no explanations to indicate which cashier was responsible for the shortage, or if the shortage had been resolved.

- The cash deposited into the bank accounts representing the fees and taxes collected for December 1, 2005 was \$40.71 less than the cash collected as reported on the CB145RP report, while the total of all checks deposited was \$40.71 higher than the CB145RP reported. This difference represented a petty cash check. (See Audit Finding (11) “Petty Cash.”)
- In testing the receipts for December 7, 2005, we noted that the amount deposited as cash was \$5.00 lower than the CB145RP report for that day, but \$59.50 lower than the cashier batch-out sheets. The checks deposited were \$101.00 higher than the batch-out sheet, but \$66.50 lower than the CB145RP. The difference in the amount of checks recorded and deposited was comprised of two exceptions; a \$100.00 check deposited for a November 2005 transaction, offset by a \$172.50 check recorded in the system but not deposited due to the lack of a signature. The cash difference was unexplained.
- The checks and cash collected on December 30, 2005 and reported on the CB145RP for that day did not agree to the total funds deposited. Differences were noted on individual cashier batch-out sheets when compared to individual cashier CB145RP reports. Cash

reviews the register to confirm that the check has been appropriately issued and conforms to the information provided to the bank.

Audit Findings and Recommendations

deposited was \$7.71 higher than had been reported as collected. The total checks deposited were \$10.00 less than was reported as collected on the CB145RP report.

These weaknesses may have resulted in inaccurate reporting of revenues collected, inconsistencies between the system-generated records, supporting documentation and the records maintained in Excel and increased risk in the safeguarding of cash. “Control Directive 3: Cash Receipts”²⁶, issued by the Nassau County Comptroller’s Office, specifically stated that control procedures surrounding the receipt of cash, must be implemented to provide assurance that receipts are properly managed and safeguarded. These control procedures included the requirement that senior staff verify that “physical and recorded amounts match”²⁷. Verifying cash receipts is a key internal control surrounding the safeguarding of assets.

Deposit Corrections

As part of our testing performed for December 2005, we traced all entries reported in the General account Excel register spreadsheet to the General bank account to ensure that all entries recorded were properly reflected in the bank statement. We chose the General bank account as it had the greatest amount of activity and acted as the operating account for the Clerk’s Office. While performing this review, we discovered numerous deposit corrections listed on the bank statement. For the month of December 2005, there were reductions to the cash balance of \$8,572 due to deposit corrections; these items were listed in the General account Excel register spreadsheet as adjustments but without any further explanation.

When we inquired as to the numerous deposit corrections, the DCCA informed us that a part-time employee in the accounting area was responsible for the preparation of the daily deposit slips and the refund check disbursements at that time. The employee “made lots of errors”, particularly with the deposit slips and was no longer with the Clerk’s Office. We were told that the volume of deposit corrections decreased significantly after the part-time employee stopped preparing deposit slips. We requested a recent bank statement to verify this statement and requested the original bank deposit slips to determine if the errors were merely addition errors as conveyed by the Clerk’s Office. We were not provided with any of this documentation. See Discussion on Scope Limitation in Executive Summary.

²⁶ Office of the Nassau County Comptroller, *Control Directive No 3: Cash Receipts* (2004), <http://www.nassaucountyny.gov/agencies/Comptroller/Docs/PDF/ComptControlDir3-CashReceipts.pdf>.

²⁷ *Id.*

Audit Findings and Recommendations

Audit Recommendations:

As discussed in Audit Findings (3) “Investment of Excess Funds” and (6) “Bank Accounts and Bank Reconciliations”, the Clerk should use the Treasurer’s Office to manage its bank accounts.

If, however, the Clerk retains the banking function, it should institute the following procedures:

- a) maintain a daily log of cash received;
- b) cash deposit slips should be prepared by an employee in the accounting department, then reviewed and recomputed by a supervisor to avoid deposit corrections;
- c) there should be an independent review of cash deposits to daily reports and supervisors should be required to document the reasons for all variances between the CB145R report and the daily deposit amounts; and
- d) the Clerk’s Office should follow directives in “Control Directive 3: Cash Receipts” issued by the Nassau County Comptroller.²⁸

²⁸ Office of the Nassau County Comptroller, *Control Directive 3: Cash Receipts*.

Audit Findings and Recommendations

Checks Returned with Insufficient Funds

Audit Finding (8):

During the testing performed for December 2005, we noted several instances where checks deposited into the Clerk's bank accounts were returned due to insufficient funds. During December 2005 and January 2006, the General Account had an average of 10 returned checks per month.

We questioned the Clerk's Office personnel to understand the processing of the returned checks. We were told that checks returned due to insufficient funds were returned by the bank to the DCCA. The returned checks were re-deposited a second time. If a check was returned a second time the DCCA requested that a \$15 NSF fee be added to the face amount of the check. "Control Directive 3: Cash Receipts"²⁹, issued by the Nassau County Comptroller's Office, directed that all uncollectible checks be returned by the bank to the employee performing the bank reconciliations, and not to the employee responsible for the bank deposits. The DCCA performed both these functions for the Clerk's Office.

The returned checks were not included in the accounts receivable module of the BROWNtech system. We could not identify any NSF fees in the December 2005 General account Excel spreadsheets or in the December 2005 bank statement. We did, however, find one NSF fee recorded in the spreadsheet for January 2006. Since NSF fees were not remitted separately from the original fee or tax payment, there was no record of these fees received in the bank statements. The returned checks were reported as disbursements in the bank reconciliation.

The Clerk's Office was not complying with the returned check fee established by the County. The County Legislature established an NSF check fee of \$20 per returned check as of October 30, 2005.³⁰ The legislation does not authorize waiving the fee the first time the check is returned.

We did not note any controls in place to ensure that the insufficient funds and NSF fees were ultimately collected. The \$15 was not reported as revenue in the BROWNtech system or in the Excel spreadsheets. NSF fees were not reported to the County in the Annual Report or paid to the County. The NSF fees were retained in the Clerk's General bank account. The DCCA told us that the Clerk's Office retains the revenue "as a cushion."

These NSF fees could have easily been misappropriated since there was no record of them being charged and they were not paid as revenue to anyone.

²⁹ Office of the Nassau County Comptroller, *Control Directive 3: Cash Receipts*.

³⁰ See Nassau County Ordinance 120-2005 establishing that all County departments charge the maximum amount allowable under State law for bounced checks, which has been set at \$20 since the effective date of the ordinance.

Audit Findings and Recommendations

Audit Recommendations:

The County Clerk should:

- a) log all checks that are returned with insufficient funds as an account receivable;
- b) add insufficient funds fees to the BROWNtech system's file maintenance files, coded as NSF fees;
- c) charge the insufficient funds fee established by the County Legislature the first time a check is returned;
- d) record the NSF fees collected as revenue, and report and pay them to the County; and
- e) follow the policies outlined in "Control Directive 3: Cash Receipts,"³¹ issued by the Nassau County Comptroller as they pertain to uncollectible checks.

³¹ Office of the Nassau County Comptroller, *Control Directive 3: Cash Receipts*.

Audit Findings and Recommendations

Processed Transactions without Correct Payment

Audit Finding (9):

During our testing of the December 2005 daily work, we noted several exceptions pertaining to the processing of transactions without the appropriate collection of fees. We were told that cashiers process various transactions into the BROWNtech system, then they notice that either a check had been made out for the wrong amount, or was not signed and could not be deposited. We were told that this situation arose primarily with title companies.

When the transaction was entered but payment has not been properly made, there was a mismatch between the system report, which displayed the transaction as having been processed and paid, and the actual funds received for the day. This discrepancy was noted on the cashier's batch-out report; however, it was not noted on the end-of-the-day system reports. "Control Directive 3: Cash Receipts,"³² dictated that cash receipts must be reconciled to cash reports to ensure that cash is properly accounted for and safeguarded.

We were told that one specific supervisor maintained a log listing the amounts owed. When customers returned to correct the discrepancy, the funds were deposited along with the current day's receipts and the receivable was removed from the list; a separate bank deposit slip was not prepared for the corrected check.

Footnotes were made by the DCCA in the receipts section of the monthly Excel spreadsheets for these differences, but the footnotes did not provide a trail to the original transaction or cashier. For the month of December 2005, we found five such transactions noted; four transactions totaling \$379 represented funds to be collected in January 2006 and one transaction represented a collection of \$100 that had been recorded in November 2005 but was collected in December 2005. The schedule also reported adjustments processed for April 2005 and November 2002 for a total of \$82.

