JOHN S. RICHARD
Director

BRAD HENRY
Governor

STATE OF OKLAHOMA
DEPARTMENT OF CENTRAL SERVICES

August 09, 2006

TO JAMES D. BEDNAR, EXECUTIVE DIRECTOR AND OKLAHOMA INDIGENT DEFENSE SYSTEM BOARD

With this letter, we transmit the report of the Oklahoma Indigent Defense System procurement audit for state fiscal year 2005.

We performed our audit in accordance with professional auditing standards to ensure that the State's resources, procurement processes, and procedures are used in an ethical, effective, and efficient manner.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the course of the engagement.

Sincerely,

John S. Richard
Director of Central Services

OKLAHOMA

DEPARTMENT OF CENTRAL SERVICES
Auditing Unit

OKLAHOMA INDIGENT DEFENSE SYSTEM

Procurement Compliance Audit

For the period July 1, 2004 thru June 30, 2005

TABLE OF CONTENTS

PURPOSE, OBJECTIVE AND SCOPE _____ 1
METHODOLOGY _____ 1
EXECUTIVE SUMMARY _____ 2
AUDIT RESULTS _____ 3
OVERALL CONCLUSION _____ 12

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PURPOSE, OBJECTIVE AND SCOPE

The Department of Central Services, Auditing Unit has completed an audit of Oklahoma Indigent Defense System, hereinafter referred to as the "Agency", procurement program for the period July 1, 2004 through June 30, 2005. The purpose of this report is to communicate the results of the audit.

The objective of this audit was to:

- determine if the agency is in compliance with provisions of the Oklahoma Central Purchasing Act;
- determine if the agency is in compliance with rules promulgated by the Department of Central Services pursuant to the Oklahoma Central Purchasing Act;
- determine if the agency is in compliance with provisions of Section 3001 et seq. of Title 74 pertaining to the State Use Committee;
- determine if the agency is in compliance with the State of Oklahoma Purchase Card Procedures;
- determine if the agency is in compliance with approved internal purchasing procedures;
- determine the relative cost benefits the purchase card program had on the agency; and
- make recommendations for improvements.

This audit was performed pursuant to 74 O.S. § 85.5.E. and the State of Oklahoma Purchase Card Procedures in accordance with generally accepted *Government Auditing Standards.*

METHODOLOGY

- Interviews were conducted with the Agency's staff members.
- Internal controls over the procurement program (including the purchase card program) were documented and evaluated.
- Procurement transactions (including purchase card transaction from the active cardholders) were examined.
- Overall program compliance with the rules related to the audit objectives was evaluated.

EXECUTIVE SUMMARY

Organization

The Oklahoma Indigent Defense System provides indigents with legal representation comparable to that obtainable by those who can afford counsel and to do so in the most cost-effective manner possible. The Oklahoma Indigent Defense System is responsible for implementing the Indigent Defense Act by providing trial, appellate, and post-conviction criminal defense services to persons judicially determined to be entitled to legal counsel at state expense.

Agency

The Agency is made up of 135 unclassified, 10 temporary, non-merit staff members as of September 1, 2005. At the time of the review, there were four certified procurement officers and three purchase card cardholders in the Agency.

Key Staff:

James D. Bednar, Executive Director
W. Craig Sutter, Deputy Executive Director
David Page, Chief Administrative Officer
Angie Cole, Assistant to Executive Director/ Personnel Officer

Board Members:

Rod Wiemer, Esq., Chair
Jake Jones, III, Esq., Vice Chair
Dennis N. Shook, Esq.
Randolph S. Meacham, Esq.
Don G. Pope, Esq.

AUDIT RESULTS

Economy Results

Estimated Savings - The purchase card program saved the Agency an estimated net savings of $3,610.01 during state fiscal year 2005. This is 27.1% ($3,610.01 estimated savings / $13,337.49 total expenditures) of the total dollars expended in the purchase card program. This is an average estimated savings of $21.88 per purchase card transaction for the Agency. A majority of the savings was contributable to the cost associated with the time saved by using the purchase card rather than traditional governmental purchasing methods. Additional savings include the procurement rebate and transaction fees. The Agency stated that the use of the purchase card has made purchasing more convenient due to the ability of purchasing from vendors who previously did not accept purchase orders and the ability to make immediate purchases.

Findings and Recommendations

Findings and recommendations are reported based on audit significance.

FINDING 05-047-01: Procurement

***Criteria*:** The Codification of Statements on Auditing Standards AU § 319.110 (9), **Segregation of duties**, states in part, "Assigning different people the responsibilities of authorizing transactions, recording transactions, and maintaining custody of assets is intended to reduce the opportunities to allow any person to be in a position to both perpetrate and conceal errors or fraud in the normal course of his or her duties."

