

**Collier County Clerk of the Circuit Court
Internal Audit Department**

December 2005

ARTICLE V - COURT OPERATIONS

Bond Forfeiture Program



DEB

Collier County Clerk of the Circuit Court
Internal Audit Department

Phone (239) 774-8075
Fax (239) 775- 5861
2671 Airport Road S., #102
Naples, FL 34112

Memo

To: The Honorable Dwight E. Brock, Clerk
Through: Crystal Kinzel, Finance Director *OK ACF*
From: Anthony Fernandez, Internal Audit Manager
Date: December 14, 2005
Re: Bond Forfeiture Program

Please find attached our audit report on Article V – Bond Forfeiture Program. Ilonka E. Washburn, Lead Senior Internal Auditor, led development of this report. Please note that we discussed the audit results and recommendations with the Special Projects Coordinator, who coordinates the bond forfeiture process. The Special Projects Coordinator's written comments are included, where applicable, throughout the report.

Internal Audit gratefully acknowledges the cooperation and assistance of the Special Projects Coordinator. If you have any questions about this report, please contact me at 774-8075.

Bond Forfeiture Program

Background Information

Audit Objectives, Scope, and Methodology

This operational audit focused on the Special Project Coordinator's duties and responsibilities related to the bond forfeiture process. In addition, Internal Audit assessed program compliance with applicable laws and regulations. Specific objectives of this review were to:

- Determine the efficiency and effectiveness of the bond forfeiture process;
- Evaluate written procedures and determine their effectiveness in actual practice; and
- Evaluate the program's performance in achieving compliance with Article V revisions and pertinent Florida statutes.

To accomplish our objectives we interviewed the Special Projects Coordinator, observed processes and procedures, examined transactions and records, and performed various other procedures necessary in the circumstances.

Our audit was performed in accordance with generally accepted government auditing standards and included examinations of various transactions relating to statutory requirements occurring during the first quarter of calendar year 2005. Specifically, we tested 140 bond forfeitures, which represent 64% of the total population of transactions occurring during that quarter.

Background

Article V of the Florida Constitution provides for the judicial branch of state government, including its structure and responsibilities, and designates funding responsibilities of the counties, the state, and court users relative to the courts system. Article V revisions have significantly impacted the cost structure of the courts system, but had no bearing on the Special Projects Coordinator's role in the bond forfeiture process.

Florida Statute, Chapter 903, Bonds, governs the bond forfeiture process, outlining specific requirements for the courts and the Clerk of Courts to follow, including correspondence timelines and discharge procedures. Chapter 903 notes that "Bail" and "bond" include any and all forms of pretrial release. After a person is held to answer by a trial court judge, the court having jurisdiction to try the defendant shall, before indictment, affidavit, or information is filed, have jurisdiction to hear and decide all preliminary motions regarding bail and production or impounding of all articles, writings, moneys, or other exhibits expected to be used at the trial by either the state or the defendant. Once court approves the bail, the defendant has the option of posting a cash bond or obtaining a surety bond from a licensed bail bond agent. Failure of a defendant to appear at all subsequent criminal proceedings shall result in forfeiture of the bond. If there is a breach of bond, the court shall declare the bond as bail forfeited at which time the file is forwarded to the Special Projects division and handled pursuant to statutes stated above.

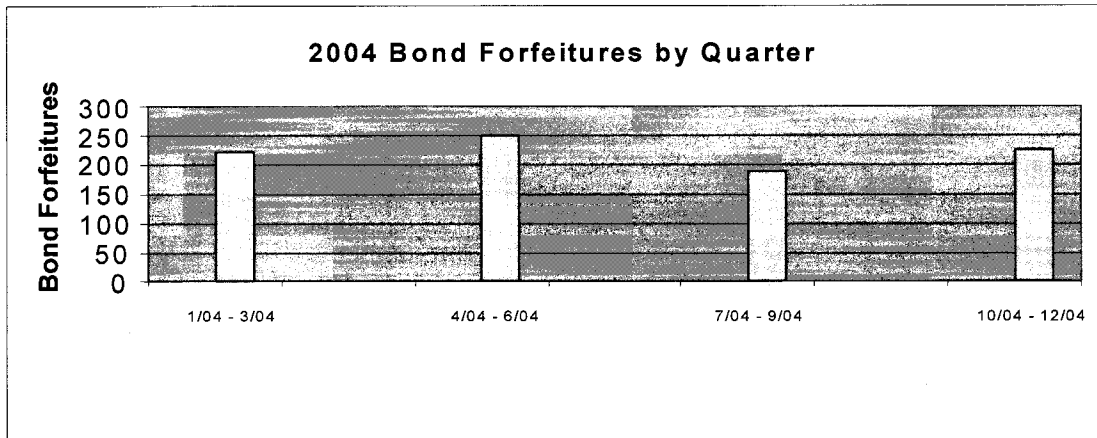
This audit is part of a comprehensive review by the Internal Audit Department to ensure court system compliance with statutory requirements and determine possibilities of increasing efficiency.

Bond Forfeiture Program

Findings

1. Lack of a Back-Up Resource to Fulfill Bond Forfeiture Duties

During 2004, as the chart below indicates, approximately 225 bond forfeitures occurred a quarter, and 900 bond forfeitures occurred for the year in total. The revenue stream for 2004 bond forfeitures equated to \$711,707. While one staff person is sufficient to handle this workload, it is critical to have in place a back-up resource to maintain continuity of operations in the event that the dedicated staff person cannot fulfill his or her responsibilities. This is particularly important given the amount of revenues associated with the program. However, to date, a back-up resource for the bond forfeiture process has not been selected and trained. Consequently, if the Special Projects Coordinator missed work time the process could be subject to significant delays and lost revenue.



RECOMMENDATION:

It is recommended that a backup person be selected and trained. This person should be familiar with bond forfeitures and able to proceed with necessary responsibilities when and if the present position is unoccupied. We recommend development of a written training plan to formalize the knowledge transfer process.

Special Project Coordinator's Response:

I concur with your findings and recommendations.

2. Strong Controls Present to Ensure Statutory Compliance

We reviewed 140 transactions occurring throughout calendar year 2004 to determine the Special Project Unit's adherence to statutory and other governing requirements. The examinations indicated full compliance with all aspects of applicable laws, regulations, policies and procedures, including Florida Statute, Chapter 903, which mandates specific requirements for the bond forfeiture process.

The written procedures developed by the Special Projects Coordinator are exemplary; these procedures are well written, comprehensive, and dovetail accordingly with statutory requirements. The procedures contain a set of attachments, which illustrate the documentation requirements associated with various statutes. For example, one attachment to the procedures is a sample Notice of Unpaid Judgment, which, according to Florida Statute 903.27, must be filed if a judgment is still open 35 days after the original mailing date.

RECOMMENDATION:

We recommend that the Special Projects Coordinator continue to stay abreast of regulatory changes and update procedures as necessary. Courts management might consider using the Special Project Coordinator's procedures as a model for other Court departments. This includes ensuring that departments adequately cover statutory requirements in written procedures.

Special Project Coordinator's Response:

I concur with your findings and recommendations.

Bond Forfeiture Program

Conclusion

Considering the revenue stream of \$711,707 in 2004, it is vital to employ a back-up resource to ensure that in the event of any interruption in service all revenues will be secured. In addition, this would afford a Courts staff member the opportunity for valuable cross-training.

In closing we would like to commend the Special Projects Coordinator for his efforts in developing and instituting an effective set of procedures. Such procedures are of paramount importance given the complex regulatory environment in place.

We would also like to thank the Special Projects Coordinator for his cooperation and support in this audit.