Because there were no written procedure manuals or instructions in the Excel spreadsheets, only the DCCA was aware of how to record the reconciling items as they were paid. In his absence, funds received may be incorrectly reported in BROWNtech and may not be properly recorded in the accounting records. The January 2006 Excel spreadsheet listed the collection of fees or taxes for a transaction that had been originally recorded in July 2005 for \$4,721.75, and the correction of a transaction originally recorded in February 2005 for \$3,645.00.

This procedure of recording transactions without collecting the corresponding fee or tax may have resulted in the Clerk's Office disbursing funds to State agencies and municipalities without having collected them. In addition, without a systemized accounts receivable module to account for and monitor the outstanding amounts, the risk of lost or misappropriated funds increased. Checks could be cashed from the daily receipts, taken off the manual listing and never reported.

³² Office of the Nassau County Comptroller, *Control Directive 3: Cash Receipts*.

Audit Findings and Recommendations

Audit Recommendations:

The Clerk's Office should:

- a) follow the guidelines outlined in "Control Directive 3: Cash Receipts"³³ issued by the Nassau County Comptroller:
- b) create a policy and procedure user manual outlining all processes and guidelines for transaction recording;
- c) prohibit cashiers from recording transactions into the BROWNtech system before they review checks to avoid processing transactions without payment; and
- d) require that receivables be officially recorded in an accounts receivable module and reviewed by a supervisor to ensure they are collected on a timely basis and reported properly.

³³ Office of the Nassau County Comptroller, *Control Directive 3: Cash Receipts*.

Audit Findings and Recommendations

Mail Processing

Audit Finding (10):

We did not perform a surprise walk-through audit, which would have allowed us to search all desk drawers and cabinets for any unprocessed documents or mail. (See the section “Scope Limitations” in the Executive Summary.) We did witness, however, the opening of a portion of a day’s mail in the Clerk’s Office main conference room. Based upon our discussions with the DCC, the following procedures were noted.

Requests for various services were received through the mail. All mail addressed to the Clerk came to one central location where it was opened and sorted into bins for the different departments; it was not processed at the counter. Typically, six to seven mail bins were received per day, but as many as twelve bins may be received on the two heaviest days, Monday and Friday.

Mail received was handled more than once. “General” mail was opened first by experienced employees familiar with the different document types. Checks for payment remained with the opened and sorted mail until it was distributed and processed by a cashier; however, not all mail was processed on the day it was received. Processing delays were discussed verbally; written reports or schedules were not issued. Although the DDC indicated that meetings with supervisors were held to check on the progress of mail processing, there was no formal schedule for such meetings. Mail that had not yet been distributed was maintained in boxes in a deputy county clerk’s office. Any unprocessed mail was locked up.

There was no comprehensive log of daily incoming mail. Checks were not restrictively endorsed and logged upon receipt, as required by “Control Directive 3: Cash Receipts”. The sorted bins were picked up daily by the supervisor of each department, although they did not sign-out the bins they receive. Supervisors distributed the mail daily to the cashiers for processing. The supervisors did not indicate how much they had distributed to each cashier, how much of the mail had been processed or how much still required processing. Since there were no logs, it was difficult to determine if mail was being processed in a timely manner. Only deeds were date stamped when opened, therefore, the department could not determine the processing time for most documents.

There was no formal process to check the status of work distributed. A cashier who may be behind in processing work could place work not completed in a desk drawer or dispose of it without detection. No controls existed to mitigate the risk of funds received via mail from being lost, misplaced or misappropriated.

The accounting area also received checks via mail, which presented a serious internal control issue concerning segregation of duties, as discussed in Audit Finding (1) “Internal Control”. The checks related to prepayment of fees on-account and apportionments due to the County from other local municipalities. A log was not prepared of the checks received each day. We were informed that the DCCA processed the apportionment checks when he had time; in the interim, he kept the apportionment checks at his desk. The DCCA deposited the prepayment checks and the apportionment checks, recording their receipt in the Excel spreadsheets.

Mail backlog may be a significant issue for the operation of the Clerk’s Office. The previous County Clerk announced in a news conference during 2005 that she was taking records to her

Audit Findings and Recommendations

vacation home to process with her family.³⁴ During the 2006 Budget Hearing before the County Legislature held on October 7, 2005, the DCCA reported that mail processing by the Clerk's Office was backlogged by only one week. However, during the 2007 Budget Hearing before the County Legislature, held on October 10, 2006, the current County Clerk indicated that her primary objective, since her election, has been to eliminate a massive backlog of real estate documents dating back to 2002. She further testified that the Clerk's Office had processed approximately one million documents from the beginning of the year to the date of the hearing. We could not determine the reasons for the inconsistent testimony. Because this audit focused on financial controls, we did not determine the extent of a backlog that may exist.

Audit Recommendations:

The Clerk should:

- a) implement stronger controls over mail by logging in all cash receipts and restrictively endorsing checks as they are received;
- b) investigate the possibility of:
 - 1) implementing a scanning process whereby all mail that is received is automatically scanned and processed electronically by the cashiers. Once the document is processed, the electronic copy should become part of the permanent files; and
 - 2) offering some services through on-line access;
- c) require supervisors to sign-out the number of pieces of mail in each of the bins they pick up for distribution to the cashiers and require the cashiers to sign for the number of mail they receive from the supervisors. Cashiers should reconcile the number of pieces of mail that they process to the amount of mail they received;
- d) consider requesting that frequent correspondents put a code on the outside of each envelope addressed to the County Clerk's Office to assist in determining which department should receive the mail.
- e) date-stamp mail when it is received so that the office can evaluate how long it takes to process the mail; and
- f) follow the guidelines outlined in "Control Directive 3: Cash Receipts"³⁵ issued by the Nassau County Comptroller.

³⁴ Michael Rothfeld, *Clerk Says She's Taking Work Home*, Newsday, July 21, 2005, at A14.

³⁵ Office of the Nassau County Comptroller, *Control Directive 3: Cash Receipts*.

Audit Findings and Recommendations

Petty Cash

Audit Finding (11):

In October 2003, the Nassau County Comptroller's Office issued "Control Directive 1: Petty Cash"³⁶ to provide procedures and guidelines with respect to the establishment, management and replenishment of petty cash accounts. This Directive is applicable to all County departments. It states:

- When replenishing a petty cash account, the custodian should cash the check at the bank using his or her Nassau County employee identification card;
- Petty cash account duties should be segregated to ensure that accounts are not misused;
- Each department that has an authorized petty cash account must designate an employee to be the petty cash custodian and an alternate who will assume those duties during the custodian's absence;
- The Comptroller's Office should be provided the names of the current authorized petty cash custodians; and
- A supervisor should review reconciliations, authorizations and disbursements to ensure that the account is not misused.

During our review of the daily work for December 1, 2005, we noted that the cash and checks received for the day did not agree to the cash and checks deposited into the Clerk's Office bank accounts. The total cash collected was \$40.71 higher than the cash deposited into the bank, and the total checks collected were \$40.71 less than the total checks deposited. Upon further investigation, we noted that a petty cash reimbursement check in that amount had been received from the Treasurer's Office. Instead of cashing the petty cash reimbursement check at the bank in accordance with County procedure,³⁷ the cash was taken from the daily receipts and the check was deposited in its place. A copy of the petty cash reimbursement check was attached to the daily bundle work, but there was no explanation or reconciliation attached to any of the reports or the copy of the check.

County records show that the Clerk's Office has a \$1,125 petty cash fund. We did not perform any testing on the petty cash account. The DCCA indicated the amount was allocated among the various units in the office, but he did not have a schedule or list of the amount each unit was allocated. A unit is allocated a cash bag containing \$20 to \$100 in small change to make change for customers; the cash bag is held by a supervisor. The units return their petty cash bags to the accounting area each evening, and the cash is stored in a safe.

The petty cash custodian for the Clerk's Office was the DCCA, which presented an internal control issue concerning segregation of duties. (See Audit Finding (1) "Internal Control".)

³⁶Office of the Nassau County Comptroller, *Control Directive 1: Petty Cash Accounts*, (2003), <http://www.nassaucountyny.gov/agencies/Comptroller/Docs/PDF/PettyCashDirective.pdf>.

³⁷ *Id.*

Audit Findings and Recommendations

The Office of the Comptroller maintains all records of petty cash accounts including the names of all custodians and assistant custodians. As of the end of fieldwork, our records show that the person listed as the assistant custodian was no longer with the Clerk's Office.

