

Official Actions

Attestation Engagement—Review



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Victor Hurlbert, CGAP

Clay County, Missouri Auditor

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I. Introduction and Scope

In the United States, most representative local governments have their elected boards vote and sign off on practically all policies as well as actions. If the volume of such items on a given meeting agenda simply becomes too large, a “consent agenda” can be utilized—whereby noncontroversial topics are considered and voted on as an entire slate or combined package. This is not the case in Clay County Government. Instead, “Official Actions” of significant value are employed and delegated to an appointed Administrator for approval. Consequently, while these Official Actions (OAs) are published on the County website (<https://www.claycountymo.gov/public-meetings>), they get less attention than issues deliberated upon during Commission meetings open to the public.

The perceived lack of transparency for OAs has by extension caught the eye of the press. Indeed, a recent news story highlighted how two of these OAs in 2020 (2020-73 and 2020-75) were signed by one Commissioner seemingly out of the blue—rather than the appointed Administrator. Both of these particular OAs dealt with projects from the approximately \$52 million in 2018-issued Certificates of Participation (COPs)—namely for its main component of a new Annex building and land upon which to build it.

This office has in the past protested the fact that none of the COP requisitioning forms or OAs obtains an Auditor’s certification as the County’s Accounting Officer up front. This is clearly necessary in order for any contract to be financially binding on the County to pay. The plain legal language behind that assertion is found in Revised Missouri Statute (RSMo) 50.660, where it states:

“...No contract or order imposing any financial obligation on the county or township is binding on the county or township unless it is in writing and unless there is a balance otherwise unencumbered to the credit of the appropriation to which it is to be charged and a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made, each sufficient to meet the obligation incurred and unless the contract or order bears the certification of the accounting officer so stating; except that in case of any contract for public works or buildings to be paid for from bond funds or from taxes levied for the purpose it is sufficient for the accounting officer to certify that the bonds or taxes have been authorized by vote of the people and that there is a sufficient unencumbered amount of the bonds yet to be sold or of the taxes levied and yet to be collected to meet the obligation in case there is not a sufficient unencumbered cash balance in the treasury...”

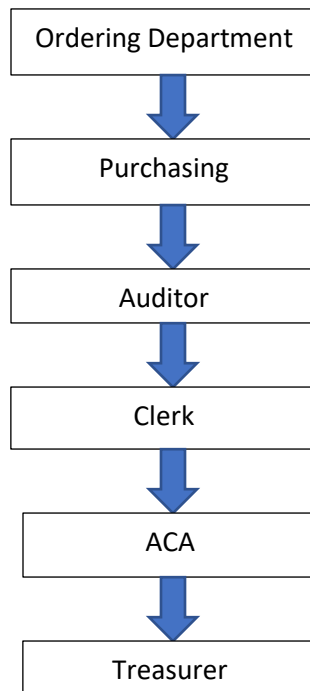
In light of these concerns, a Review type of Attestation Engagement of these OAs is merited. Under Generally Accepted Government Auditing Standards (GAGAS), a Review does not require management responses to findings. The auditor in a Review is to reach conclusions based on sufficient and appropriate evidence, but not offer any opinions. GAGAS will be used as the reference for this audit along with consultation of AICPA’s Statements on Standards of Attestation Engagements (SSAEs).

As always, the underlying context behind Clay County Government deserves discussion. The reasoning for a Review, for instance, is that the fieldwork for the annual financial statement Single Audit performed by an outside independent external auditing firm is in progress. This office therefore did not seek to overly disturb management with an onslaught of audits. Moreover, the State Auditor’s Office continues in its citizen-petitioned comprehensive Performance Audit of the entire County. This Review will accordingly aim, to our office’s best knowledge, to avoid the currently unpublished State Audit findings regarding OAs.

II. Background and Audit Plan

For some further background specifics, the present 2-1 Commission majority delegated such Purchasing Agent authority to a former Administrator. When that individual resigned in 2018, the Commission then handed that responsibility over to an Assistant County Administrator (ACA) overseeing additional Finance and Administrative Services. That Commission-passed Resolution was 2018-253a, line numbers 7 and 8. The same ACA is also in charge of the Purchasing Department and Commission agendas.

