

**REPORT OF THE AUDIT OF THE
OWSLEY COUNTY
CLERK**

**For The Year Ended
December 31, 2016**



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MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Cale Turner, Owsley County Judge/Executive
The Honorable Shanna Oliver, Owsley County Clerk
Members of the Owsley County Fiscal Court

Independent Auditor's Report

Report on the Financial Statement

We have audited the accompanying Statement of Receipts, Disbursements, and Excess Fees - Regulatory Basis of the County Clerk of Owsley County, Kentucky, for the year ended December 31, 2016, and the related notes to the financial statement.

Management's Responsibility for the Financial Statement

Management is responsible for the preparation and fair presentation of this financial statement in accordance with accounting practices prescribed or permitted by the laws of Kentucky to demonstrate compliance with the Commonwealth of Kentucky's regulatory basis of accounting and budget laws. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of a financial statement that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on this financial statement based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and the *Audit Guide for County Fee Officials* issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statement.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.



The Honorable Cale Turner, Owsley County Judge/Executive
The Honorable Shanna Oliver, Owsley County Clerk
Members of the Owsley County Fiscal Court

Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles

As described in Note 1 of the financial statement, the financial statement is prepared by the Owsley County Clerk on the basis of the accounting practices prescribed or permitted by the laws of Kentucky to demonstrate compliance with the Commonwealth of Kentucky's regulatory basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

The effects on the financial statement of the variances between the regulatory basis of accounting described in Note 1 and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

Adverse Opinion on U.S. Generally Accepted Accounting Principles

In our opinion, because of the significance of the matter discussed in the Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles paragraph, the financial statement referred to above does not present fairly, in accordance with accounting principles generally accepted in the United States of America, the financial position of each fund of the Owsley County Clerk, as of December 31, 2016, or changes in financial position or cash flows thereof for the year then ended.

Opinion on Regulatory Basis of Accounting

In our opinion, the financial statement referred to above presents fairly, in all material respects, the receipts, disbursements, and excess fees of the Owsley County Clerk for the year ended December 31, 2016, in accordance with the basis of accounting practices prescribed or permitted by the Commonwealth of Kentucky as described in Note 1.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated February 20, 2019, on our consideration of the Owsley County Clerk's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, grant agreements, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control over financial reporting and compliance.

The Honorable Cale Turner, Owsley County Judge/Executive
The Honorable Shanna Oliver, Owsley County Clerk
Members of the Owsley County Fiscal Court

Other Reporting Required by *Government Auditing Standards* (Continued)

Based on the results of our audit, we have presented the accompanying Schedule of Findings and Responses, included herein, which discusses the following report comments:

- 2016-001 The County Clerk Is Not Fulfilling Her Duties As An Elected County Official
- 2016-002 The County Clerk Did Not Submit Quarterly Financial Reports To The Department For Local Government As Required
- 2016-003 The County Clerk Failed To Present Financial Information To The Fiscal Court As Required
- 2016-004 The County Clerk's Office Lacks Adequate Segregation Of Duties
- 2016-005 The County Clerk Has Not Settled Her 2016 Fee Account
- 2016-006 The County Clerk Did Not Prepare Bank Reconciliations And Has Numerous Uncleared Transactions At Year End
- 2016-007 The County Clerk Did Not Pay Legal Process Taxes Timely
- 2016-008 The County Clerk Did Not Pay Affordable Housing Trust Fund Fees Timely
- 2016-009 The County Clerk Did Not Pay Deed Transfer Taxes Timely
- 2016-010 The County Clerk Did Not Distribute Delinquent Tax Payments To Taxing Districts Timely
- 2016-011 The County Clerk Did Not Prepare Franchise Tax Bills Promptly

Respectfully submitted,



Mike Harmon
Auditor of Public Accounts

February 20, 2019

OWSLEY COUNTY
 SHANNA OLIVER, COUNTY CLERK
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2016

Receipts

State Revenue Supplement		\$ 65,777
Licenses and Taxes:		
Motor Vehicle-		
Licenses and Transfers	\$ 150,191	
Usage Tax	129,645	
Tangible Personal Property Tax	253,234	
Other-		
Marriage Licenses	1,456	
Deed Transfer Tax	4,113	
Delinquent Tax	<u>68,176</u>	606,815
Fees Collected for Services:		
Recordings-		
Deeds, Easements, and Contracts	3,808	
Real Estate Mortgages	4,354	
Chattel Mortgages and Financing Statements	11,145	
Powers of Attorney	198	
Affordable Housing Trust	3,690	
All Other Recordings	1,693	
Charges for Other Services-		
Candidate Filing Fees	490	
Copywork	20	
Postage	<u>64</u>	25,462
Other:		
Miscellaneous	44	
Lien Fees	<u>3,538</u>	3,582
Interest Earned		<u>51</u>
Total Receipts		701,687

The accompanying notes are an integral part of this financial statement.