Audit Recommendation:

- The Clerk's Office should comply with "Control Directive 1: Petty Cash Accounts" issued by the Nassau County Comptroller.

Appendix
County Clerk's Responses and Auditor's Follow-up

County Clerk's Responses and Auditor's Follow-Up

Scope Limitations

The scope limitations cited in the audit were a direct result of Supreme Court Justice Davis's Court Order dated October 28, 2005.

As the Court concluded in the proceeding captioned: Weitzman v. Murphy, Sup. Ct., Nassau Co., Index No. 114126/06, the audit was to be undertaken "at appropriate times with minimal disruption of the day to day operations of the office being audited". Further, the audit was to be "completed within a reasonable time after it is commenced so that corrective action, if necessary, may be taken...". In keeping with Judge Davis's Order, County Clerk O'Connell's letter of February 10, 2006 indicated that immediate advice was sought as to the office's accounting procedures, to be gathered and presented on a non-partisan basis.

Auditor's Follow-Up Response

The Comptroller's Office was required to sue the former Clerk in 2005 to establish the Comptroller's authority to audit before we could commence our field work. The Court placed no limitations on the scope of the audit, and encouraged both sides to "fully cooperate with one another" in carrying out the audit. This office made every effort to accommodate the Clerk's staff, delaying the start of the field work until March 2006 and respecting the Clerk's concerns regarding disruption of her office. Our field audit staff performs all audits with the minimal amount of disruption to County operations consistent with performing an audit. Government auditing standards provide that the auditor, not the entity being audited, must be the one to plan and supervise the audit.¹

Use of a designated contact person

One 'scope limitation' faulted access through one Deputy, who was assigned as the "only contact person". Accordingly, a contact person, ergo, audit liaison, was designated by the County Clerk at the Comptroller's request.² In view of the well-documented staffing constraints the Clerk's Office has imposed upon it, it can only be surmised that this methodology was the most efficient way to furnish information and data, with one Clerk Office designee serving as a primary contact through whom all information would flow.

Auditor's Follow-Up Response

During the entrance conference commencing an audit we generally request a contact person from the department being audited. This is done to ensure that the auditee's management is aware of the information we are requesting, the scope of the audit and the purpose of the audit steps being performed. In addition, it allows management to expedite the flow of information so that we can complete the audit as efficiently as possible.

¹ See Government Auditing Standards, § 4.03 (United States Government Accountability Office 2007).

² Correspondence of March 14, 2005, Comptroller Weitzman states, "It would be helpful if you could appoint an audit liaison with whom my staff could work out a mutually reasonable timeframe in which to conduct the audit and whom my staff could contact to obtain necessary information".

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No other department audited by our office has limited our audit staff to communicating only with the contact person; normally, the contact person acts as our liaison to the department. We expect that the departmental contact person will direct us to the appropriate employees for various issues and ensure that we are provided with requested information. We do not expect to be prevented from communicating directly with other employees who perform the functions under review in the audit. The County Clerk restricted our communication to the contact person; we were not permitted to communicate directly with the DCCA or any other deputy clerk, not even by email to clarify information that had previously been provided. Moreover, the contact person took days, sometimes weeks, to respond to requests for follow-up information and clarification, resulting in unnecessary delays in the audit's completion.

Use of copies rather than originals

Another 'limitation' cited relates to the fact that copies of documents were furnished. In view of the fact that previously provided paperwork was lost by the Comptroller's Office staff,³ and that standard accounting practice accepts the use of copies, copies were furnished in compliance with the audit staff's requests.

Auditor's Follow-Up Response

Government auditing standards require that "Auditors must obtain sufficient, appropriate evidence to provide a reasonable basis for their findings and conclusions."⁴ Appropriateness is a measure of the quality of the evidence. The standard regards examination of original documents as generally more reliable than examination of copies.⁵ This is because copies or electronic documents can be easily altered. The standard also states that evidence obtained when internal control is effective is generally more reliable than when internal control is weak or nonexistent.⁶ Considering the weak internal control caused by the lack of segregation of duties within the Clerk's Office accounting department, it was prudent for the auditors to request original documents to review.

As explained to the Clerk during our audit, it was not necessary for us to take possession of the original documents; we merely requested permission to review them in the Clerk's Office. We also suggested that it was not necessary for the Clerk's Office staff to make copies for the auditors, as we were more than willing to work in their location and review their original documents in order to minimize the time spent on copying records.

The only original documentation provided to us was batch-out reports; all other documents provided were copies. None of the documents provided by the Clerk's Office were lost, and they will be returned upon the issuance of this report.

Demonstrations in a controlled environment

In accordance with Judge Davis's order, Land Records cashiering was demonstrated to the audit staff in a controlled environment because it was the most effective way to demonstrate the

³ During a Field Audit visit of March 23, 2006, a request by [the Deputy Field Audit Director] of the Comptroller's Office was made to furnish all documentation again, as he ... was unable to locate any documentation previously provided by County Clerk Murphy.

⁴ See Government Auditing Standards, § 7.55 (United States Government Accountability Office 2007).

⁵ *Id.* at 7.60(c).

⁶ *Id.* at 7.60(a).

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recording of documents with minimal disruption of [the Clerk's Office] day-to-day operations.⁷ It was important that this recording demonstration take place away from the counter by a Clerk's Office staff member to avoid the appearance that the public was having its' transactions scrutinized by a third party. Also, that any exposure of "personal identifiers" contained in any documents be avoided for the purpose of protecting the public against identity theft.

The Clerk's Office has long been an advocate for constituents' privacy rights. That commitment extends to being an unwitting participant in a field audit. Further, the staff is under significant pressure in serving the public on a daily basis, and on-site auditing would place an additional and unfair burden on the staff's performance of routine functions. The controlled environment provided a venue within which the audit staff could more readily ask questions without compromising the Clerk staff's duty to expeditiously and accurately process the public's papers.

Court Records cashing, conversely, was not demonstrated in a controlled environment, but rather in the Court Receiving Department. The audit staff witnessed the actual processes involved in the handling of court papers. However, matrimonial file mail was specifically removed in advance of the audit; matrimonial matters are governed under New York State Domestic Relations Law, which limits access to such documents for the protection of the parties to such proceedings. Accordingly, these and other documents, such as those protected under New York State Mental Hygiene Law are not matters of public record, and are only available to the parties or their attorneys. Therefore, processing these filings could not be effectuated before the auditors.

What the auditors witnessed was nonetheless an observation of the transaction recording system, BROWNtech, in use. The location of the demonstration for the field audit purposes was irrelevant, and the auditors should not have surmised that they could dictate such details.

Auditor's Follow-Up Response

Government auditing standards provide that evidence obtained through direct observation is more reliable than evidence obtained indirectly and testimonial evidence obtained under conditions in which persons may speak freely is generally more reliable than evidence obtained under circumstances in which the persons may be intimidated.⁸ In order to evaluate the adequacy of the internal controls, as described to the auditors, observation in a real-time environment was necessary. The simulations demonstrated for the auditors used controlled transactions selected by the Clerk's staff. The Clerk's unilateral decision to preclude us from witnessing financial transactions and mail opening and distribution in a live environment merited the scope limitation laid out at the start of this report.

Audit Finding 1, "Internal Controls"

Internal Controls/Segregation of Duties

Audit Finding 1, including Recommendations (a) and (b), reflects the immediate need for additional staff in this office. However, Comptroller Weitzman advised County Executive Suozzi by letter that a request for additional staff for the Clerk's Office be blocked pending

⁷ Howard S. Weitzman v. Karen V. Murphy (Index 14162/05) Conclusion –page 6 "...said audits should be taken at appropriate times with minimal disruption of the day to day operations of the office being audited".

⁸ See Government Auditing Standards, § 7.60(b) & (d).

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completion of the audit.⁹ The Comptroller's letter creates an untenable staffing situation, refuting the advice of the auditors, as this deficiency is noted in Audit Findings # 3, 6, & 7. It can only be hoped that the Comptroller will assist in the Clerk's ongoing efforts to obtain additional staff.

Further, County Clerk Murphy's administration suffered from the same staffing inadequacies as her numerous requests for additional *accounting* staff to Civil Service were to no avail.

