



City of Norfolk

TO: Honorable Council Members **FROM:** John H. Sanderlin, Jr., City Auditor *JHS*
DATE: March 22, 2013 **SUBJECT:** City Clerk Audit Report

Please find attached our final audit report on the City Clerk. Should you have any questions please feel free to contact me at 664-4045.

cc: Marcus Jones, City Manager
Yvette Fleming, Assistant City Auditor

Audit of the Office of the City Clerk



City of Norfolk

Office of the City Auditor

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Audit Report No. 13-5R

March 22, 2013

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Executive Summary

The purpose of our audit was to determine the adequacy of financial controls and to assess operational efficiency and effectiveness of the Office of the City Clerk (City Clerk). This audit was part of the City Auditor's Audit Plan for fiscal year 2010. Although we found controls generally adequate, our audit disclosed a few areas of opportunities for improvement. We observed the following:

- City policy needs to be updated to address the disposal of records with identifying information.
- A reasonable timeline needs to be established for destruction of public records after completion of FOIA requests, legal audits, investigations and/or litigation.
- The Records Administrator needs to review the back-up recovery process to ensure it meets compliance requirements for the protection and recovery of public records following a disaster.
- Citywide training is needed to keep employees current with requirements

which address the retention and disposal requirements of their e-mails.

- The City Code needs to be updated to address the current duties and responsibilities of the City Clerk.
- Each department needs to assign an employee as a records officer to administer the records management program under the guidance of the Records Administrator.

Assistant City Auditor Yvette Fleming conducted the audit under the direction of City Auditor John Sanderlin. We held an exit meeting with the City Clerk on January 22, 2013 to discuss our audit results. The City Clerk was appreciative of the professionalism of our office and found the process to be value added and formally responded in the attached Appendix A. We appreciate the cooperation and assistance of the City Clerk's Office staff during the audit process.

Background

The City Clerk's mission is to ensure that information necessary to conduct public business is properly retained, preserved, and destroyed in accordance with legally established policies and guidelines.

As an appointed official, the City Clerk oversees an office with a staff of 15 (includes one part-time) which provides administrative support to the City Council, Office of the Mayor, and a variety of administrative services to City departments and the public¹. Also, the City Clerk oversees the Records Management Division and the City's Records Management Program.

¹ Since the audit, the City Clerk's office has a staff of 13 of which two are part-time.



The City Clerk's key goals and objectives are to:

- serve as a gateway to local government for City Council, citizens, City Departments, and outside agencies.
- provide current and accurate records of service to the public.
- assist the City Council in its public communications.
- provide effective and timely delivery of information requested.
- plan and execute City Council events professionally and effectively.
- provide timely and effective response of the highest quality to City Council.
- ensure City Council meetings operate with maximum efficiency.

Objective

Our audit objectives were to determine the overall operational effectiveness of the Office of the City Clerk and whether financial controls were adequate over its expenditures.

Scope and Methodology

This audit was performed as part of our fiscal year 2010 Annual Audit Plan and was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The audit covered transactions for the period of July 1, 2009 through June 30, 2010.

To determine the overall operational effectiveness of the Office of the City Clerk, we evaluated adherence to the provisions of its Charter, the Norfolk City Code, and administrative duties prescribed by city and state policies. In doing so, we gained an understanding of the Office of the City Clerk and examined whether practices aligned with applicable guidelines and regulations. We accomplished this through interviews with the Chief Deputy City Clerk and the Deputy City Clerk Administrative Analyst I. We also interviewed the Records Administrator and the records officers who administer the records management program.

Specifically, we provided a questionnaire to the Chief Deputy City Clerk regarding applicable codes, office operations, and the role of the administrative staff. We also reviewed the organizational structure of the Office of the City Clerk and job descriptions to determine their consistency with various codified requirements.

We reviewed and used as criteria the Norfolk City Code - Section 126, approved operating budgets for fiscal years 2008, 2009, and 2010, detail general ledger (804C Financial Reports) for FY08 – FY10, and the City Clerk's organization chart and job descriptions. Also, we reviewed the City's Records Management Policy and Procedures, Virginia Public Records Act - General Schedule #19 – County and Municipal Governments Administrative Records, and the Code of Virginia.

To determine the adequacy of controls over expenditures, we reviewed twenty-eight transactions in the total amount of \$23,699 assessing whether they were reasonable, supported by management approval, and properly posted to the correct expense accounts. From our review of these transactions, we evaluated the overall effectiveness of controls in place.