Returning to this office's objection over the lack of an Accounting Officer certification on OAs before their implementation, some more explanation is needed. Most accounts payable (AP) activity processed via the County treasury goes through multi-departmental stages. The purposes are proper internal controls, segregation of duties, along with checks and balances. Generally speaking, that sequence is as follows:



Notice that the Auditor certifies Purchase Orders (POs) or credit card (P-Card) payments for those specific amounts, but that does not include the entire OA contract from the onset—and that's the problem. Also note that the same ACA not only approves OAs, but then signs the warrant registers that are batches of POs and P-Cards. COPs do not follow this standard AP format, nor do some funds under the statutory discretion of certain elected officials (Collector, Sheriff, Prosecutor, Recorder of Deeds, etc.).

Hence, for the Audit Plan, this Review will compare how much was obligated from OAs versus Commission meeting-passed Resolutions and Ordinances. The scope is narrowly tailored to just 2019. The rationale is how the issuance of 2018 COPs would throw off that year's figures, OAs only date to 2017 with the former Administrator, and this Auditor started the office's term in 2019. We aim to explore any irregularities or inconsistencies from the OAs. Plus, we intend to analyze the nature of OA subject matter against Commission Resolutions and Ordinances.

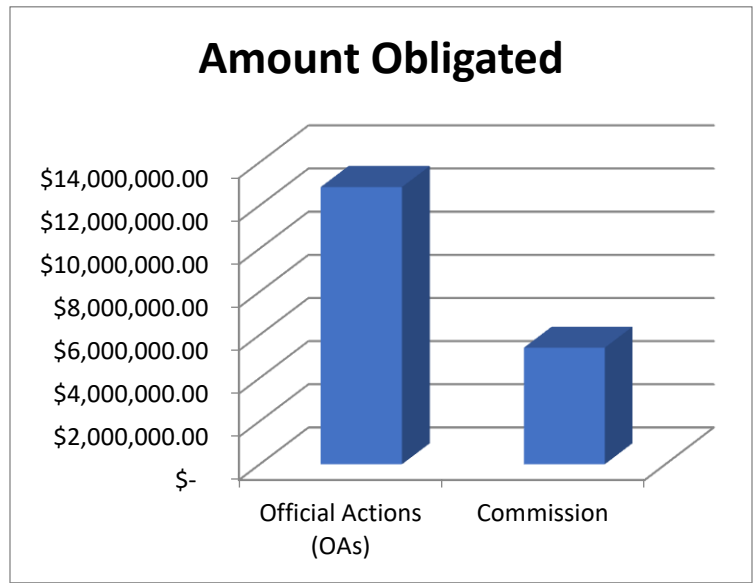
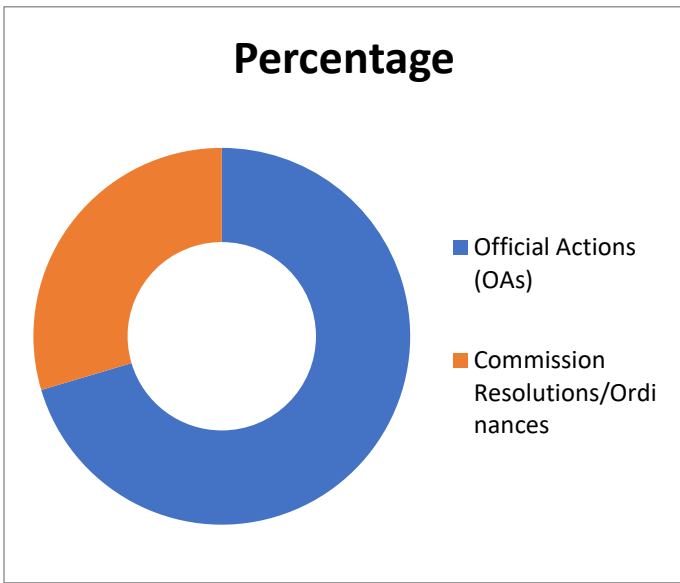
III. Audit

- Comparison of Amounts Obligated by OAs vs. Commission Meetings**

In this portion of the Review, we looked at every single Official Action and every single Commission Resolution or Ordinance document enacted during 2019. We identified any specific amounts obligated by these documents. We totaled up the monetary sum from each category respectively. The results were as follows:

Type	Official Actions (OAs)	Commission	Total
Amount Obligated	\$ 12,846,653.95	\$ 5,402,251.29	\$ 18,248,905.24
Percentage	70.4%	29.6%	100%

Viewed graphically, the numbers come out as:



Bear in mind that for the most we part excluded what are called “Term & Supply” contracts, wherein a specific amount isn’t typically obligated—though some did (6 overall) and were accounted. An hourly rate or price per unit is usually given and charged based on usage. We will cover Term & Supply arrangements more in depth next. Furthermore, the amounts reflected do not represent the entire County budget. There is payroll as well as other legal and previously obligated expenditures accrued to the annual budget.