The United States General Accounting Office, GAO/AIMD-00-21.3.1, Internal Control Standards, **Segregation of Duties**, states:

> Key duties and responsibilities need to be divided or segregated among different people to reduce the risk or error or fraud. This should include separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions, and handling any related assets. No one individual should control all key aspects of a transaction or event.

***Condition*:** The Agency has an inadequate level of segregation of duties. In many instances, the individual that initiates the purchase order and places the order is also the same individual who receives the goods when delivered and approves the payment of said goods.

***Cause*:** The Agency is a small agency and it is more difficult to divide or segregate duties.

***Effect*:** One individual can control all key aspects of a transaction or event. Inappropriate procurement acquisitions could occur and go undetected.

***Recommendation*:** The proper segregation of duties can be achieved in many different ways. Our recommendation includes, but is not limited to, requiring an individual other than the individual placing the order to receive and verify delivered goods. We also recommend that management continuously monitor and improve the effectiveness of management controls associated with the segregation of duties.

***Management's Response*:**

Date: July 18, 2006
Respondent: David H. Page, CPA, Chief Administrative Officer
Response: Partially Concur - We do not concur with the stated condition. OIDS is a small agency. However, we believe the segregation of our purchasing duties provide as adequate a level of segregation of duties as is possible, based on the number of staff assigned purchasing duties.

The recommended action of having an individual receipt goods before they are delivered to the individual that placed the order does not decrease the possibility of errors or fraud.

Our purchase transaction flow generally involves at least two individuals, out of the total of six that could be involved in any transaction. All transactions gain final approval by the Chief Administrative Officer (also the primary agency certified procurement officer), who only in very rare situations actually places an order or makes a direct purchase of goods. Then one of the other CPO's actually places the order; receives the goods if they are not delivered directly to one of our satellite offices; then either stores or distributes the goods to the requestor; and finally either prepares the payment voucher or submits it to a clerk for voucher preparation. The final review of the transaction and ultimate authorization for payment is done by the Chief Administrative Officer when the payment voucher is signed.

The end result is that the approval to begin the transaction and final approval at payment are conducted by one individual. The purchase, receipt and distribution are conducted by at least one other individual.

Finally, guarding against the intentional perpetration of errors or fraud, with such a small staff, is being accomplished with an attitude of expected integrity by all staff involved in the purchasing/receiving/payment processes.

***Corrective Action Plan*:**

Contact Person: David H. Page, CPA, Chief Administrative Officer
Anticipated Completion Date: N/A
Corrective Action Planned: None

***Auditor Response*:** The condition of this finding was based on the comments provided by management in our review of internal controls and we relied on those comments as part of our audit. Management stated that a CPO has performed all functions of the procurement process during the audit period. Management indicated that it is not always possible to provide an adequate level of segregation of duties due to the size of the agency. Documentation reviewed supported statements made by management.

We believe it is possible to segregate duties in any size agency. Because a corrective action plan was not stated by the Agency, an immediate follow-up will be performed to ensure an adequate level of segregation of duties exist in the procurement of goods and services.

FINDING 05-047-02: Procurement

***Criteria*:** 74 O.S. § 85.41.B. **Professional service contracts**, states in part:

> The state agency shall evaluate the performance of the professional services provided pursuant to a professional services contract. The performance evaluation shall indicate the quality of service or work product of the supplier. The state agency shall retain evaluation in the document file the state agency maintains for the acquisition pursuant to § 85.39 of this title. If the evaluation indicates deficiencies with the supplier's work, the state agency shall send a copy of the evaluation to the State Purchasing Director.

Procurement Information Memorandum (Number 01-1 Revised), Professional Services Contract Evaluations, dated September 30, 2004, states in part, "Professional Service Contract evaluations which indicate satisfactory performance are to be maintained by the state agency as part of the contract file… State agencies shall use Purchasing Form 017, Professional Service Evaluation, to document performance…".

***Condition*:** The Agency does not complete Form 017, Professional Service Evaluation, for contracted professional services. Internally, the Agency maintains a database of all contracted professional services that allows the agency to note deficient performance and observe confidentiality concerns concurrently. In instances of deficient performance, there is no documentation submitted to the State Purchasing Director. The Agency only discontinues use of the vendor.

***Cause*:** The Agency does not complete Form 017, Professional Service Evaluation, to observe confidentiality of the vendors.

