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Harmon Releases Audit of Taylor County Clerk's Fee Account

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2017 financial statement of Taylor County Clerk Mark Carney. State law requires the auditor to conduct annual audits of county clerks and sheriffs.

Auditing standards require the auditor's letter to communicate whether the financial statement presents fairly the receipts, disbursements and excess fees of the Taylor County Clerk in accordance with accounting principles generally accepted in the United States of America. The clerk's financial statement did not follow this format. However, the clerk's financial statement is fairly presented in conformity with the regulatory basis of accounting, which is an acceptable reporting methodology. This reporting methodology is followed for all 120 clerk audits in Kentucky.

As part of the audit process, the auditor must comment on noncompliance with laws, regulations, contracts, and grants. The auditor must also comment on material weaknesses involving internal control over financial operations and reporting.

The audit contains the following comments:

The Taylor County Clerk's Office lacks adequate segregation of duties: The deputy who prepares the daily checkout sheet also collects money, prepares the daily deposit, and posts to the ledger. The county clerk also performs these duties. Another deputy and the county clerk jointly prepare the quarterly financial reports. The county clerk prepares, signs, and posts all disbursements. The clerk performs bank reconciliations the majority of the time with no one reviewing. This is a repeat finding and was included in the prior year audit report as Finding 2016-001.

The condition is a result of a limited budget, which restricts the number of employees the county clerk can hire or delegate duties to. Adequate segregation of duties would prevent the same person

from having a significant role in the receiving and disbursing of funds, recording and reporting of those receipts, and disbursements. In addition, compensating controls would not be effective over duties performed by the county clerk.

The lack of segregation of duties increases the county clerk's risk of misappropriation of assets, errors, and inaccurate financial reporting. Segregation of duties over receipts, disbursements, and the reconciliation process or implementation of compensating controls, when needed because the number of staff is limited, is essential for providing protection to employees in the normal course of performing their duties and can also prevent inaccurate financial reporting and misappropriation of assets.

We recommend the county clerk strengthen internal controls by segregating these duties. If segregation is not possible due to a limited number of staff, strong oversight should be implemented. The employee providing this oversight should document his or her review by initialing all source documentation.

County Clerk's Response: As commented in last year's response, this just seems to be a comment that will never go away. I believe that we do an adequate job of cross training in the office and we attempt to document the different reports/tasks that we are required to do.

Auditor's Reply: Auditors are required to report when an internal control weakness exists, such as a lack of segregation of duties, in order for management to be aware of the associated risks.

The Taylor County Clerk had \$122 in disallowed disbursements: The Taylor County Clerk paid \$102 in interest to the Kentucky State Treasurer and \$20 in penalties and interest to the Internal Revenue Service (IRS) during calendar year 2017. These charges are not necessary disbursements in the operation of the county clerk's office. Due to an uncorrected error in the usage tax reported and paid for one week of the year, the county clerk was charged interest of \$102 for being 32 days late. In addition, the county clerk failed to pay one pay period's 941 taxes to the Internal Revenue Service and was charged \$12 penalty for failure to pay two months late and \$8 interest. The county clerk did not realize this call-in amount did not get paid until he received notice from the IRS.

Paying penalties and interest fees which are not necessary or beneficial to the public reduces the amount of operating funds for the county clerk's office and also reduces the amount of excess fees paid to the fiscal court.

In Funk v. Milliken, 317 S.W.2d 499 (Ky. 1958), Kentucky's highest court reaffirmed the rule that county fee officials' disbursements of public funds will be allowable only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not personal in nature. KRS 138.464(1) states, "[t]he county clerk shall report each Monday to the department all moneys collected during the previous week, together with a duplicate of all receipts issued by him during the same period."

Good internal controls dictate the county clerk should monitor disbursements to ensure compliance with federal and state laws and regulations and to ensure payments are timely to avoid penalties and interest charges.

We recommend the county clerk reimburse the 2017 fee account \$122 for disallowed disbursements. This amount should then be turned over to the fiscal court as additional excess fees from 2017. Additionally, we recommend the county clerk monitor his disbursements to ensure all disbursements are allowable and in accordance with the guidelines established in Funk v. Milliken and KRS 138.464.