Conclusion: One individual, in the position of ACA, obligated the County to over 70% of new contracted expenditures in one year—compared to less than 30% by the governing Commission.

- **Irregularities or Inconsistencies from OAs**

Under this section, the mapping out of all OAs for 2019 offered some peculiar insights. Of the 257 overall OAs in 2019, 106 of them were the above mentioned Term & Supply (T&S) contracts—or some 41.2%. So, logically, a lot more than \$12,846,653.95 was truly obligated by OAs than what could be exactly identified.

Directly related to T&S contracts, though, we noticed in this Review that 26 OAs lacked a T&S Auditor Certification exception. The exception again comes from another part of RSMo 50.660:

“...Contracts which provide that the person contracting with the county or township shall, during the term of the contract, furnish to the county or township at the price therein specified the supplies, materials, equipment or services other than personal therein described, in the quantities required, and from time to time as ordered by the officer in charge of purchasing during the term of the contract, need not bear the certification of the accounting officer, as herein provided; but all orders for supplies, materials, equipment or services other than personal shall bear the certification. In case of such contract, no financial obligation accrues against the county or township until the supplies, materials, equipment or services other than personal are so ordered and the certificate furnished.”

These 26 OAs were renewals of previous year T&S agreements where the OA from 2018 or earlier actually had the exception printed on the contract cover page. This could be seen as a moot point, though, since there is the aforementioned reality of how the Auditor isn't given the chance to certify all the other OAs anyway. There's thus no real reason to even have the exception at all.

In addition, we highlighted how three OAs did not cite the required bidding that has to occur for any expenditure within 90 days over \$6,000 (RSMo 50.783, Clay County Ordinances 37.21-22, etc.). Those were OA 2019-55 with Next Move Group for \$10,800, OA 2019-225 with the Howe Company for \$6,000, and OA 2019-126 with Foley Equipment for \$97,027.96. No RFP (Request for Proposal), cooperative contract, or IFB (Invitation for Bid) number was referenced, nor the renewal of a past OA. To be fair, however, Next Move Group was paid \$900 per month, thereby technically under the within a 90 day period over \$6,000. The payment to the Howe Company was just once for \$6,000. Other payments to Foley Equipment cited a cooperative contract, but it is not on the OA.

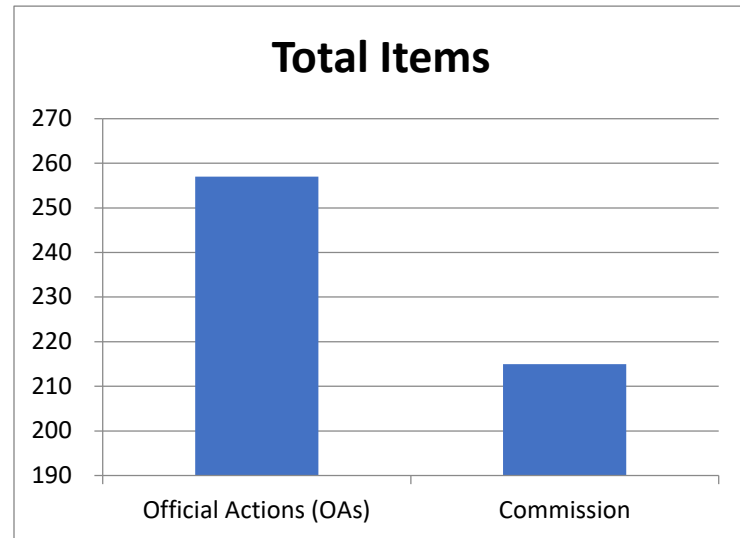
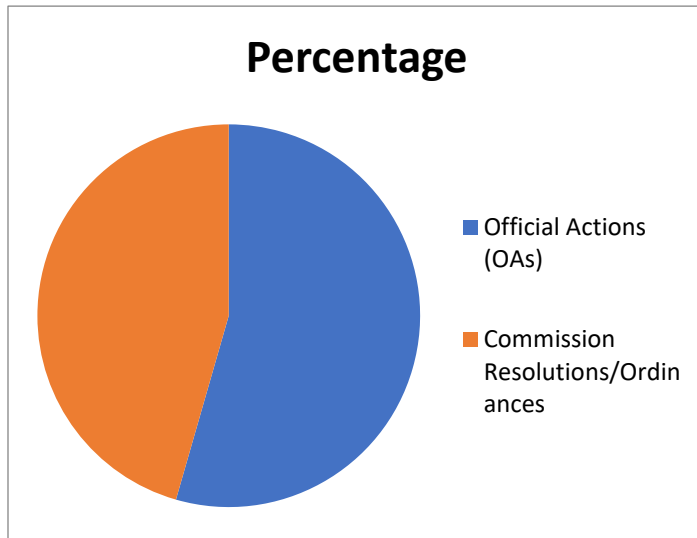
Conclusion: OAs frequently lack the T&S exemption when it appears mandatory, but, regardless, don't have the Auditor certification on non-T&S OAs. Also, a few OAs didn't cite the proof of bidding guidelines.