As this was the first broad-based audit of the Office of the City Clerk, we focused



more on established controls over expenditures. We did not conduct an in-depth assessment of the office performance in terms of service level or delivery. However, we did benchmark with other cities within the Hampton Roads Region to compare Norfolk's overall services and staffing.

Audit Results and Recommendations

Our audit did not disclose any significant operational issues or concerns. However, we found the following:

- A revision of the existing records management policy and procedures is needed.
- In some cases, the Norfolk City Code did not reflect the current duties of the City Clerk.
- Because of high turnover of records officers in city departments, the assigned responsibilities of meeting city and state requirements for retention and disposal of public records may not be met.
- There were a few transactions misclassified in the travel account.

Revision of Policies and Procedures

We found the City to have a records management program policy with procedures that provides guidance for processing City records. We have identified four areas for which procedures should be further developed to make the program more efficient and effective. Management should revise the existing policy to include provisions to address the following:

- a. disposition of records with identifying information.

- b. record destruction for legal audits, investigations, litigation, and FOIA requests.
- c. disaster recovery plan.
- d. e-mail retention and disposal requirements.

The record retention and disposition section of the city's records management policy and procedures excludes name, date of birth and fingerprints as identifying information. Along with social security numbers, the state code stipulates as identifying information driver's license numbers, bank account numbers, credit or debit card numbers, personal identification numbers (PIN), electronic identification codes, automated or electronic signatures, and passwords. As with social security numbers, driver's license numbers, bank account numbers, credit or debit card numbers, personal identification numbers (PIN), electronic identification codes, automated or electronic signatures and passwords, names, dates of birth, and fingerprints may be used by a person to commit fraud on his own behalf or that of a third party.

A delay in the disposition process for all identifying records provides an opportunity for identity theft, which is one of the fastest growing crimes in the United States. In 2008, identity theft complaints made up twenty-six percent (26%) of all fraud complaints in the United States. Currently, Virginia ranks twenty-second in the nation for the total number of known victims of identity theft. To mitigate the risk of identity theft and possible subsequent fraud, the city policy should reflect the Code of Virginia's definition for identifying information and emphasize the importance of disposal of these records in a timely manner to reduce opportunities for unlawful use.

Regarding the destruction of records, the City's records management policy and



procedures stipulate records that are required for legal audits, investigations, or litigation may not be destroyed until the required action is completed (legal hold). Beyond this, we found the policies and procedures silent as to how long records can be held and when they are to be destroyed once legal audits or investigative requirements have been met. Because of Freedom of Information Act (FOIA) requests and internal/external investigation or audits, public records most likely will be maintained beyond their normal disposal date. It is when audits and investigations have ended (hold lifted) that the destruction date needs to be acted upon. To ensure this happens, the policy and procedure needs to be expanded to establish a reasonable timeline for destruction of public records after completion of any FOIA requests, legal audits, investigations, or litigation.

The City's records management policy and procedures define vital records as records that are essential to the continued life or operation of an organization, the continuation and/or resumption of operations following a disaster, the protection of rights and property of government and citizens, or the re-creation of the legal and financial status. Although the City's records management policy and procedures define vital records as such, they do not address the City's plan for the protection and recovery of these records. Section 42.1-86 of the Virginia Public Records Act requires a plan for the protection and recovery of public records to be included in the City's comprehensive disaster plan. In Section 42.1-77 of the same act, disaster plan means the information maintained by an agency that outlines recovery techniques and methods to be followed in case of an emergency that impacts the agency's records.

From our previous audit of the Department of Information Technology and a recent inquiry, we understand that the City's disaster recovery or business continuity plan is not current. The records

management program administrator confirmed that there was not a current disaster plan in place although progress on revision is being made. We recognize the Records Administrator's initiative to notify responsible staff that a comprehensive disaster plan is required by the state code for the protection and recovery of public records. The Records Administrator should continue in his role to ensure that the back-up process meets requirements for the protection and recovery of public records and update policy and procedures accordingly.

City's records management policy and procedures do not address public records versus nonrecord e-mails. Each employee with an e-mail access can create, use, maintain, and dispose of his/her e-mails. Although this is a practice throughout the City, some e-mail messages according to Section 42.1-77 of the Code of Virginia are public records and others are considered nonrecords. Some examples of public records e-mails include policies and directives, correspondences or memorandums pertaining to the organization's business, work schedules and assignments, documents circulated for approval or comment, and any message that initiates, authorizes, or completes a business transaction, final report, or recommendation. However, personal messages or announcements, courtesy or routine chats are just a few types of nonrecord e-mail correspondences.