Auditor's Follow-Up Response

It is not acceptable for one person to have custody for the hundreds of millions of dollars in taxpayer funds that flow through the Clerk's Office. This is a basic element of internal control that the Clerk must comply with. It is possible for the accounting, investing and reconciliation functions to be segregated within the department with the present number of employees depending on the staff's qualifications and expertise. If the Clerk's existing staff lacks the qualifications to perform these functions, we recommend that the investment and banking functions be delegated to the County Treasurer's Office.

Lack of Segregation of Duties

As part of the budget hearings for this fiscal year, the Clerk went on record as disagreeing with a budget proposal that failed to accommodate the need for additional full time staff. A policy of no personnel increases in this department, where revenue growth and amplified demands (as evidenced by an astronomical increase in residential tax challenges and numerous Office of Court Administration initiatives) on a staff that has not had an increase in its headcount since 1998, was not acceptable.

Therefore, in line with New York State Comptroller Hevesi's Accounting Procedures for County Clerks, the Accounting staff, consisting of one Deputy Clerk and two and a half FTEs, are the resources the County Clerk has available to provide for the accounting function.^{10 11} Any redeployment of staff would result in a diminution of services to the public with which the Clerk is charged under the State Constitution. This would negatively impact the ability to adhere to a strict timeline and maintain compliance with statutory obligations.

Additionally, the New York State Comptroller's Accounting Procedures for County Clerks sets forth a "Cash and Work Flow Chart,"¹² with which this office complies.

Auditor's Follow-Up Response

The New York State Comptroller's "Accounting Procedures for County Clerks" provides that in small County Clerk Offices, "the county clerk (or the deputy county clerk) may have to assume some of the key duties to achieve segregation of duties". Our audit findings noted that the DCCA performed almost every phase of financial transactions, was clearly not authorized by the State

⁹ Letter of May 12, 2006 statement: "Before your staff analyzes this [request for 15 additional staff]...I suggest that they await the outcome of our audit".

¹⁰ Accounting Procedures for County Clerks – Alan G. Hevesi - Office of the State Comptroller - Internal Controls (pg 2) "Should the office force be so small that various operations must be performed by the same individual, the county clerk (or deputy county clerk) may have to assume some of the key duties to achieve segregation of functions".

¹¹ Under Clerk Murphy, 2 Deputies were assigned to the Accounting functions.

¹² Accounting Procedures for County Clerks- Alan G. Hevesi – Office of the State Comptroller — Page 4

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Comptroller's Procedures. We did not find any evidence to suggest that the DCCA's work was reviewed or overseen by any other senior staff member. Coupled with the lack of a general ledger and lack of written procedures, the lack of segregation of duties in the accounting department represents a material weakness in the internal control structure of the Clerk's Office.

Insufficient Managerial Oversight

The Deputy Clerk assigned to Accounting is listed as an 'active' employee on the County records because he has not retired. The Deputy answers directly to the County Clerk, who exercises supervisory oversight and discretion pertaining to financial matters on a global basis. The daily operational tasks are assigned to two full time and one part time (added by this administration) staff members, each of whom have different functions, to serve as a method of checks and balances.

The Clerk's Office no longer is making Investments in any bank (see Clerk's Response to Audit Finding 3). However, past practice was that the County Clerk was involved in and supervised all investments made by the Deputy Clerk.

To ensure that segregation of duties can be adequately performed by the limited staff size, the following procedures have been implemented:

Each supervisor checks the employee's batch and initials it after review.

- The employee who verifies the cash receipts is not the employee who makes the deposits.
- An Accounting clerk verifies the amount of money collected against the system report.
- Another Accounting clerk, who verifies the batch a third time, prepares the deposit slip.
- The Deputy Clerk is not the only employee who performs the bank deposits.
 - The two other full time employees in the Accounting office also perform this function.
 - Job responsibilities rotate and staff is cross-trained.

For additional information, see Clerk's response to Audit Finding 6.

Auditor's Follow-Up Response

We saw no evidence of oversight of the DCCA's accounting, banking or investments function. For example, copies of the authorization letters provided to State Bank were signed only by the DCCA; there was no additional signature evidencing supervisory review. There was no evidence that bank reconciliations were reviewed by any other personnel. There was no evidence the records of financial transactions kept by the DCCA on Excel spreadsheets maintained in lieu of accounts were reviewed by any other personnel or that anyone else understood the many adjustments on each spreadsheet. There was no evidence anyone else reviewed adjustments made directly into the financial records on the BROWNtech system. There was no evidence that any other personnel reviewed the underlying data used for the preparation of the Annual Report.

We commend the Clerk for implementing the new procedures regarding the deposit of daily cash receipts, however, further segregation of the duties performed by the DCCA, along with added supervisory review of his tasks, is required to establish internal control in the accounting department. The DCCA, who has overall control of all financial transactions, should not also

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receive and deposit cash and checks, make disbursements and reconcile the bank statements. We reiterate our recommendation that the banking and investment function should be delegated to the County Treasurer to segregate these functions without hiring additional personnel.

We reiterate our concern regarding the DCCA's possible retirement. Because his tasks were not adequately documented and there was insufficient cross training and rotation of duties, the Clerk's Office cannot ensure a smooth transition in his absence and upon his retirement, whenever it may occur.

Lack of Written Policies and Procedures

The County Clerk's office has numerous departmental memoranda regarding office policies and cash handling, put in place by County Clerk Murphy and constantly updated and revised by the current staff, as circumstances dictate. All Clerk's office employees are required to acknowledge receipt by signing each procedure stating that they have both received a copy of and understand what is expected of them.

Auditor's Follow-Up Response

The Clerk's Office did not have a written policy and procedure manual outlining any of its procedures for daily and weekly cash management, performance of the accounting or investment function, calculation of disbursements, or preparation of the Annual Report. After the exit conference, we were provided with various policy memoranda concerning such issues as how to identify counterfeit bills. Such memos are not a replacement for a policy and procedures manual governing the routine business of the office that is readily accessible to employees. Policy and procedure manuals should be codified and periodically reviewed and updated to ensure that they conform to current practices. This will help ensure that controls are in place and further ensure the continuity of business should key employees be absent for a period of time.

Unauthorized Transactions

As for 'unauthorized transactions', a fee adjustment is made by the cashier, and logged by the system on a 'Fee Exempt report.' It is agreed stricter controls be implemented. The Clerk's Office has developed a system for supervisory approval for exempt transactions that will be effectuated through the BROWNtech system.

The procedure contemplated includes a system where the supervisor will approve the fee exemption and will insert the reason for doing so. With regard to this transaction, as well as all pre-calculation and post-calculation functions, there is already an 'electronic fingerprint' as each transaction has a unique control number and each employee is assigned a user ID tying him to the transaction. This electronic fingerprint provides transparency to identify untoward conduct by unscrupulous employees.

Auditor's Follow-Up Response

We concur with the corrective actions that will be taken by the Clerk's Office to modify the software to require supervisors to authorize exemptions and reiterate our recommendation that a senior supervisor periodically review and approve the reports of exempted transactions.

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Audit Finding 2, "Accounting Procedures and Records"

The Clerk is a collection agent exercising a non-delegable fiduciary duty for funds collected on behalf of and disbursed to other taxing jurisdictions and the Unified Court System.¹³ The majority of the funds collected is not remitted to Nassau County, nor are they assets of Nassau County.¹⁴ These funds cannot be co-mingled with the General Fund of Nassau County, which is under the Treasurer's purview, but must remain segregated. However, revenues remitted to Nassau County are recorded in the NIFS system, as the audit notes.

Auditor's Follow-Up Response

The Clerk does not address our finding that the Clerk's Office does not use the form of accounts prescribed by the Comptroller for all Nassau County departments and offices, known as NIFS. This is a general ledger system that records and balances all financial transactions. Use of this accounting system is mandatory for all County departments including the Clerk's Office. The Clerk's office only uses NIFS to record revenues remitted to Nassau County. All other transactions are not recorded in NIFS and do not appear on the County's books and records.

The Clerk's concerns regarding co-mingling of state and local government funds with the County general fund is irrelevant to the question of whether financial transactions are recorded in NIFS. The Clerk's Office's revenues, expenditures, assets and liabilities should be recorded in the County's Agency and Trust Fund in the NIFS system, which is the approved methodology in governmental accounting for recording funds held by the County on behalf of others.