- **Comparison of Total OAs vs. Commission Meeting Items**

Beyond looking at the money obligated between OAs vs. Commission meeting decisions, we can observe the total items as far as numbers of document packets. When doing so, we tallied the following results:

Type	Official Actions (OAs)	Commission	Total
Total Items	257	215	472
Percentage	54.4%	45.6%	100%

Viewed pictorally, the numbers look like this:



Speaking about the lack of Auditor certifications on OAs, the same issue presents itself for Commission meeting Resolutions and Ordinances. Of the 215 Commission items, there is an Auditor certification on the obligation for only 8 of them. It is important to distinguish, though, that a mere 32 items showed specific obligated amounts. So the average with certification then comes out to 1/4th or 25%, much better than 0% for OAs. The certified items were for capital encumbrances, but nothing in RSMo 50.660 limits the necessity to capital alone. Nevertheless, that appears to be the Administration's interpretation. It is interesting that the relatively small number of obligated items out of the total for Commission meeting votes equates to just 14.8%. Remember that just about all OAs obligated the County, even if T&S and not precise dollar amounts.

Conclusion: As can be viewed, all 2019 OAs and Commission meeting items counted to be about the same. A similar lack of up-front accounting officer certification was revealed in Commission meeting items, akin to OAs, but not to the same degree.

- **Nature of OA and Commission Meeting Subject Matter**

Transitioning from the discoveries of how OAs obligated \$7,444,402.66 more than Commission meeting votes, yet number near the same as far as items, it is worthwhile to then assess the nature of what all was done by virtue of one or the other. Going back to the very beginning of this Review in the Introduction, it was pointed out that OAs do have substantial import and don't necessarily function as a consent agenda for uncontroversial topics. As a matter

of fact, an inspection of the 2019 OAs shows high-dollar agreements, several (22) dealing with allocations from the 2018 COPs. Grants were accepted, as another example. Contracts were awarded to major engineering, architectural, construction, advertising, accounting, and other professional services too.

Juxtapose that to Commission meeting Resolutions and Ordinances, and we surprisingly have a mundane listing on the whole. Some 72 of the 215 items, or essentially 1/3rd at 33.5%, were solely Planning & Zoning affairs with just about all approved by a unanimous vote. Likewise, event approvals, 14 of them, had no disagreements. Expanding more on the filter of unanimous votes, 195 of these items, or 90.7% were unanimous choices. One could almost presume then that most Commission meeting agenda items are ironically more like consent items without conflict than OAs.

That statistic wouldn't tell the whole story though. The Presiding Commissioner, presently in the minority with two Associate Commissioners in the majority, often has attempted to place items on the agenda. Those proposals, if they make the agenda, commonly don't receive a vote as they are tabled by the majority. As such, those items weren't counted in the before described figures—so as to prevent duplicates, since they reappeared on different agendas. Obviously, the Commission has numerous statutory duties that simply can't be delegated by any stretch of the imagination. Those involve Board appointments, passing the budget, budget re-appropriations, and so forth.

Still, OAs do seem to be effected whenever a signature as authorized agent on behalf of the County is wanting. One would think the Presiding Commissioner fits that role as the County's single representative figure, but it is apparent that the majority-appointed Administration through OAs and elsewhere believes otherwise.

Conclusion: OAs do not exist as a mechanism for purely administrative tasks without argument from the governing Commission. The current Commission majority alternatively delegated a considerable portion of their power and authority to one ACA without any other supervision.

Overall Rating for this Audit



Victor Hurlbert, CGAP

Clay County, Missouri Auditor

1 Courthouse Square,
Liberty, MO 64068
Phone: (816) 407-3592
Fax: (816) 407-3591