OWSLEY COUNTY
 SHANNA OLIVER, COUNTY CLERK
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2016
 (Continued)

Disbursements

Payments to State:

Motor Vehicle-

Licenses and Transfers	\$ 103,703	
Usage Tax	125,755	
Tangible Personal Property Tax	95,568	

Licenses, Taxes, and Fees-

Delinquent Tax	4,872	
Legal Process Tax	192	
Affordable Housing Trust	180	\$ 330,270

Payments to Fiscal Court:

Tangible Personal Property Tax	25,597	
Delinquent Tax	7,082	
Deed Transfer Tax	309	32,988

Payments to Other Districts:

Tangible Personal Property Tax	121,940	
Delinquent Tax	34,441	156,381

Payments to Sheriff

5,205

Payments to County Attorney

9,293

Operating Disbursements and Capital Outlay:

Personnel Services-

Deputies' Salaries	24,419	
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Employee Benefits-

Employer's Share Social Security	7,307	
Employer's Share Retirement	17,178	

Materials and Supplies-

Office Supplies	2,521	
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Other Charges-

Postage	1,115	
Phone	1,595	
Refunds	577	
Election	12,840	
Miscellaneous	23	67,575

Total Disbursements

\$ 601,712

The accompanying notes are an integral part of this financial statement.

OWSLEY COUNTY
 SHANNA OLIVER, COUNTY CLERK
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2016
 (Continued)

Disbursements (Continued)

Unpaid Obligations:

Payments to State:

Licenses, Taxes, and Fees-

Legal Process Tax \$ 3,637

Affordable Housing Trust 3,510

Payments to Fiscal Court:

Deed Transfer Tax 3,598

Payroll Reimbursements - Expense Allowance

Matching Funds 947

Computer Software Contract 1,800

Other Unpaid Obligations 163 \$ 13,655

Total Unpaid Obligations \$ 13,655

Total Disbursements 615,367

Net Receipts 86,320

Less: Statutory Maximum* 71,448

Excess Fees 14,872

Less: Expense Allowance** 3,600

Excess Fees Balance Due Fiscal Court at Completion of Audit \$ 11,272

* The county clerk's statutory maximum for calendar year 2016 was \$71,448 as noted. The county clerk received \$69,582 in salary for calendar year 2016 and is due the additional amount of \$1,866.

** The county clerk did not receive the expense allowance for calendar year 2016.

OWSLEY COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2016

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of receipts over disbursements to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the county clerk as determined by the audit. KRS 64.152 requires the county clerk to settle excess fees with the fiscal court by March 15 each year.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a special purpose framework. Under this regulatory basis of accounting, receipts and disbursements are generally recognized when cash is received or disbursed, with the exception of accrual of the following items (not all-inclusive) at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2016 services
- Reimbursements for 2016 activities
- Payments due other governmental entities for December tax and fee collections and payroll
- Payments due vendors for goods or services provided in 2016

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the county treasurer in the subsequent year.

C. Cash and Investments

KRS 66.480 authorizes the county clerk's office to invest in obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

Note 2. Employee Retirement System and Other Post-Employment Benefits

The county official and employees have elected to participate, pursuant to KRS 78.530, in the County Employees Retirement System (CERS), which is administered by the Board of Trustees of the Kentucky Retirement Systems (KRS). This is a cost-sharing, multiple-employer, defined benefit pension plan, which covers all eligible full-time employees and provides for retirement, disability, and death benefits to plan members. Benefit contributions and provisions are established by statute.

OWSLEY COUNTY
 NOTES TO FINANCIAL STATEMENT
 December 31, 2016
 (Continued)

Note 2. Employee Retirement System and Other Post-Employment Benefits (Continued)

Nonhazardous covered employees are required to contribute five percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008, are required to contribute six percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 17.06 percent for the first six months and 18.68 percent for the last six months.