Funds are routinely received by the County for other governments, such as fines collected by the Traffic and Parking Violations Agency (TPVA), or from other governments for non-county entities, such as grant funds received by the County on behalf of social services providers. Those funds are kept in separate bank accounts and recorded in an Agency and Trust Fund within NIFS, because the funds are not owned by the County but rather held by the County in trust for another. They are even used by the County for mortgage tax revenues. Once the Clerk does its monthly disbursement of mortgage tax revenues to the Treasurer on behalf of the local municipalities, the Treasurer records the receipts in the Agency and Trust Fund. Our finding states that all the revenues should be recorded in NIFS on receipt, instead of only recording a portion of the revenues monthly.

With regard to request for spreadsheets, e-mail records indicate the auditors received all of the Excel spreadsheets that are maintained for Clerk bank accounts. The Clerk's Office was not aware that there were any missing spreadsheets, as there were no subsequent requests made for this information. Any further spreadsheets requested would be furnished upon request.

¹³ "In the Judiciary, the controls of cash collected by a court or agency is the specific responsibility of the local court manager" (The Unified Court System's Financial Planning and Control Manual (Manual)). Pursuant to the Constitution, Art. 6 § 6, the Clerk is the clerk of supreme court.

¹⁴ Examples of the State role include, inter alia, clerk of supreme court and county court (County Law §525; CPLR §§8018, 8020); and agent of the State Commissioner of Taxation and Finance for collection and remission of real estate transfer tax (Tax Law §147).

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Auditor's Follow-Up Response

We requested, but did not receive, a list of all the Excel spreadsheets used by the Clerk's Office to maintain the Clerk's bank accounts. Without a complete list, we could not immediately determine whether we received all spreadsheets. However, based on our exit interview, we now know that there are no Excel spreadsheets for at least two of the bank accounts maintained by the Clerk's office. It is unacceptable that the Clerk maintains bank accounts and keeps no record of the deposits, withdrawals, or balances in those accounts.

We reiterate our recommendation that pending a transition to recording all financial transactions in NIFS, the Clerk's Office should include in its comprehensive procedures manual a list of Excel spreadsheets along with instructions for their maintenance and requirements for supervisory review.

Excel Spreadsheets

Excel spreadsheets are linked to each other and provide explanation for all staff members making adjustments to them. However, the Clerk's Office will have each Excel spreadsheet contain a more detailed key that would be self-explanatory to anyone utilizing the spreadsheet.—

For clarification, here are the general functions of each Excel spreadsheet:

- The General Account spreadsheet summarizes fees collected and disbursements.
- The Court Account spreadsheet summarizes fees collected and disbursements.
- The Mortgage Account spreadsheet summarizes money transferred in and disbursements.
- The Prepaid Account spreadsheet summarizes transfers to the General account and payments to individual accounts.
- The Refund Account spreadsheet summarizes refund checks written.

Auditor's Follow-Up Response

We concur in the Clerk's goal of making the spreadsheets self-explanatory to any user. We reiterate, however, that the spreadsheets are unacceptable as a system of accounts. The spreadsheets could be edited at any time without leaving an audit trail. The spreadsheets depend on numerous unexplained adjustments, which are not described in any procedures manual and depend on the DCCA's memory for explanation. Moreover, the spreadsheets are very basic. Different files are not linked (i.e., transfers out of the General Account and into the Mortgage Tax Account) as they should be to lessen the risk of manual input errors. Linking records between files also provides for an audit trail. Until the Clerk's Office migrates to NIFS, Excel functionality, such as linking multiple files, and adding formulas to cross check subtotals should be implemented to reduce the risk of errors and increase efficiencies within the accounting department.

The Clerk's Office will take the Audit Recommendation under advisement and look into the possibility of backing up its Excel spreadsheets more frequently.

Auditor's Follow-Up Response

We reiterate our recommendation that the Clerk's Office migrate to NIFS and cease the use of the Excel spreadsheets as its financial records. Until the Clerk adopts NIFS, a policy of requiring daily off-site data back up should be mandatory.

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As an additional layer of checks and balances, the Accounting office does not export data from our on-line banking into our Excel spreadsheets. To substitute the Clerk's accounting information with the banks would compromise the integrity of the data.¹⁵ The Accounting office is also checking the bank's statements for their accuracy to ascertain that they balance against the Accounting office's ledgers. To import the online bank statements would prevent the Accounting office from detecting bank errors.

Auditor's Follow-Up Response

Exporting data from on-line banking facilitates the reconciliation process by simplifying the comparison of the bank's data to the Clerk's records of banking transactions. This is an accepted accounting practice to ease detection of bank errors and is not a substitute for maintaining the Clerk's banking records or reconciliation of bank accounts.

All of fees collected by the Clerk's Office are reconciled with system reports, deposit slips, spreadsheets, and bank statements.

Auditor's Follow-Up Response

We explain in our finding that the Clerk's Office effectively fails to reconcile its revenues with reports and banking records because it has no system of accounts. The Clerk's Office's response does not address our finding that it does not use double entry bookkeeping and therefore cannot determine whether the revenue it collects is properly recorded and disbursed.

In response to "frozen copy" reporting, see Clerk's response to Audit Finding 5.

Audit Finding 3, "Investment of Excess Funds"

General Municipal Law §11(5) allows the County Clerk "to invest money collected on behalf of the State until such time as the money is required to be submitted to the State". As the majority of the monies received are remitted to other taxing jurisdictions, the funds should remain segregated from the County's funds, for obvious reasons. This obligation is vested in the Clerk because under common law rule, the Clerk may be personally liable for the loss of public funds and should take all appropriate steps to protect his/her interests.^{16 17} The divestiture of this responsibility to another County agency is ill advised.

Auditor's Follow-Up Response

The County collects funds as a disbursement agent for other governments and entities. Examples include fines collected by TPVA that are disbursed to local jurisdictions, sales tax sent to the County from the State for disbursement to towns and villages and grant money received from the federal and State government for distribution to not-for-profit social services agencies. Monies collected by the Clerk's Office are no different, and they should be maintained by the County in

¹⁵ The Manual establishes the importance of maintaining a system of fundamental controls. The Audit Recommendation that the Clerk's Office import bank statements would prevent detection of errors, and is inconsistent with the requirement of the Manual. The Manual states that running a book balance should be maintained for all court accounts and be reconciled monthly against the month-end balance appearing on the applicable bank statement.

¹⁶ Accounting Procedures for County Clerks – Alan G. Hevesi - Office of the State Comptroller, p. 25

¹⁷ County Law §403 requires the Clerk to file an official undertaking that states that: "The undertaking of the County Clerk shall name the county **and the people of the State of New York as obligees and shall include any liability with respect to mortgage tax**". (Emphasis added.)

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an Agency and Trust account. There is no reason why the funds must be managed by the Clerk's Office to accomplish this. The Clerk's concern that she should manage her funds because she would otherwise be personally liable for missing funds can be resolved through consultation with the County Attorney.

The Clerk's Office maintains records of every Certificates of Deposit ("CDs") purchased that can be furnished upon request.

Auditor's Follow-Up Response

The Clerk's Office did not maintain a record of investments in the County's system of financial records, NIFS. Because it does not have a general ledger system with double entry bookkeeping, the Clerk can never be certain that its revenues and underlying assets have been properly recorded and invested.

In compliance with GML § 11(5),¹⁸ the Nassau County Clerk's Office had a policy of investing funds in excess of a million dollars from the Clerk's office mortgage tax account in short term CDs ranging from 7 to 25 days. It should be noted that as of November 2006, the County Clerk's Office entered into an agreement with State Bank that permits the Mortgage Tax Account to earn interest daily at the current CD rate.

Mortgage taxes collected on behalf of New York State are transferred the following business day to the Mortgage Tax Account to begin earning the higher interest rate immediately. This agreement will produce more revenue as it is at a constant rate on the entire amount, not just the funds in excess of a million dollars. The Clerk's Office also negotiated with State Bank so that the office no longer incurs wire transfer fees, providing an additional savings to the taxpayers.

Auditor's Follow-Up Response

We found no records to show any competitive review of interest rates before funds were deposited or invested. We commend the Clerk's Office for its initiatives in negotiating a higher interest rate on its Mortgage Tax account and eliminating the wire transfer fees. We reiterate our finding that the Clerk should conduct a competitive procurement for investments; the rate offered by State Bank may be equaled or bettered by another bank. Moreover, the Treasurer may be able to obtain higher investment returns because the Clerk's accounts can be linked to the County's larger balances of funds. We reiterate our recommendation that the County Treasurer's Office maintain all bank accounts.

The segregation/delegation of duties was already addressed in Clerk's response to Audit Finding 1 and 6.