***Effect*:** By not completing Form 017, Professional Service Evaluation, there is no written documentation of the performance evaluation of professional service providers and there is also no evaluations submitted to Department Central Purchasing regarding unsatisfactory performance. In not having unsatisfactory performance unreported to the State Purchasing Director, other state agencies may engage in services from same vendor.

***Recommendation*:** We recommend the Agency complete and maintain on file Form 017, Professional Service Evaluation for all professional services rendered. We also recommend that for unsatisfactory service noted, a copy of the evaluation form be forwarded to the State Purchasing Director.

***Management's Response*:**
Date: July 18, 2006

Respondent: David H. Page, CPA, Chief Administrative Officer
Response: Non- Concur - The contracts in question are entered between the agency and private attorneys and/or experts to provide legal defense services directly to criminal defendants, not to the agency. These services are guaranteed to all eligible criminal defendants who are unable to afford legal counsel under the United States and Oklahoma Constitutions. As a matter of law and legal ethics, and with few exceptions, communications between any attorney and the client or expert, as well as work product generated pursuant to the course of that legal representation, is deemed highly confidential. In instances of unsatisfactory performance by a contract attorney or expert as determined by the agency, Form 017 contemplates submission of a public document to the Department of Central Services containing a detailed explanation of the contractor's performance. Such an explanation would necessarily require the agency to extract confidential client information and confidential attorney work product from the contractor's private client files and publicly divulge that information, thereby violating the client's rights and jeopardizing fair and efficient administration of the criminal justice system. Further, public disclosure of confidential client information without the client's consent would require the filing of an application in state district court by the party seeking to obtain and disclose that information, followed by a court order approving the application.

The agency has balanced these mandates with the important concern that state funds not be paid to a contractor who may exhibit substandard performance. The performance of all contractors is monitored by the agency's executive division and, where applicable, the respective division chiefs. This oversight, along with the use of the agency's internal database of all contracted professional services, helps enable it to identify deficient contract performance and discontinue the use of any private attorney or expert demonstrating such performance.

***Corrective Action Plan*:**
Contact Person: David H. Page, CPA, Chief Administrative Officer
Anticipated Completion Date: N/A
Corrective Action Planned: None

***Auditor Response*:** The provisions of 74 O.S. § 85.41, **Professional services contracts**, requires all professional service contracts to be evaluated and the evaluation to be submitted to the State Purchasing Director only if there is a deficiency noted.

Because the evaluation is a statutory requirement, the Agency should have resolved the issue of completing the evaluation form with the State Purchasing Director prior to engaging in services with private attorneys and experts who provide legal defense services. Additionally, a detailed explanation could be written such that the reporting of deficient service received without jeopardizing the confidentiality between the indigent and the attorney or expert providing the service.

This finding will be forwarded to the State Purchasing Director for resolution.

FINDING 05-047-04: Purchase Card

We noted the following during our internal control and substantive testwork performed October 2005 for the purchase card program:

Criteria:

1. State of Oklahoma Purchase Card Procedures § 3.6, **State Entity Approving Officials**, states, "One or more agency staff members designated by the State Entity P/Card Administrator to review and approve cardholder transactions."
   State of Oklahoma Purchase Card Procedures § 6.9.1, **Cardholder responsibility** states in part, "…. All cardholders (including Entity P/Card Administrators and Approving Officials for other cardholders) must have their reconciliation approved by an approving official at least one level above their position."

   State of Oklahoma Purchase Card Procedures § 6.9.2, **Entity approving official(s) responsibility** states in part:

   > …. State Entity Approving Official(s) shall review the regular p/card, Statewide Contract p/card, or Travel p/cardholder's reconciled memo statement and supporting documentation for accuracy, completeness, appropriateness of the purchase whether the transactions were conducted according to State statutes, rules, these procedures, and sound business practice…. To indicate concurrence with the reconciled statement, the State Entity Approving Official shall sign and date the memo statement and forward the memo statement and supporting documentation for payment as required by entity p/card procedures.

   State of Oklahoma Purchase Card Procedures § 3.9, **Training** states, "Entity P/Card Administrators and designated backups, Authorized Signers, Approving Officials, and Cardholders must successfully complete the training prescribed by the State Purchasing Director prior to assuming their duties and prior to being issued p/cards."

   Oklahoma Indigent Defense System Purchasing Procedures §16. **State of Oklahoma Purchase Card Procedures**, (f), (1) states in part, " ....In the event the Entity P/Card Administrator is also a cardholder, any monthly transaction log that has activity shall be submitted to the Executive Director for his review and approval."