In accordance with Senate Bill 2, signed by the Governor on April 4, 2013, plan members who began participating on, or after, January 1, 2014, were required to contribute to the Cash Balance Plan. The Cash Balance Plan is known as a hybrid plan because it has characteristics of both a defined benefit plan and a defined contribution plan. Members in the plan contribute a set percentage of their salary each month to their own accounts. Nonhazardous members contribute five percent of their annual creditable compensation and one percent to the health insurance fund which is not credited to the member's account and is not refundable. The employer contribution rate is set annually by the Board based on an actuarial valuation. The employer contributes a set percentage of the member's salary. Each month, when employer contributions are received, an employer pay credit is deposited to the member's account. A nonhazardous member's account is credited with a four percent employer pay credit. The employer pay credit represents a portion of the employer contribution.

The county clerk's contribution for calendar year 2015 was \$15,368 (which includes an unpaid amount of \$1,241) and \$17,178 for calendar year 2016.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Nonhazardous employees who begin participation on or after September 1, 2008, must meet the rule of 87 (member's age plus years of service credit must equal 87, and the member must be a minimum of 57 years of age) or the member is age 65, with a minimum of 60 months service credit.

Health Insurance Coverage

CERS also provides post-retirement health care coverage as follows:

For members participating prior to July 1, 2003, years of service and respective percentages of the maximum contribution are as follows:

Years of Service	% paid by Insurance Fund	% Paid by Member through Payroll Deduction
20 or more	100%	0%
15-19	75%	25%
10-14	50%	50%
4-9	25%	75%
Less than 4	0%	100%

As a result of House Bill 290 (2004 General Assembly), medical insurance benefits are calculated differently for members who began participation on or after July 1, 2003. Once members reach a minimum vesting period of ten years, non-hazardous employees whose participation began on or after July 1, 2003, earn ten dollars per month for insurance benefits at retirement for every year of earned service without regard to a maximum dollar amount. This dollar amount is subject to adjustment annually based on the retiree cost of living adjustment, which is updated annually due to changes in the Consumer Price Index.

OWSLEY COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2016
(Continued)

Note 2. Employee Retirement System and Other Post-Employment Benefits (Continued)

KRS issues a publicly available annual financial report that includes financial statements and required supplementary information on CERS. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, KY 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The Owsley County Clerk maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240, the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the county clerk and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the county clerk's deposits may not be returned. The Owsley County Clerk does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 66.480(1)(d) and KRS 41.240. As of December 31, 2016, all deposits were covered by FDIC insurance.

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REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

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MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Cale Turner, Owsley County Judge/Executive
The Honorable Shanna Oliver, Owsley County Clerk
Members of the Owsley County Fiscal Court

Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With *Government Auditing Standards*

Independent Auditor's Report

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the Statement of Receipts, Disbursements, and Excess Fees - Regulatory Basis of the Owsley County Clerk for the year ended December 31, 2016, and the related notes to the financial statement and have issued our report thereon dated February 20, 2019. The Owsley County Clerk's financial statement is prepared on a regulatory basis of accounting, which demonstrates compliance with the Commonwealth of Kentucky's regulatory basis of accounting and budget laws, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

Internal Control over Financial Reporting

In planning and performing our audit of the financial statement, we considered the Owsley County Clerk's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Owsley County Clerk's internal control. Accordingly, we do not express an opinion on the effectiveness of the Owsley County Clerk's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying Schedule of Findings and Responses, we identified certain deficiencies in internal control that we consider to be material weaknesses and other deficiencies that we consider to be significant deficiencies.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statement will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies described in the accompanying Schedule of Findings and Responses as items 2016-002, 2016-003, 2016-004, 2016-005, and 2016-010 to be material weaknesses.



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With *Government Auditing Standards*
(Continued)

Internal Control over Financial Reporting (Continued)

A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiencies described in the accompanying Schedule of Findings and Responses as items 2016-006, 2016-007, 2016-008, 2016-009, and 2016-011 to be significant deficiencies.

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Owsley County Clerk's financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* and which are described in the accompanying Schedule of Findings and Responses as items 2016-001, 2016-002, 2016,003, 2016-005, 2016-006, 2016-007, 2016-008, 2016-009, 2016-010, and 2016-011

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Respectfully submitted,



Mike Harmon
Auditor of Public Accounts

February 20, 2019

SCHEDULE OF FINDINGS AND RESPONSES

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OWSLEY COUNTY
SHANNA OLIVER, COUNTY CLERK
SCHEDULE OF FINDINGS AND RESPONSES

For The Year Ended December 31, 2016

FINANCIAL STATEMENT FINDINGS:

2016-001 The County Clerk Is Not Fulfilling Her Duties As An Elected County Official