Audit Finding 4, "System & System Reporting"

Systems

BROWNtech *does* provide system manuals (Audit Recommendation bullet point 1 and 3).

Auditor's Follow-Up Response

On several occasions during the audit, we inquired whether the Clerk's Office had in its possession the system manuals for the BROWNtech system, and were told that they did not. After

¹⁸ General Municipal Law §11 (5) is supported in Accounting Procedures for County Clerks – Alan G. Hevesi - Office of the State Comptroller - pg 15

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our exit conference, the office provided us with a "Record Indexing Computer System – Public Inquiry" manual dated November 1999. This document appears to be a user manual for retrieving record indexing information from the BROWNtech system. However, we were still not provided with any system manuals concerning financial transactions. The manual provided does not cover topics such as procedures for the input of transactions, financial reporting, and the many modules customized by BROWNtech for the Clerk's Office.

The audit states that there is a "lack of contingency arrangements should the company cease to exist or no longer support the product..." As is the case with many software vendors who have a scalable niche product, the program offers unique customization and is far preferable than an off-the-shelf product, which might not adequately meet the Clerk's Offices diverse needs. BROWNtech boasts a high-level municipal clientele from New England to Texas. Its small size has made for personalized attention by its founder and owner, who has been called upon on numerous occasions to troubleshoot for the County's own IT department.¹⁹

Auditor's Follow-Up Response

We reiterate our recommendations regarding the support of the Clerk's software; our concern stems from the small size of the company and its ability to continue supporting the product. We discussed programming changes made to the BROWNtech system with the DCCA and another deputy County clerk. Based upon these discussions, it appeared that the president of BROWNtech could remotely access the Clerk's server at any time, and did so periodically to update and revise programs. There is no evidence that changes made to the programs by the BROWNtech president are controlled to ensure that the correct revisions were made and implemented.

Assuming, *arguendo*, that the IT issues presented are within the scope of the audit, its recommendations do not take into account the data protection issues for which the Clerk's Office is responsible. A recommendation to merge the Clerk's database onto the County's platform could prove a disastrous breach of security should hackers get into the County's system again.²⁰ Further, there is the serious concern with the amount of downtime the County's servers experience.^{21 22}

BROWNtech research demonstrates that the IBM AS400 server experiences an average outage of only 5.24 hours per year. This is as compared to 89.98 hours for Windows NT systems in the same study. Nassau County uses the Windows platform. As for security, IBM AS400 security is

¹⁹ In 2004, the County's server, which contained imaged documents, crashed with no back up server available. The Clerk's office suffered more than 3-months of downtime during the height of the real estate bubble. BROWNtech created a scanning program that eliminated the need of that server so that the Clerk's Imaging Department could become functional again.

²⁰ In 2003, the entire County network was paralyzed when hackers transmitted the Master Blaster virus variant, which took advantage of a flaw in Microsoft Corps.' flagship Windows software. This virus did not harm the IBM AS400

²¹ The County Clerk's office was migrated onto Nassau County's Microsoft XP platform in February 2006. However, due to County switch problems, the office suffered tremendous amounts of downtime from February until June of 2006, when the problem was remedied. Originally, the Nassau County I.T. Department laid the blame at the foot of the IBM AS400, which has since been disproved.

²² The Nassau County I.T. Department found that the inadequate HVAC system in the County Office building causes additional network downtime when temperatures in the closets housing the switches climb in excess of 100 degrees. This problem has not been corrected and will probably reoccur in the summer.

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built to meet rigid Department of Defense standards (C-2).²³ To entrust this data to the outsourced County IT Department is not in the best security and operational interests of the taxpayers.

Auditor's Follow-Up Response

We recommend that the Clerk's Office work with the County's IT Department to ensure ongoing support for its software and database. We have taken no position on whether the data should continue to be maintained on the AS400 server. Neither we nor the Clerk's staff has the IT expertise to make these determinations, which is why we recommend that the Clerk work with the County IT department to resolve its security concerns. The Clerk's outside IT vendor may not be aware of, or able to provide, the sophisticated IT resources that could be marshaled through the County's larger program and consultants.

We reiterate our recommendation that until the Clerk's Office migrates to NIFS, the Excel spreadsheets maintained as financial transaction records should be backed up daily and maintained offsite.

While the Audit indicates the amount of funds expended by the Clerk's Office to this vendor for maintaining and enhancing its technology, it should be noted that this vendor has also been instrumental in the Clerk's Offices efforts to successfully eliminate the massive land records backlog. In addition, there are several innovative applications the Clerk's Office is poised to implement through BROWNtech, but due to delays by the Comptroller's Office, it has become difficult, if not impossible, to pay the outstanding invoices as the process for payment to this vendor in particular has become mired in Comptroller's Office bureaucracy.

As previously discussed:

- The BROWNtech system gives each staff member a unique ID and every transaction a control number.
- Each time a change is made to a record, it automatically is recorded by the system in a "Journal of Changes" report.
- An in-house mechanism exists for all supervisors to report and track these changes.
- All Clerk's Office deputies have system administrator privileges and are able to view these reports.
- The Clerk's Office continues to work with the vendor to add functionality to the system and secure the information and fees over which this office has a Constitutional mandate.
- As an additional layer of security, a new system enhancement requiring supervisory approval for exempt transactions will be implemented shortly (Audit Recommendation bullet point 2).
- As indicated in our response to this section, no source code escrow agreement is necessary because the Clerk's Office already has the source code in its possession.

²³ www.Browntech.com

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Auditor's Follow-Up Response

We concur with the Clerk's Office's plan to obtain programming changes that would prevent cashiers from altering charges without a supervisor's system authorization, as we recommended. The system should also be revised to prevent adjustments to prior periods without a reconciling audit trail and to automate preparation of monthly and annual reports.

However, some of the information provided for by the Clerk's Office in the above response contradicts information provided to us during the audit. The Clerk's staff has never shown us a systems manual from BROWNtech that details financial transactions. The "Records Indexing" manual provided to us after the exit conference does not address how financial transactions are input, daily revenue reports, and documentation for the customized programs created for the Clerk's Office. We remain concerned regarding continuity of operations should the small firm that the Clerk relies on goes out of business.

Finally, if there are issues concerning approval of payments to the IT vendor, the Comptroller's staff is available to explain what documentation must be provided so that claims can be appropriately paid.

System Reports

Apportionment occurs when a piece of property resides in more than one taxing jurisdiction. Taxes for these properties must be assigned to the appropriate jurisdiction and are placed in a 'Hold' category until we receive a determination of payees from the New York State Department of Taxation and Finance. These 'Hold' mortgages are included in the monthly totals on revenue reports. They appear on the distribution report but are not calculated into the totals, so there is no double counting, as suggested in the Audit findings. When the data from the New York State Department of Taxation and Finance is received, the 'Holds' are then entered with a different document type so that the taxes are placed in the proper taxing jurisdiction. An offsetting entry is made in the 'Miscellaneous Revenue' and the Excel spreadsheet is adjusted.

The Clerk's Office will evaluate opportunities to enact real time recording, while accounting for fees that are in a suspended state pending direction for remittance from New York State Department of Taxation and Finance (see Audit Recommendation bullet point 4).

Auditor's Follow-Up Response

We reiterate our finding that the BROWNtech reports should accurately reflect the revenues collected by the Clerk's Office by revenue category. It should not be necessary to manually adjust the balances to arrive at the correct results. We adhere to our recommendation to require modification to the BROWNtech software to reflect apportionments accurately, without subsequent manual adjustments.

Audit Finding 5, "Annual Report"

In compliance with County Law § 406, the Clerk files an Annual Report with the Nassau County Legislature on or before February 1st for the prior fiscal year. At year's end, an Annual Report is submitted to the Legislature based on the most current information available at the time of submission. A temporary discrepancy may arise as a result of 'Holds', where the funds go into their own line, until the Clerk's Office receives specific payee information and direction from New York State Department of Taxation and Finance as to the jurisdictions to which the funds must be remitted (see Clerk's response to Audit Finding 4). The inquiry is generated by the

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Clerk's Office in advance of the cutoff date for reporting, but the response from the State may not occur until after the Annual Report is filed. The Clerk's statutory duties promulgated through New York State and the Unified Court System acknowledge the fact that these figures are not static, and require the Accounting office to make minor adjustments retroactively. It is not practical to continually re-issue the Annual Report, nor would it be in compliance with the law. These figures are available to the Nassau County Legislature at any time upon request.

