

COUNTY AUDITOR'S REPORT

DISTRICT CLERK'S OFFICE AND REGISTRY ACCOUNT AUDIT

QUARTER 1

FISCAL YEAR 2022



January 14, 2022

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January 14, 2022

Ms., Karen Bunn
District Clerk
405 Titus Street
Gilmer, Texas 75644

RE: District Clerk's Office and District Clerk's Registry Accounts Audit, Quarter 1 FY 2022

Ms. Bunn;

Pursuant to Texas Local Government Code Section 115, the Upshur County Auditor's Office conducted an internal audit of the District Clerk's Office and the District Clerk's Registry Accounts for the first quarter of FY 2022. A copy of the report will be provided to the Upshur County Commissioners Court.

The scope of the internal audit encompassed the financial records and administrative procedures related to the District Clerk's Office.

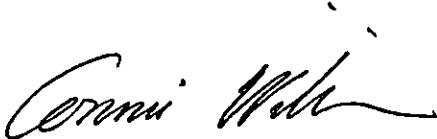
As part of the procedures performed we:

- Reviewed the District Clerk's Bond to ensure compliance with Government Code (GC) 51.302.
- Reviewed a sample of daily deposits to ensure that amounts deposited with the Treasurer agreed with the daily reports and were deposited on a timely basis in compliance with LCG 113.02. Selected a sample of cases from these daily reports to ensure fees charged were compliant with pertinent statutes.
- Reviewed a sample of receipts and disbursements from the District Clerk's Trust Account to ensure receipts and disbursements were supported by court orders and disbursements for interest bearing accounts were in compliance with LCG 117.054 and 117.055.
- Reviewed a sample of receipts and disbursements from the District Clerk's Excess Proceeds Account to ensure receipts and disbursements were supported by court orders, distributions of excess proceeds and required Notices of Excess Funds were in compliance with Property Tax Code 34.03.
- Reviewed a sample of receipts and disbursements from the District Clerk's Bond Account to ensure receipts and disbursements were supported by court orders.
- Performed a surprise cash count.

The enclosed Auditor's Report presents an overview of the District Clerk's Office and District Clerk's Registry Accounts, the results of our audit and suggested opportunities for procedural improvements.

Please accept my gratitude and appreciation for the assistance and cooperation we received, from you and your staff, in completing the audit.

Sincerely,

A handwritten signature in cursive script, appearing to read "Connie Williams".

Connie Williams
Upshur County Auditor

cc: Upshur County Judge Todd Tefteller

Commissioners:

Gene Dolle, Pct 1.

Dustin Nicholson, Pct 2

Michael Ashley, Pct 3

Jay Miller, Pct. 4

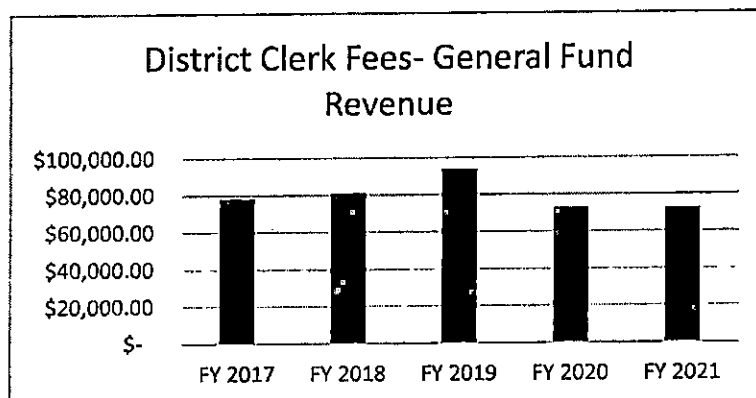
BACKGROUND

The office of the District Clerk was created by the Texas Constitution, Article V, Section 9. The District Clerk is an elected official with a four-year term of office. The District Clerk's Office is responsible for coordinating the notification, swearing in and impaneling of jurors, securing court records, maintaining court dockets and collecting various fees. The current District Clerk has served Upshur County as District Clerk for six (6) years, since January 2015.

Each District and County Clerk must maintain a bank account(s) to receive money ordered tendered into the court's registry. The District Clerk has three separate registry accounts:

- The District Clerk Trust Account- to account for the deposits and withdrawals of: funds paid in satisfaction of judgements; funds of minors or incapacitated persons; funds tendered in interpleader action and any other funds tendered to the clerk for deposit into the registry of the court.
- The District Clerk Excess Proceeds Account- funds generated in excess of the judgement by the sale of property for delinquent taxes. Tax Code requires the clerk to send out notices to the former owner of the property that excess funds have been paid into the registry.
- The District Clerk Bond Account- funds generated for cash bonds in civil cases and cash bail bonds.

Financial reports are generated from the NET Data software showing all transactions occurring each day. The following chart shows District Clerk fees collected over the past five years for the General Fund:



DAILY DEPOSITS

- LCG 113.02 requires that funds received should be deposited with the County Treasurer on or before the next business day, an exception can be made, if circumstances permit, not to exceed 5 business days. Of the five (5) receipts selected, two were not deposited with the County Treasurer on the next business day and one of those was deposited on the sixth (6th) business day which is not compliant with statute.
- Of the daily deposits reviewed we noted that in all cases the total deposit as recorded on the "General Receipt" manually prepared by the District Clerk's Office agreed to the amount deposited with the Treasurer's Office and the NET Data Daily Direct Deposit Report.
- Of the individual receipts by specific case selected the fees assessed for each case type were in compliance with statute.