E-mail messages identified as public records are subject to the same retention requirement and legal requirement as all other records. This means that retention periods for e-mails vary according to the information contained within the message as well as the function the message performs. The Code of Virginia 42.1-77 defines records by their content not their format. E-mail, like paper, is a format.

Until an electronic management system is adopted or implemented citywide,



employees should be trained on how they can comply with the retention and disposal requirements of their public record e-mails. Also, we specifically noted the City has a great opportunity to take advantage of Laserfiche in its efforts to store and retain employees' e-mails. Its use or a similar product could be expanded for purposes of complying with retention requirements. Accordingly, records management policy and procedures should address the use of Laserfiche for meeting retention requirements.

We recommend the City Clerk:

1. Update the city policy to reflect the Code of Virginia's examples of identifying information and the importance of disposal of these records in a timely manner to avoid opportunities for unlawful disclosure.
2. Update city policy to establish a reasonable timeline for the destruction of public records after completion of FOIA requests, legal audits, investigations, or litigation.
3. Ensure that the Records Administrator continues his role to ensure that the back-up process meets compliance for the protection and recovery of all public records following a disaster.
4. Ensure that city employees are trained regarding compliance with the retention and disposal requirements of their public record e-mails and coordinate with City Management as to the use of Laserfiche or some other similar software program to achieve retention and disposal objectives. Consideration should be given to include such training during the new employee orientation process.

Management Response:

See Appendix A for City Clerk's response to the above recommendations.

Norfolk City Code Needs to be Revised to Reflect the City Clerk's Current Duties

We reviewed the Norfolk City Code to identify the responsibilities of the Office of the City Clerk. During our interview process, it was acknowledged that some of the sections in the code were no longer applicable as administrative functions for the Clerk. Although not all inclusive, we identified certain sections of the City Code that may no longer be applicable to the City Clerk and they are presented in the table below.

Norfolk City Code Sections	Requirement of City Clerk No Longer Applicable
2-25 City Records Committee: responsibilities	Requirement of the committee to advise the City Clerk on matters relating to record management
32-4 Sale and distribution of copies of the zoning district map and the zoning ordinance.	Requirement of the City Clerk to provide without charge, copies of the zoning ordinance of the City to officials of the City who require the same and to such public agencies as, in the City Clerk's opinion, should receive such copies.
38-23 Inventory of goods to be sold.	Requirement of the City Clerk to maintain inventory and affidavit on file as a public record.
Article IV Fire Prevention Code	Requirement of City Clerk to maintain a copy of the fire prevention code on file at all times in the offices of the City Clerk and the Fire Marshal.

To ensure the City Clerk's responsibilities and duties align with the City Code, the City Clerk should coordinate his functions with the City Council. In doing so, those sections of the code that are no longer



applicable should be modified or deleted as warranted.

We recommend the City Clerk:

- 5. Meet with City Council to review his responsibilities to add, modify, or delete those sections of the Code that will properly address his current duties and ensure compliance.

Management Response:

See Appendix A for City Clerk’s response to the above recommendation.

Training is Needed for Records Officers

The Records Administrator is responsible for knowing whether the records officers are performing their assigned duties and ensure compliance with the City’s Records Management Policy and Procedures and the Virginia Public Records Act. His reliance on seasoned records officers provides the continuity needed to make the program efficient and effective. However, with a 20% turnover rate among the records officers, position vacancy gaps may result in non-compliance with public records retention and disposal responsibilities.

We recommend the City Clerk:

- 6. Develop formalized training for the records officers and other city employees to ensure they are familiar with the procedures for dealing with the retention and disposal of public records such as e-mails, vital records, holds for legal audits, investigations, or litigation, FOIA requests, and records with identifying information.
- 7. Keep the listing of records officers current so they can be kept abreast of changes in state requirements to avoid potential penalties and legal action.
- 8. Establish a procedure to notify the Records Administrator when the records officers are no longer functioning in their position within their departments

so that another records officer or an alternate can be named and trained.

Management Response:

See Appendix A for City Clerk’s response to the above recommendations.

Minor Misclassification of Expenditures

There were a few transactions that were improperly classified in the travel account. During our disbursement review, in our sample, we identified five transactions (50% of those reviewed) totaling \$952.87 that were misclassified based on descriptions and support documentation (receipts, etc.). All of these expenditures were for local luncheons or events related to city business activities that did not involve travel.