Audit Recommendation bullet points 1 and 2 are complied with currently. The Clerk's Office enters into NIFS the portion of the revenue collected that belongs to Nassau County on a monthly basis. This information provides the basis for financial reporting, along with data provided by the BROWNtech system.

Auditor's Follow-Up Response

We found that the Annual Report had significant internal inconsistencies, and that the underlying data neither agreed with, nor reconciled to, the figures reported in the Annual Report. Our audit found differences that were not explained in the supporting documentation, nor did the Clerk's Office provide reconciliations between the spreadsheets and the annual report.

We reiterate our recommendation that the Clerk's Office migrate to NIFS and prepare its Annual Report from general ledger balances. Adjustments to NIFS that may be necessary for reporting purposes should be well documented, formally approved and retained with the Clerk's Annual Report documentation in the form of reconciliations for audit trail purposes.

We fully understand the issue related to the apportionment "holds" as described in our findings. Our finding took into account the outstanding holds reported as of December 2005 and yet we still could not reconcile the balances reported in the Clerk's Annual Report. The Annual Report must be an accurate reflection of the collections and disbursements made during the fiscal year.

Audit Finding 6, "Bank Accounts and Bank Reconciliations"

Bank Accounts

Many of the recommendations in this section have already been addressed. As discussed in Audit Finding 1, the concept of transferring the County Clerk's bank accounts to the Treasurer's Office is not appropriate. When a specific duty is imposed by statute, responsibility cannot be avoided by delegating performance. The Clerk's Office has a non-delegable duty with regard to court fees and real property transfer taxes (see Clerk's response to Audit Finding 2 & 3).

Audit staff did not request copies of confirmations of inter-bank and wire transfers, which can be furnished upon request.

Auditor's Follow-Up Response

We recommend that rather than re-create a Treasurer's Department within the Clerk's Office with the attendant costs, the taxpayers would benefit if the Clerk delegated those functions to the Treasurer. The Clerk's Office would continue to collect the fees and taxes and instruct the Treasurer's Office to make the required disbursements of the collections. The current situation in the Clerk's Office with no segregation of duties relating to handling and reporting of assets creates an unacceptable risk of lost or mismanaged funds. Delegation of banking, investment, and reconciliation functions to the Treasurer would help resolve these concerns. The legal

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question concerning whether the Treasurer may perform these functions can be referred to the County Attorney's Office and the Attorney General's Office.

Bank Reconciliation

The Clerk's Office has a procedure to prepare, review, and sign the Bank Reconciliation Statements. This function is not solely handled by the Deputy Clerk. The Audit states that the auditors "were not permitted to examine the original check registers". However, the auditors received copies of these items. In view of the fact that previously provided paperwork was lost by the audit staff (see Clerk's response to 'Scope Limitations'), and that standard accounting practice accepts the use of copies, the Clerk's staff furnished what was compliant with the auditor's request.

With respect to the Excel check registers:

- General Account - check number 1437 was voided and attached to the bank stub in the check register. It should have been in the December Excel register but was not. Check number 1438 appeared in February 2006 and was recorded at that time.
- Refund Account - check number 10790 was used to replace check 10704. Check 10791 was used to replace 10705. These checks should have been voided on the register and showed that replacement checks were issued. We have since modified our method of recording similar changes.

Auditor's Follow-Up Response

Government auditing standards require that auditors have sufficient evidence to provide a reasonable basis for their findings, and the standard regards original documents as more reliable than copies²⁴. The Clerk's refusal to provide the original documents placed a significant limitation on the scope of our audit. As we have explained to the Clerk's staff, we have maintained all documents that were provided to us which will be returned upon the issuance of this report.

None of the bank reconciliations received from the Clerk's Office were signed by a reviewer. This was a repeat finding, cited in 1998 and 2005 reports concerning County bank accounts not recorded in the NIFS system.

The purported errors cannot be reconciled without further detail from the auditors. Specifically, details are needed on the check numbers that were input multiple times.

Auditor's Follow-Up Response

This information is readily available in the December 2005 Excel spreadsheets provided to us by the Clerk's Office. Again, if the Clerk's office performed a review of the manual check register as part of the bank reconciliation for this account, they would have easily discovered this error.

This office has been writing off checks at least once a year. With a very limited staff, it is difficult to perform this task more frequently. The checks are printed with "Void after 180 days" but many checks are still processed by the bank after that. The bank has informed the Clerk's Office that a "Stop Payment" issued for any check is only valid for six months. Additionally, the bank has been contacted to investigate the possibilities of implementing a "Positive Pay" system,

²⁴ See Government Auditing Standards, §§ 7.55, 7.60.

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as per the audit recommendation. Notwithstanding, the Clerk's Office does not have on file the auditor's request for "Stop Payment" information.

Auditor's Follow-Up Response

We concur with the Clerk's investigation of positive pay services. Stale checks should be reviewed on a timely basis. The Clerk's Office should determine why, if outstanding checks are written off at least once per year, there were still outstanding checks dated back to 2003.

The Clerk's Office should follow-up with State Bank regarding the bank's procedures for cashing checks that have been voided by virtue of their issuance date and work with the bank to establish a procedure for ensuring that such checks are not honored by the bank.

The encoding errors the audit refers to were corrected by the Clerk's Office in December 2006 (before the audit was received). The bank accounted for these errors.

In accord with the audit recommendation, the office uses the General Account, instead of the Refund Account when remitting the Real Estate Transfer Tax TP584 form to the State.

Prepaid account deposits and disbursements will not be "managed" by the Deputy Clerk. In furtherance of the Audit Recommendation that the office segregates its [accounting] duties, this account will be handled by other staff in the Accounting office that the Deputy supervises.

Auditor's Follow-Up Response

We concur with the corrective actions implemented by the Clerk's Office. The encoding errors, corrected by the Clerk's Office as noted above, date as far back as 2004. Differences noted during bank reconciliation should be investigated and resolved on a timely basis.

Missing records

Be advised there were no missing records. The 144 transactions, which were recorded by the Deputy Clerk and included in the cashiering batches the auditors received with December 2005 batch work were an electronic notary file sent to the Clerk's Office by the New York State Department of State and were documented.

Auditor's Follow-Up Response

The missing records discussed in our finding were not included in the daily cashiering batches we received from the Clerk's Office. That day's BROWNtech report showed 144 transactions, totaling \$2,880, having been input by the DCCA. No supporting documentation was attached to the report bundled with the cashier's batches.

We determined, through the review of the Excel spreadsheets and the BROWNtech report, that the transactions were reported as drawdowns on the prepaid customer accounts. The Clerk's Office's response that the transactions were an electronic notary file sent to the New York State Department of State contradicts the information and documentation we were given by the Clerk's staff during the audit that the prepaid accounts exist to accommodate frequent customers, such as title companies, not to pay notary fees to the Department of State.

With regard to Recommendation bullet point relating to segregation of duties, see also Clerk's response to Audit Findings 1 and 3.

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With regard to Recommendation bullet point relating to the “competitive procurement for banking services and ... collateralization requirements”, the Clerk’s Office completed a competitive procurement process in 2002 (see also Clerk’s response to Audit Finding 3).

Auditor's Follow-Up Response

After the exit conference, the Clerk’s Office provided us with a copy of the “Request for Proposal – Cash Management Services” dated 2002. We did not receive any documentation recording the responses received from the banks or an explanation about why all deposits appear to be maintained at State Bank. Given that it is now 2007, the Clerk should consider issuing a new RFP.

The Clerk’s response does not address our finding that there was no written documentation to show that the Office engaged in a competitive review of interest rates offered by banks on a weekly or other regular interval to maximize interest rates earned on cash balances and investments.

The recommendation for an armored car service for bank deposits is an unwarranted use of taxpayer funds. State Bank is 100 feet from the Clerk’s Office. A police escort is provided daily for the deposits.

Auditor's Follow-Up Response

We continue to recommend that the Clerk’s Office use the County’s Armored Car Service as it provides a more secure method of transporting the Clerk’s receipts to the bank and does not require the use of the DCCA to go to the bank or remove a police officer from their primary job of public safety.

We reiterate our recommendation, which the Clerk’s Office’s response did not address, that the Clerk’s Office develop written procedures for the accounting, maintenance and reconciliation of bank accounts.

Audit Finding 7, “Bank Deposits and Deposit Corrections”

Daily Cash Deposits

Effective immediately, all petty cash checks will be cashed at the bank (see Clerk’s response to Audit Finding 11).