This is a repeat finding and was reported in the prior year audit report as finding 2015-001. The county clerk is not fulfilling her duties as an elected county official. KRS 68.210 gives the state local finance officer authority to prescribe a uniform system of accounts, which sets certain minimum accounting requirements for local officials. The county clerk is not meeting these requirements and other statutory requirements. We have noted the following instances of noncompliance, which are detailed in the subsequent findings:

- The county clerk did not submit quarterly reports to the Department for Local Government
- The county clerk did not settle her account and remit excess fees to the fiscal court by March 15, 2017
- The county clerk did not present an annual budget or annual order setting maximum amount for deputies and assistants to the fiscal court for calendar year 2016
- The county clerk did not reconcile her official bank account to financial records
- The county clerk did not pay legal process taxes timely
- The county clerk did not pay affordable housing trust fund fees timely
- The county clerk did not pay deed transfer taxes timely
- The county clerk did not distribute delinquent tax payments to taxing districts timely
- The county clerk did not prepare franchise tax bills timely

The county clerk does not devote sufficient time to financial reporting and has not implemented policies and procedures to ensure all financial activity is compiled and reported timely. Additionally, the county clerk has failed to implement policies and procedures to ensure taxes are distributed to taxing districts timely.

The county clerk is in violation of many statutes that govern fee office operations. Most importantly, taxing districts (state, county, school, library, health department, extension district, conservation, etc.) are owed substantial amounts of taxes and have been deprived of these resources for a significant time.

It is the statutory duty of the county clerk to collect and distribute motor vehicle taxes, delinquent taxes, and various taxes/fees on legal instruments. There are numerous statutes that outline the duties and responsibilities of the county clerk. Please refer to each individual finding for specific information related to that topic.

We recommend the county clerk take immediate action to remedy the issues outlined in these comments and recommendations. Further, we recommend the county clerk implement policies and procedures for her office to ensure these issues are corrected for future periods. This matter will be referred to the Office of the Attorney General and the Department for Local Government.

County Clerk's Response: No response.

OWSLEY COUNTY
 SHANNA OLIVER, COUNTY CLERK
 SCHEDULE OF FINDINGS AND RESPONSES
 For The Year Ended December 31, 2016
 (Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2016-002 The County Clerk Did Not Submit Quarterly Financial Reports To The Department For Local Government As Required

This is a repeat finding and was reported in the prior year audit report as finding 2015-002. The county clerk did not submit quarterly reports to the Department for Local Government's (DLG) state local finance officer. The county clerk is not fulfilling her duties as an elected county official (see finding 2016-001) and does not have adequate controls in place to ensure financial reporting is timely, complete, and accurate. Failure to comply with these regulations resulted in a lack of availability of financial records to regulatory authorities and noncompliance with DLG reporting requirements. KRS 68.210 authorizes the state local finance officer to require officials from local governments to submit financial reports. Quarterly reports for fee officials are to be submitted by the 30th day following the close of the quarter in order to satisfy this requirement. We recommend the county clerk ensure quarterly reports are prepared and submitted by the 30th of each month following the close of each quarter. This matter will be referred to the Department for Local Government.

County Clerk's Response: No response.

2016-003 The County Clerk Failed To Present Financial Information To The Fiscal Court As Required

This is a repeat finding and was reported in the prior year audit report as finding 2015-003. The Owsley County Clerk failed to submit required financial information to the fiscal court. The following items were not presented:

- Budget for calendar year 2016
- Annual order setting maximum amount for deputies and assistants for calendar year 2016

In addition, the county clerk failed to remit excess fees to the fiscal court by March 15. The county clerk did not establish adequate controls and procedures to ensure the required financial information is submitted to the fiscal court in a timely manner. The county clerk is aware of these requirements, but has failed to comply.

The county clerk is in violation of statutes governing fee officials. In addition, the fiscal court is not adequately informed of the financial activities of the county clerk's office, resulting in the limited ability to appropriately monitor said financial activity and make fully informed financial decisions for the county. The county clerk's failure to remit excess fees timely impacts the fiscal court's ability to provide services to citizens and taxpayers. Finally, we cannot determine if amounts paid to deputies and assistants were within limits set by the fiscal court.

KRS 68.210 outlines the requirements for fee official budgets by stating, "[t]he administration of the county uniform budget system shall be under the supervision of the state local finance officer who may inspect and shall supervise the administration of accounts and financial operations and shall prescribe and shall install, by July 1, 1985, a system of uniform accounts for all counties and county officials. He may require all officials of all local governments and local taxing districts to submit such financial reports as he may deem proper." Further, the *County Budget Preparation and State Local Finance Officer Policy Manual* states, "[t]he State Local Finance Officer requires that the fiscal court approve a calendar year budget for each fee office as a component of the county's budget preparation process by January 15 of each year."