2. State of Oklahoma Purchase Card Procedures § 3.10, **Purchase Card Employee Agreement,** states, "Entity P/Card Administrators, Approving Officials, and Cardholders must sign the State of Oklahoma Purchase Card Employee Agreement form prior to assuming their duties and being issued p/cards."

***Condition*:** We noted the following during our internal control and substantive testwork:

1. The Executive Director for the agency serves as the approving official for the P/Card Administrator. The Executive Director has not attended the mandatory Purchase Card training provided by the Department of Central Services.

   The Agency's internal purchasing procedures provides for the Executive Director to review and approve the monthly transaction log of a cardholder who also holds the position of P/Card Administrator.

2. An individual acting in the capacity of an approving official did not complete and sign a Purchase Card Employee Agreement form before assuming duties as an approving.

***Cause*:**

1. Agency's internal purchasing procedures allow the P/Card Administrator to submit their monthly transaction log to the Executive Director for review and approval.

2. The Purchase Card Administrator did not obtain a signed Purchase Card Employee Agreement form from the Executive Director before he assumed his duties as an approving official.

***Effect*:**

1. An individual performing duties as a purchase card approving official who has not received the required training would be unaware of the job duties they are required to perform. They also would not have adequate knowledge of the program requirements.

2. Failure to obtain the required Purchase Card Employee Agreement form could result in the cardholder not being fully aware of all duties, responsibilities and consequences associated with the use of the State of Oklahoma purchase card.

Recommendation:

1. During the audit, the P/Card Administrator relinquished their purchase card. Therefore, no further recommendations are deemed necessary.

2. We recommend all approving officials for the Agency complete and sign a Purchase Card Employee Agreement form prior to the performance of any duties associated with the purchase card program.

***Management's Response*:**

Date: July 18, 2006
Respondent: David H. Page, CPA, Chief Administrative Officer
Response: Non- Concur

***Corrective Action Plan*:**

Contact Person: David H. Page, CPA, Chief Administrative Officer
Anticipated Completion Date: December 1, 2005
Corrective Action Planned: The Executive Director successfully completed the mandatory P/Card training. The Executive Director was officially appointed as an Approving Official by the Agency P/Card Administrator. The newly appointed approving official signed the P/Card Employee Agreement. It should be noted that of the thirteen (13) attestations on this DCS form only one (1) applies to an individual that is an approving official and not a cardholder. All required documents were submitted to the State P/Card Administrator, who approved these documents and reinstated the suspended p/card on Dec. 8, 2005.

FINDING 05-047-03: Purchase Card

Criteria:

1. State of Oklahoma Purchase Card Procedures §6.11, **Lost or stolen cards** states:

> If a cardholder's p/card is lost or stolen, the cardholder shall immediately notify JP Morgan Chase…record the date and time JP Morgan Chase was notified as well as the name of the JP Morgan Chase customer service representative contacted. Next, the cardholder shall complete a Stolen Card Notification form (Attachment 6) and provide it by the fastest possible means to the State Entity P/Card Administrator with a copy to the appropriate State Entity Approving Official.

2. State of Oklahoma Purchase Card Procedures §6.4, **Transaction Logs** states, "Cardholders shall maintain a transaction log of all p/card purchases, returns, credits and disputed transactions. A separate log shall be maintained for each p/card for each cycle. Attachment 3 is a sample p/card transaction log. Using entities may add additional data fields."

   State of Oklahoma Purchase Card Procedures § 6.9.1, **Cardholder responsibility**, states in part, "… In reconciling the statement, cardholders should use appropriate documents (i.e. transaction log, purchase receipts, receiving document, credit receipts) to verify that purchases and returns are accurately listed on the memo statement. After confirming the transactions on the memo statement, the cardholder shall sign and date the transaction log, indicating that the cardholder did make those purchases…"

   Oklahoma Indigent Defense System Purchasing Procedures, Section 16., **State of Oklahoma Purchase Card Procedures**, states in part:

   (4) **The Cardholder** shall comply with all applicable procedures. The cardholder will receive a monthly memo statement from the purchasing card vendor. The cardholder shall reconcile the memo statement with the monthly billing cycle transaction log and receipts. After verifying that the statement is accurate, the cardholder shall sign and date the memo statement confirming that the

cardholder made the listed purchases. The cardholder shall submit their reconciled memo statement, the monthly billing cycle transaction log, receipts and other supporting documentation attached, to the appropriate approving official within three (3) working days after receipt of the memo statement.

(g) **Transaction Logs**. An agency-wide transaction log is to be maintained current at all times utilizing the System computer network P/Card database. A printed copy of the monthly billing cycle transaction log shall be kept current by cardholders, and at all times have all required documentation attached, including charge receipts, delivery notices, packing slips, etc.