Auditor's Follow-Up Response

We concur with the corrective action taken by the Clerk’s Office.

Deposit Corrections

Deposit Corrections are done on a separate deposit slip and are reconciled to all Clerk’s reports, as well as Clerk’s bank statements. The Clerk’s Office will review again “Control Directive 3: Cash Receipts” to see how existing policies and procedures can be improved.

Audit Recommendation 1 is responded to in Clerk’s comments to Audit Findings 1, 3 and 6.

Audit Recommendation 2 is currently in place, although supervisors do not maintain a daily log of cash received because the system generates a statistical report that batches out at the end of the day. To comply with the recommendation (that supervisors also log cash received) would require additional staff.

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We stand by the findings noted and reiterate our recommendations.

Audit Finding 8, "Checks Returned due to Insufficient Funds"

Upon verifying the returned check fee with the New York State Unified Court System the Clerk's Office has revised the returned check fee to \$20.00. The audit recommends that the office charge the insufficient funds fee the first time a check is returned. The Clerk's Office has adopted this policy of imposing a fee after the second deposit and will continue to do so.²⁵

Auditor's Follow-Up Response

We concur with the revision of the returned check fee to \$20. While the Clerk's Office cites the New York State Unified Court System's Manual for its policy on redepositing an NSF check a second time, we point out that the majority of the funds received by the Clerk's Office are not remitted to the New York State Unified Court System, but to New York State and its agencies, and to local municipalities in the form of real estate fees and taxes (i.e., mortgage taxes). Consequently, we reiterate our recommendation to comply with County Ordinance 120-2005 and impose a \$20 returned check fee after the first time a check is returned.

The Clerk's Office agrees with the bullet point relative to NSF fees collected as revenue, and has implemented a procedure where these fees will be reported as revenue and paid to the County.

Auditor's Follow-Up Response

We concur with the corrective action taken to report NSF fees as revenue. The Clerk's Office should also address our recommendation to establish control over NSF checks by logging all NSF checks as accounts receivable.

Audit Finding 9, "Processed Transactions without Correct Payment"

The Clerk's Office policy is to review all documents and money before entering them on public record. The Land Records and Court Receiving clerks undertake an extensive review to determine whether the document is in recordable form and that proper fees are being paid. Once recorded, New York State law prohibits the removal of recorded documents without a court order.

On average, the Clerk's Office processes thousands of transactions and receives more than 2,000 checks per day. Monies received are processed the next business day. Discrepancies are accounted for upon identification. All spreadsheets and reports are reconciled accordingly. The accounting staff maintains an outstanding receivables spreadsheet, which is updated regularly and linked to the other accounting spreadsheets. Contrary to the Audit Findings, when a customer returns to correct a discrepancy, the accounting staff updates the outstanding receivables spreadsheet, and prepares a separate deposit slip so that accounts reconcile.

With regard to recommendations, refer to Clerk's comments to Audit Finding 1.

²⁵ The State of New York Unified Court System, Financial Planning and Control Manual states: "If a check or like instrument is not initially honored due to insufficient or uncollected funds, the court or agency should instruct the bank to deposit the check a second time".

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We reiterate our recommendations with respect to the open receivables, specifically, to review checks for proper payment prior to recording transactions into the system. The implementation of a general ledger system within the Clerk's Office would facilitate correcting the record of these transactions if they must be entered before it is determined what payment is due, by offering the Clerk's Office the ability to run "aging" reports to better manage the open receivables. Even before the transition to NIFS, Excel functionality allows cells within one spreadsheet to be linked to another, even if the spreadsheets are contained within separate files. During our review of the monthly Excel spreadsheets maintained by the DCCA, we did not identify any external links within those Excel spreadsheets that would evidence the linking of the outstanding receivables spreadsheet to the monthly records.

Audit Finding 10, "Mail Processing"

With regard to Recommendation (c), the Clerk's Office has one dedicated FTE (and one backup employee) to process incoming mail on a daily basis. This employee is responsible for logging the number of pieces of incoming mail, irrespective of the number of documents for filing contained therein. The mail is bundled by date, and is recorded in the order in which it is received. The counting of the actual number of documents received for recording by the various departments is the responsibility of each supervisor. Many other Clerk's Offices throughout the State have the same procedure for incoming mail, for reasons listed below.

Auditor's Follow-Up Response

We reiterate our recommendation that the Clerk's Office track the number of items in bins distributed to cashiers and that cashiers reconcile the items of mail processed to the items of mail received as an internal control and a management practice.

Recommendations (b) & (f) regarding scanning of mail and time stamping each piece of mail would require a very significant increase in resources, staff, equipment and space. This recommendation would treat incoming mail differently than over the counter filings. This also poses ramifications that would take Clerk's Office mail handling out of compliance with various laws. Certain pieces of mail are date stamped, while some mail cannot be date stamped, as it would be altering an original document, which is prohibited by law.

To task the mail clerk who is not qualified to determine in advance whether the document presented is in recordable form and qualifies for scanning would be an inefficient use of resources, which if incorrectly judged, may require a court order to correct *nunc pro tunc*. In addition, most documents must be reviewed in their originally presented form. Court documents have a permanent retention and are only processed in hard copy, with no scanning occurring.

Auditor's Follow-Up Response

We reiterate our recommendation for scanning incoming mail. As space for maintaining required documents and the preservation of the records have been issues raised by the County Clerk²⁶, our recommendation would help the Clerk's Office implement automation that would

²⁶ See Government Services and Operations Committee minutes, October 10, 2006, at 84, 111 ("So one of my very important goals in the next several months is to figure out a way to preserve these records because they are, indeed, in mortal danger of becoming so used and abused that this could put us in great jeopardy.

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benefit the County taxpayers, and help alleviate the burden on the staff by providing electronic versions of documents for viewing.

The Clerk's remaining concerns could easily be resolved. We have recommended that envelopes, not original documents, should be date-stamped to better gauge workflows in the department. Further, if the Clerk's Office created a written procedures manual, mail clerks could be assigned to determine whether a document should be scanned.

Electronic access is already implemented, where applicable, as in the case of Office of Court Administration e-filings and bulk filings of assessment review petitions, which are transmitted electronically (the Clerk's Office is nonetheless required to receive and maintain hard copies of these petitions).

Auditor's Follow-Up Response

Our recommendation with respect to offering some services via on-line access pertained to allowing taxpayers the ability to pay certain fees, such as notary renewals, on-line to assist in alleviating the massive incoming mail that requires processing. We understand that this initiative requires technological resources, however, it may provide the Clerk's Office with efficiencies that free up current staff to better manage the large quantities of mail, and alleviate the backlog problems experienced by the Clerk's Office.

Cashier productivity with regard to mail processing is tracked on an individual basis by running statistical reports utilizing the BROWNtech software. The report can be broken down hourly, daily, monthly or annually. The Clerk's Office already has a policy to secure (in locked cabinets) all unprocessed mail at the close of business each day. Each supervisor is responsible for collecting all unfinished work and securing it in designated locations within each department. Departmental keys are sent to accounting each night to be locked in the safe.

The Clerk's Office will implement recommendation (a) to restrictively endorse checks at the mail receipt stage.

Auditor's Follow-Up Response

We concur with the corrective action taken to restrictively endorse checks upon receipt.

The Clerk and supervisory staff meet frequently, and the Clerk is aware of mail dates currently being processed for all document types. The mail for the Accounting office is received in the Administration office and logged in the same fashion as all other mail. This mail is distributed to the appropriate staff member in that office.

Auditor's Follow-up Response

We reiterate our recommendations to:

- o require cashiers to sign for the number of pieces of mail that they receive and to reconcile it to the number of pieces of mail they process; and*
- o request frequent corresponders to code the mailing envelopes.*

So we're looking at some ways to hopefully preserve them....For all intents and purposes the record center is essentially full. It's reached its maximum capacity.”).

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Audit Finding 11, "Petty Cash"

The Clerk's Office acknowledges the procedures set forth in "Control Directive 1: Petty Cash Accounts". Effective immediately, the Clerk's Office will comply with said procedure and cash these reimbursement checks at the bank in accordance therewith. With respect to segregation of petty cash responsibilities, please refer back to Clerk's Office response to Audit Finding 1.

Further, the Clerk will designate an additional petty cash custodian to be named under separate cover.

Auditor's Follow-Up Response

We concur with the corrective action taken by the Clerk's Office.