OWSLEY COUNTY
 SHANNA OLIVER, COUNTY CLERK
 SCHEDULE OF FINDINGS AND RESPONSES
 For The Year Ended December 31, 2016
 (Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2016-003 The County Clerk Failed To Present Financial Information To The Fiscal Court As Required
 (Continued)

The requirements for annual settlement and remittance of excess fees are outlined in KRS 64.152: “(1) In counties containing a population of less than seventy-five thousand (75,000), the county clerk shall provide to the fiscal court by March 15 of each year a complete statement for the preceding calendar year of all funds received by his office in an official capacity or for official services, and of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses. (2) At the time of filing the statement required by subsection (1) of this section, the clerk shall pay to the fiscal court any income of his office, including income from investments, which exceeds the sum of his maximum salary as permitted by the Constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810, and the provisions of this section shall not be construed to amend KRS 64.820.”

KRS 64.530(3) outlines the requirements for fiscal court approval of deputy and assistant salaries by stating, “[i]n the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the reasonable maximum compensation that any officer except the officers named in KRS 64.535 may receive from both sources. The fiscal court may also fix the reasonable maximum amount that the officer may expend each year for expenses of his office. The fiscal court shall fix annually the reasonable maximum amount, including fringe benefits, which the officer may expend for deputies and assistants, and allow the officer to determine the number to be hired and the individual compensation of each deputy and assistant. Any revenue received by a county clerk in any calendar year shall be used exclusively for the statutory duties of the county clerk and budgeted accordingly. At the conclusion of each calendar year, any excess fees remaining shall be paid to the fiscal court pursuant to KRS 64.152.”

We recommend the county clerk implement policies, procedures, and controls to ensure compliance with statutes. Further, we recommend all required financial information be submitted to the fiscal court and this action is reflected in the fiscal court minutes.

County Clerk's Response: No response.

2016-004 The County Clerk's Office Lacks Adequate Segregation Of Duties

This is a repeat finding and was reported in the prior year audit report as finding 2015-004. The county clerk's office lacks adequate segregation of duties because all employees collect cash and process transactions and the duties of recording, reconciling, depositing, and reporting transactions are not separated enough to prevent errors, misstatements, and fraud. The small staff size contributes to inadequate segregation of duties. However, the county clerk has failed to implement compensating controls to offset the increased risk associated with inadequate segregation of duties. Without adequate segregation of duties, there is increased risk of undetected errors and fraud occurring. There is also less assurance that financial information is complete, accurate, and free of errors and misstatements. A strong and effective control system requires the duties of receiving, processing, recording, and reporting financial activity be delegated to separate individuals. When this separation is not possible due to a small staff size, there are compensating measure that can be implemented to offset this weakness in the control system in order to minimize the risk associated with inadequate segregation of duties.

OWSLEY COUNTY
 SHANNA OLIVER, COUNTY CLERK
 SCHEDULE OF FINDINGS AND RESPONSES
 For The Year Ended December 31, 2016
 (Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2016-004 The County Clerk's Office Lacks Adequate Segregation Of Duties (Continued)

Examples of compensating controls include, but are not limited to:

- Review of daily receipts and deposits by another employee
- Comparison of daily receipts and deposits to the receipts ledger by a designated employee
- Review of bank reconciliations by someone who did not prepare the reconciliation
- Comparison of ledgers to financial reports and supporting documentation by someone independent of the preparation process

These compensating controls should be documented by initialing and dating the supporting documentation by the person who completed the comparison or review. We recommend the county clerk segregate the duties of receiving, recording, depositing, reconciling, and reporting financial activity when possible or implement and document compensating controls to offset the weakness in internal controls.

County Clerk's Response: No response.