We recommend the City Clerk:

- 9. Meet with the Budget Department to review its expense codes to ensure costs are properly aligned with its budget for reliable financial reporting.

Management Response:

See Appendix A for City Clerk’s response to the above recommendation.

Other Observations

Staffing Comparisons

As part of our audit, we did a broad comparison of services provided by the Clerk’s office with other localities in the region. Although we found other localities had an average staff of five employees, the Norfolk City Clerk’s office, with a staff of 15, performs more extensive services². Norfolk staff provides administrative support not only to the Mayor but to all City Council members and has the oversight of the Division of Records Management. We specifically noticed the following:

- Three or 20% of the Norfolk Clerk’s administrative staff are under the Office

² See footnote 1 on page 1.



of the Mayor including Deputy City Clerks serving as Secretary to the Mayor, Executive Assistant to the Mayor, and Secretary.

- Three or 20% of the staff are in the division of the Records Management Program which reports to the Records Administrator and is under the purview of the City Clerk.
- The nine remaining staff or 60% includes the City Clerk, Chief Deputy City Clerk, Deputy City Clerk, Deputy City Clerk/Senior Secretary, Deputy City Clerk/Secretary (2), Deputy City Clerk/Stenographic Reporter (2), and a Support Tech. Along with their administrative duties, two secretaries are assigned two City Council members each and the Senior Secretary is assigned three City Council members.

Although our analysis showed that the number of positions in Norfolk exceeded the average found in neighboring cities, Norfolk was unique in having more technical or specialized positions, such as secretaries, stenographers, staff for the Mayor, and staff for the Records Management Program. Other cities in the region relied on a smaller staff and other resources from other departments to perform similar duties and responsibilities.

From our benchmarking, we identified the following Clerk Office positions in our sister cities of Chesapeake, Newport News, and Virginia Beach:

1. City Clerk in each of the three cities.
2. Chief Deputy City Clerk in each of the three cities.
3. Deputy City Clerk in each of the three cities with one in Chesapeake, two in Newport News, and three in Virginia Beach.

4. Stenographer with one in Virginia Beach³.

In our opinion, the Clerk's office structure and composition appear reasonably flexible in meeting the needs of City Council and Council-sponsored activities. However, we encourage the Clerk to periodically assess his office structure as the needs of the Mayor and City Council change.

We recommend the City Clerk:

10. Periodically assesses the office structure as the needs of the Mayor and City Council change.

Management Response:

See Appendix A for City Clerk's response to the above recommendation.

Best Practices

Unlike the City of Norfolk, the cities of Newport News and Chesapeake do not have stenographers to record and type the minutes for their City Council meetings. Their television stations video the sessions and either the communication department will send a DVD the next day to the City Clerk or the City Clerk's office will play back the video on their computer and type the minutes. In one case the City Clerk actually types the minutes while in another case the Deputy City Clerk drafts the minutes and then sends them to the City Clerk to review and make any revisions.

We recommend the City Clerk:

11. Explore the appropriateness of using the video of council sessions as a basis for preparing the minutes.

Management Response:

See Appendix A for City Clerk's response to the above recommendations.

³ Deputy City Clerk in Virginia Beach also functions as the stenographer.



City of Norfolk

Virginia

Office of the City Clerk

March 7, 2013

Mr. John Sanderlin, Jr., CPA, CIA, CGFM
City Auditor
810 Union Street
Room 806
Norfolk, VA 23510

Dear Mr. Sanderlin:

I appreciate the efforts of the Office of the City Auditor in their recent audit of the Office of the City Clerk. The audit process was very beneficial to us in assessing our Office's operations. The findings of audit report, No.13-XR, were enlightening and the resulting recommendations are opportunities for improvement.

The purpose of the audit as stated in the report was two fold – to determine and assess: 1) the adequacy of our financial controls 2) the operational efficiency and effectiveness of the Office of the City Clerk. We found it encouraging that that the audit report results “did not disclose any significant operational issues or concerns” and found our financial controls to be “generally adequate.”

The audit disclosed “a few areas of opportunities for improvement” and included the eleven recommendations for which you request our response. After review, we will implement each recommendation and, in fact, have already begun implementation. I appreciate the professionalism of the City Auditor's staff and found the process to be value added to our Office.

Sincerely,

R. Breckenridge Daughtrey
City Clerk