PROPOSED CORRECTIVE ACTION:

As a general rule all daily deposits should be made to the Treasurer's Office by the next business day and only if circumstances prevent all deposits should be made no later than fifth (5th) business day, with no exception.

SURPRISE CASH COUNT

On January 11th, a surprise cash count was conducted in the District Clerk's office. All staff were present for the count and all cash bags were accurate. However, money and receipts checked for the date of January 5th showed some errors. The receipts documented totaled \$3,193.00 however the actual amount of funds in hand totaled \$3,558.00, resulting in an overage of \$365. The office later determined that one of the checks received was written for \$15 in excess of amount due. This overage will be receipted as an overpayment and the office will request a remittance check be issued to the proper entity. It was also determined that none of the credit card fees had been receipted properly and the Clerk's Office would be contacting NetData to assist with corrections.'

PROPOSED CORRECTIVE ACTION:

It is the recommended that money should be reconciled at the end of each day and put in the safe with that day's receipt journal until preparation of the deposit to the Treasurer's Office. We also recommend that when errors arise, the District Clerk staff involve the Auditor's office for any help or guidance to remedy the situation.

EXCESS PROCEEDS ACCOUNT

- Property Tax Code 34.03 requires that if the amount of excess proceeds exceeds \$ 25 the clerk is required to send notice, certified mail, to the former owner of the property at the last known address according to the records of the court or any other source reasonably available. We were informed by the District Clerk's Office that, for those receipts

selected, these notices had not been mailed by the either their office or the attorneys who represent Upshur County in delinquent tax cases. Funds are to held for two (2) years from the date notice was given and if no claimant establishes entitlement within this period, the Court can order that the excess proceeds be distributed for any unpaid fees and unpaid balances to taxing units. Therefore, failure to send out the requested notice may possibly restrict the ability to distribute funds.

- We reviewed one cause in which a distribution had been made and there was no documentation of the notice to the former property owner as required by statute.
- We reviewed the distribution for Cause TX20-00020 and determined that the total amount distributed did not agree to the Order for Payment of Excess Proceeds issued by the court. The amount of \$ 12,798.04 ordered to be distributed to two taxing entities was on 03//30/21 was not distributed and remained in the excess proceeds account at 12/31/2021.

PROPOSED CORRECTIVE ACTION:

- To comply with Property Tax Code 34.03 the District Clerk should send required notice via certified mail to the appropriate former owner of the property for the receipt of any excess proceeds and maintain a copy of the dated letter in the file.
- We suggest that the District Clerk's Office contact the attorneys who represent the County in delinquent tax cases to determine if notices should be sent out for those accounts who currently have a balance.
- To ensure that excess proceeds are distributed in compliance with the Court's Order the Clerk should verify the totals distributed to the Order and maintain a copy of the Order with the copy of the check(s) and motions. Distributions should be made based on Orders only and not Motions by the attorneys.

TRUST ACCOUNT

In all disbursements we reviewed the full amount of interest accrued in the cause was not distributed. The distribution made in October 20 included only interest accrued through August 2020. The three (3) distributions made in January 2021 included only interest accrued through August 2020.

PROPOSED CORRECTIVE ACTION:

Prior to issuing a disbursement we suggest that the District Clerk's Office contact the Auditor's Office to verify the total amount of interest accrued for the specific cause number. That amount should be posted in NET Data prior to issuing the disbursement to the beneficiary.

SERVICE FEES

- Based on a review of the Service Fees due to Other Agencies collected by the District Clerk's Office, which included examining reports and supporting documents, we determined a total of \$ 2,046 of fees received had not been remitted to the proper agency. The receipts date back to October 19, 2021. The District Clerk staff is currently working on this to get the fees paid to the proper agencies and have assured us that this will be handled properly in the future.
- We also noted instances in which NetData consultants changed some fee codes for existing receipts, at the request of the District Clerk staff. None of these changes are documented and there is no paper trail of the changes.

PROPOSED CORRECTIVE ACTION:

- We recommend that the request to pay the other agencies service fees be submitted at the same time the money is turned in to the Treasurer's office.
- We recommend that all changes of fees or fee codes that involve a day that reports have already been turned in have a fully detailed explanation of the changes that were made be sent to the Auditor's office to be put with the initial reports.

INTEREST BEARING ACCOUNTS AND ADMINISTRATIVE FEES

- LCG 117.054 states that at the time of withdrawal from a registry account the clerk shall deduct an administrative fee and remit to the County Treasurer.
- If the registry account is interest bearing the clerk shall deduct ten percent (10%) of interest earned on the account. If the registry account is non-interest bearing the clerk shall deduct a fee of 5% of the withdrawal, not to exceed \$ 50.00.
- We determined that the District Clerk is not deducting the administrative fees on any of the three (3) registry accounts as allowed by statute.

PROPOSED CORRECTIVE ACTIONS:

We suggest that the District Clerk consider adding to the procedures for disbursements of funds the deduction for administrative fees as allowed by statute.