2016-005 The County Clerk Has Not Settled Her 2016 Fee Account

The county clerk has not settled her 2016 fee account. There are numerous checks still outstanding for this account and numerous payments to taxing districts are due. In order to settle the account the county clerk should collect and pay the following:

Book Balance at 12/31/16:		\$ 30,149
Collect:		
Charged Items-		
Attorney	\$ 26	
Bank	1,110	
State	<u>50</u>	1,186
Pay:		
State Treasurer-		
Affordable Housing Trust Fee	3,510	
Legal Process Tax	3,637	
Owsley County Fiscal Court-		
Deed Transfer Tax	3,598	
Clerk's Expense Allowance	3,600	
Matching Requirements for Clerk's Salary Underpayment (FICA and Retirement)	464	
Matching Requirements for Clerk's Expense Allowance (FICA and Retirement)	948	
Clerk's Salary Underpayment	1,866	
Refunds	477	
Reimbursements	63	
Computer Services	1,800	
Other	<u>100</u>	<u>20,063</u>
Excess Fees Due Fiscal Court		<u>\$ 11,272</u>

OWSLEY COUNTY
 SHANNA OLIVER, COUNTY CLERK
 SCHEDULE OF FINDINGS AND RESPONSES
 For The Year Ended December 31, 2016
 (Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2016-005 The County Clerk Has Not Settled Her 2016 Fee Account (Continued)

The county clerk is not performing her duties as an elected official, as discussed in finding 2016-001. Additionally, the county clerk does not devote sufficient time to financial reporting and does not have adequate controls and procedures in place to ensure financial activity is recorded, reconciled, and reported timely. The county clerk is in violation of KRS 64.152 for failing to settle the 2016 fee account by March 15. Additionally, all taxing districts in the county have been deprived of much needed resources for a significant time period.

KRS 64.152 states, “(1) In counties containing a population of less than seventy-five thousand (75,000), the county clerk shall provide to the fiscal court by March 15 of each year a complete statement for the preceding calendar year of all funds received by his office in an official capacity or for official services, and of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses. (2) At the time of filing the statement required by subsection (1) of this section, the clerk shall pay to the fiscal court any income of his office, including income from investments, which exceeds the sum of his maximum salary as permitted by the Constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810, and the provisions of this section shall not be construed to amend KRS 64.820.”

We recommend the county clerk settle the 2016 fee account immediately. In addition, we recommend the county clerk design and implement policies and procedures to ensure all the financial activity of her office is recorded, reconciled, and reported timely. Finally, we recommend she ensure settlement is made with the fiscal court by March 15 each year.

County Clerk's Response: No response.

2016-006 The County Clerk Did Not Prepare Bank Reconciliations And Has Numerous Uncleared Transactions At Year End

This is a repeat finding and was reported in the prior year audit report as finding 2015-006. The county clerk did not prepare bank reconciliations for the fee account. As of December 31, 2016, there are 40 transactions totaling \$13,184 that have not cleared the bank, some of which had been outstanding for more than 11 months. It appears the county clerk is writing checks but not delivering the checks to taxing districts in a timely manner.

The county clerk is not performing her duties as an elected official, as discussed in finding 2016-001. Additionally, the county clerk does not devote sufficient time to financial reporting and does not have adequate controls and procedures in place to ensure financial activity is recorded, reconciled, and reported timely.

The risk of undetected fraud, errors, or other misstatements increases significantly when financial records are not prepared and reconciled timely. The numerous amount of uncleared transactions at year-end indicate the county clerk failed to properly remit checks to various taxing districts. Failing to provide payments to taxing districts in a timely manner causes these districts to face potential financial strain and hardship in providing services to citizens and taxpayers.

OWSLEY COUNTY
 SHANNA OLIVER, COUNTY CLERK
 SCHEDULE OF FINDINGS AND RESPONSES
 For The Year Ended December 31, 2016
 (Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2016-006 The County Clerk Did Not Prepare Bank Reconciliations And Has Numerous Uncleared Transactions At Year End (Continued)

Under the authority of KRS 68.210, the state local finance officer prescribes minimum requirements for officials handling public funds, one of which is that monthly bank reconciliations be prepared. In addition, a strong internal control system requires timely reconciliations for all bank accounts and follow up on any items outstanding or uncleared for a significant time period.

We recommend the county clerk prepare timely monthly bank reconciliations. We also recommend the county clerk follow up on any transactions that are outstanding or uncleared for a significant time period and take appropriate action to clear the transactions. Finally, we recommend the county clerk ensure all payments to taxing districts are made timely.

County Clerk's Response: No response.

2016-007 The County Clerk Did Not Pay Legal Process Taxes Timely

This is a repeat finding and was included in the prior year audit report as finding 2015-007. The county clerk did not pay legal process taxes timely. The county clerk collects legal process taxes on various legal instruments recorded in local county clerk offices. The county clerk paid legal process taxes for January timely, but did not pay legal process taxes for February through December timely. The amounts due the state for legal process taxes are still outstanding as of December 31, 2016.