3. State of Oklahoma Purchase Card Procedures §6.5, **Receipts for purchase** states, "Receipts shall be obtained for purchases… If a receipt is lost, the cardholder shall note the loss on the transaction log and complete a Lost Receipt Report (Attachment 4). The Lost Receipt Report shall be included in the cardholder's reconciliation submission."

Condition:

1. Purchase cardholder (**********465836) misplaced their purchase card. A Lost/ Stolen Report was not completed.

2. The cardholders of Oklahoma Indigent Defense System do not maintain a transaction log to record purchase card purchases made during each billing cycle. Rather, each cardholder uses Report 161- Transaction Detail Report provided by Pathway Net to document all purchases made during the cycle and reconcile to the memo billing statement. As a result, approving officials are not approving the reconciliation performed by each cardholder. Approving officials are only concurring with the reconciliation of system reports.

   1 of the 16 (6.25%) memo statements reviewed was not signed and/or dated by the cardholder.

3. On 06.17.2005, an employee lost a receipt but failed to note the loss on the transaction log or complete a Lost Receipt Report. Total dollar value of transaction was $3.24.

Cause:

1. Written documentation of the call and fax to JP Morgan Chase was supporting documentation for the reporting of the lost purchase card.
2. The physical maintenance of a transaction log is considered duplication of effort by the agency due to the availability of Report 161- Transaction Detail Report in Pathway Net. The manual transaction log and Report 161- Transaction Detail report are seen as reflecting the same data.

   Cardholder oversight.

3. Cardholder was not aware that a Lost Receipt Report should be included with transaction log as supporting documentation for the lost receipt.

Effect:

1. Failure to properly report and cancel lost purchase cards could result in unauthorized purchases by unauthorized individuals.

2. Failure to maintain appropriate transaction logs could result in a failure to properly account for and reconcile purchase card activity for the cycle. This provides opportunity for misuse and abuse of the purchase card and restricts accountability for purchases.

   Failure to document cardholder review of memo statement could result in unauthorized charges to the cardholder's card.

3. Agency expenditure was not supported by adequate documentation. In addition, unsupported transactions create an opportunity for unauthorized transactions to occur and go undetected.

Recommendation: We recommend:

1. Management inform all cardholders the proper procedure to follow in reporting a lost/stolen purchase card including reporting the incident immediately to JPMorgan Chase.

2. Management require all cardholders maintain a separate monthly transaction log for each cycle using the example provided in the State of Oklahoma Purchase Card Procedures or appropriate derivative. Transaction log shall document all purchases, returns, credits and disputed transactions.

   All cardholders reconcile and sign their memo statement to indicate purchases were made by the cardholder.

3. The cardholder and the approving official ensure that all purchases are adequately supported. If continuous unsupported transactions occur, program officials should take appropriate action to avoid further incidences.

***Management's Response*:**

Date: July 18, 2006
Respondent: David H. Page, CPA, Chief Administrative Officer
Response: Partially Concur

Condition #1: Notification of the misplaced card was made immediately to the servicing bank. Through oversight the form was not completed and submitted in accordance with the State P/Card Procedures.

Condition #2: We began submitting the Report 161 – Transaction Detail Report in lieu of the agency generated transaction log because it contained the same or more data. The completion of both appeared to be redundant.

Condition #3: The lost receipt resulted from the vendor keeping the original $3.24 receipt to document a refund of taxes charged. The fact the receipt was kept by the vendor was noted on the refund receipt for $0.26 of the same date. Through oversight the form was not completed and submitted in accordance with the State P/Card Procedures.

***Corrective Action Plan*:**

Contact Person: David H. Page, CPA, Chief Administrative Officer
Anticipated Completion Date: July 19, 2006
Corrective Action Planned: The Agency P/Card Administrator will communicate these noted errors to all cardholders, and require them to review agency and state p/card procedures. We will also require entering transaction data into the agency database so the transaction log can be generated in addition to the Report 161 for reconciliation purposes beginning with the current billing cycle.

OVERALL CONCLUSION

In our opinion, Oklahoma Indigent Defense System has materially complied with the objectives reviewed; however, some exceptions were noted. Some of the exceptions noted were segregation of duties, professional services evaluations, purchase card transaction log maintenance and reporting of lost and stolen cards. Oklahoma Indigent Defense System has not developed corrective action plans to address all exceptions noted or to ensure that the Agency will comply with all requirements from this point forward. Specifically, corrective action plans were not developed for completion of professional service evaluation forms and segregation of duties.