The county clerk is not performing her duties as an elected official, as discussed in finding 2016-001. Additionally, the county clerk does not devote sufficient time to financial reporting and does not have adequate controls and procedures in place to ensure financial activity is recorded, reconciled, and reported timely. The county clerk was aware legal process taxes were to be distributed by the 10th of each month, but she did not comply with this requirement.

The county clerk owes \$3,637 to the state treasurer for legal process taxes collected during calendar year 2016 but not remitted and is in violation of KRS 142.010. In addition, as outlined in the statute, failure to pay these fees timely can result in significant penalties and interest. Penalties and interest are not allowable expenditures from the official's fee account and must be paid personally.

KRS 142.010 outlines taxes imposed on legal processes and instruments and the applicable fees. Subsection 3 of the statute states, "[t]axes imposed under this section shall be reported and paid to the Department of Revenue by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed or marriage licenses issued. Each remittance shall be accompanied by a summary report on a form prescribed by the department. (4) Any county clerk who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180. In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment."

OWSLEY COUNTY
SHANNA OLIVER, COUNTY CLERK
SCHEDULE OF FINDINGS AND RESPONSES
For The Year Ended December 31, 2016
(Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2016-007 The County Clerk Did Not Pay Legal Process Taxes Timely (Continued)

We recommend the county clerk immediately remit \$3,637 due to the state for legal process taxes for calendar year 2016 and implement effective policies and procedures to ensure all legal process tax payments are made in accordance with KRS 142.010 in the future. This matter will be referred to the Department of Revenue, Office of the Attorney General, and the Department for Local Government.

County Clerk's Response: No response.

2016-008 The County Clerk Did Not Pay Affordable Housing Trust Fund Fees Timely

This is a repeat finding and was included in the prior year audit report as finding 2015-008. The county clerk did not pay affordable housing trust fund fees timely. The county clerk collects affordable housing trust fund fees on various legal instruments recorded and indexed in the county clerk's office. The county clerk paid affordable housing trust fund fees for January timely, but did not pay affordable housing trust fund fees for February through December timely. The amounts due the state for affordable housing trust fund fees are still outstanding as of December 31, 2016.

The county clerk is not performing her duties as an elected official, as discussed in finding 2016-001. Additionally, the county clerk does not devote sufficient time to financial reporting and does not have adequate controls and procedures in place to ensure financial activity is recorded, reconciled, and reported timely. The county clerk was aware affordable housing trust fund fees were to be distributed by the 10th day following the end of the quarter in which these fees were collected, but she did not comply with this requirement.

The county clerk owes \$3,510 to the state treasurer for affordable housing trust fund fees collected during calendar year 2016 but not remitted and is in violation of KRS 64.012. In addition, failure to pay these fees timely can result in significant penalties and interest. Penalties and interest are not allowable expenditures from the official's fee account and must be paid personally.

KRS 64.012 outlines the fees charged by county clerks and says, "(1)(b) The twelve dollar (\$12) fee imposed by paragraph (a) of this subsection shall be divided as follows: 1. Six dollars (\$6) shall be retained by the county clerk; and 2. Six dollars (\$6) shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk within ten (10) days following the end of the quarter in which the fee was received. Each remittance to the affordable housing trust fund shall be accompanied by a summary report on a form prescribed by the Kentucky Housing Corporation."

We recommend the county clerk immediately remit \$3,510 due to the state for affordable housing trust fund fees for calendar year 2016 and implement effective policies and procedures to ensure all affordable housing trust fund fee payments are made in accordance with KRS 64.012 in the future. We will refer this matter to the Department of Revenue, the Office of the Attorney General, and the Department for Local Government.

County Clerk's Response: No response.

OWSLEY COUNTY
SHANNA OLIVER, COUNTY CLERK
SCHEDULE OF FINDINGS AND RESPONSES
For The Year Ended December 31, 2016
(Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2016-009 The County Clerk Did Not Pay Deed Transfer Taxes Timely

This is a repeat finding and was included in the prior year audit report as finding 2015-009. The county clerk did not pay deed transfer taxes timely. The county clerk collects taxes on certain transfers of real property, retaining 5% commission and remitting the remainder to the county. The county clerk paid deed transfer taxes for January timely, but did not pay deed transfer taxes for February through December timely. The amounts due the county for deed transfer taxes are still outstanding as of December 31, 2016.

The county clerk is not performing her duties as an elected official, as discussed in finding 2016-001. Additionally, the county clerk does not devote sufficient time to financial reporting and does not have adequate controls and procedures in place to ensure financial activity is recorded, reconciled, and reported timely. The county clerk was aware deed transfer taxes were to be distributed to the county treasurer every three months, but she did not comply with this requirement.

The county clerk owes \$3,598 to the county for deed transfer taxes collected during calendar year 2016 but not remitted. The county clerk is also in violation of KRS 142.050. Furthermore, failure to remit these taxes to the county timely puts unnecessary financial strain on the county, could impact financial decisions, and impair the ability to provide services to citizens and taxpayers.

KRS 142.050(4) states, “[t]he county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain five percent (5%) as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund.”

We recommend the county clerk immediately remit \$3,598 due to the county for deed transfer taxes for calendar year 2016 and implement effective policies and procedures to ensure all deed transfer tax payments are made in accordance with KRS 142.050 in the future.

County Clerk's Response: No response.

2016-010 The County Clerk Did Not Distribute Delinquent Tax Payments To Taxing Districts Timely

This is a repeat finding and was included in the prior year audit report as finding 2015-010. The county clerk did not pay delinquent tax payments to the taxing districts timely. Delinquent taxes for April, May, and June were paid in August and delinquent taxes for August were paid in late September or October.

The county clerk is not performing her duties as an elected official (as discussed in finding 2016-001). She has also failed to establish adequate controls and procedures to ensure delinquent taxes are paid timely. The county clerk knew the requirement to distribute delinquent tax payments to taxing districts by the 10th of each month, but failed to do so.

Taxing districts did not receive their share of delinquent taxes timely, which could impact services they provide as they are deprived of much needed resources while waiting on their distributive share of delinquent taxes.

OWSLEY COUNTY
 SHANNA OLIVER, COUNTY CLERK
 SCHEDULE OF FINDINGS AND RESPONSES
 For The Year Ended December 31, 2016
 (Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2016-010 The County Clerk Did Not Distribute Delinquent Tax Payments To Taxing Districts Timely
 (Continued)

KRS 134.126 states, “(3) [t]he county clerk shall report by the tenth day of each month to the department, the county treasurer, the sheriff, and the proper officials of the taxing districts. The governing body of a county may require the county clerk to report and pay on a more frequent basis if necessary for bonding requirements; however, the county clerk shall not be required to report and pay more frequently than weekly. (4) The county clerk shall allocate payments among the various entities entitled to a portion of the payment. The county clerk shall, at the time he or she makes the reports required by subsection (3) of this section: (a) Pay to the department for deposit in the State Treasury all moneys received due the state; (b) Pay to the county treasurer all moneys received due the county; (c) Pay to the authorized officers of the taxing districts the amount due each taxing district; and (d) Pay the amount of fees, costs, commissions, and penalties to the persons, agencies, or parties entitled thereto.”

We recommend the county clerk establish controls and procedures to ensure delinquent tax payments are made by the 10th of each month as required. This matter will be referred to the Office of the Attorney General and the Department for Local Government.

County Clerk's Response: No response.

2016-011 The County Clerk Did Not Prepare Franchise Tax Bills Promptly

This is a repeat finding and was included in the prior year audit report as finding 2015-011. The county clerk did not prepare franchise tax bills for the first half of calendar year 2016. The county clerk did prepare franchise tax bills in October 2016, which was five to nine months after the bills were received.

The county clerk is not fulfilling her duties as an elected official (as discussed in finding 2016-001), does not devote sufficient attention to the financial management practices, and failed to implement adequate controls and procedures to ensure franchise tax bills were prepared when received.

By not preparing the franchise tax bills and submitting them to the sheriff to collect, the county, school, and other taxing districts did not receive the tax revenues they were entitled to. These tax districts rely on the timely receipt of tax revenues. The county clerk's failure to perform this duty results in the taxing districts' budgets and cash flows being negatively affected.

The county clerk should prepare franchise bills upon receipt of the state assessment certification and promptly give to the sheriff to mail. KRS 133.220(2) requires the county clerk to prepare tax bills and, in part, states “the county clerk shall prepare for the use of the sheriff or collector a correct tax bill for each taxpayer in the county[.]” Furthermore, KRS 133.220(3) states that “[t]ax bills prepared in accordance with the certification of the department shall be delivered to the sheriff or collector by the county clerk before September 15 of each year.”

We recommend the county clerk implement procedures and controls to ensure franchise tax bills are prepared promptly after receiving the state assessment certification from the state and are immediately presented to the sheriff to be mailed and collected. This matter will be referred to the Department of Revenue, the Office of the Attorney General, and the Department for Local Government.

County Clerk's Response: No response.