County Clerk's Response: I paid \$102 in interest to Kentucky for an incorrect usage tax deposit that we made and did not catch until the next month reconciling the bank statement. This is my 16th year as clerk and I will say that in at least 12 of the prior years, at one time or another and in a few years 2 or 3 times, we have made human mistakes in making the deposit. The mistake is often not caught until you are reconciling the bank statement the following month. We call Revenue and tell them of the mistake in the deposit and make the necessary steps to correct it. They send out a bill as they are required to do and say send a letter and we will waive the penalty but we cannot waive the interest. I have always send the requested letter and paid the interest fee out of the County Clerk fee account. So during 2017, I did what I have always done since becoming clerk in 2002 and that was pay the interest charge out of the Clerk Fee Account. This is the first time I have been informed that this is a disallowed disbursement and made to pay the Clerk Fee account out of my own pocket.

The other \$20 "disallowable disbursement" was from a Federal Tax Deposit that we make every week. We enter this in over the phone and while entering one in we put the wrong date as the payment, which thus made it late. When I received the notice from the IRS, I called them and talked to them. They said with our good paying record that there would only be a \$20 charge. I had not had to pay the IRS before, but assumed it was a disbursement that could be made from the fee account. From this audit, I have learned that is not an allowed disbursement. I guess that is the chance I take, by doing our payroll in house – I am human and will surely make a few mistakes along the way. But I would much rather pay \$20 out of my pocket and save the taxpayers and county money by doing our own payroll instead of paying an outside agency. Paying someone else to do it all (as has been done in the past) would be easier and I might not have as many audit comments about payroll, but in my opinion not the best option for our county.

Auditor's Reply: A proper segregation of duties or implementation of compensating controls would help prevent errors from occurring to ensure payments are being made correctly and agree to supporting documentation during the daily checkout procedures.

The Taylor County Clerk did not deposit funds intact daily: The Taylor County Clerk did not deposit all funds collected intact daily. The county clerk's daily checkout sheets show each day's cash on hand is different. In addition, the county clerk leaves the daily cash receipts overnight in the office vault and makes the deposit the next day. This would normally be acceptable; however, the cash drawers are housed in a wooden cabinet in the vault. This is a repeat finding and was included in the prior year report as Finding 2016-002.

This deficiency is allowed to occur because it is the county clerk's policy to only deposit cash bills, leave all change for startup cash, and to keep the cash drawers in the vault overnight. As a result of not depositing funds intact daily, the county clerk is not in compliance with guidelines set forth by the state local finance officer. Also, if a fire were to occur due to electrical wiring in the vault, the wooden cabinet would be destroyed, along with all monies contained within.

The Department for Local Government's (DLG) *County Budget Preparation and State Local Finance Officer Policy Manual* recommends the minimum requirements for handling public funds pursuant to KRS 68.210. The manual requires there to be "[d]aily deposits intact into a federally insured banking institution." The practice of making daily deposits reduces the risk of misappropriation of cash, which is the asset most subject to possible theft. Additionally, when deposits are not made timely, the risk that the bank account can be overdrawn is increased.

We recommend the county clerk make daily deposits intact and leave a set amount in each of the cash drawers as startup monies each day. We also recommend the county clerk either take the daily deposit to the bank overnight for safekeeping or house it in a fire proof safe in his office until the deposit can be made the next morning.

County Clerk's Response: We choose not to count the drawers down to an exact amount each afternoon and deposit all remaining monies. To do this would mean that we deposited all funds that were taken in that day, however to do this would also mean that we were depositing dollar bills and some change. I make a business decision to not deposit our coins and then turn around and go to the bank and get change to be able to operate the office with. We do make deposits every day (we deposit the following day), but we only deposit the big bills (\$100, \$50 and \$20) and occasionally some tens or fives. The KAVIS system tracks the amount of money in each drawer. KAVIS makes the closing procedures real easy and quick when used as we use it now.

As for leaving the money in the vault over night, although the vault is fireproof, I do understand the comment that an electrical fire could happen in the vault, therefore, we will be purchasing a safe to put the money in rather than keeping it in a cabinet as we do now.

Auditor's Reply: DLG requires that deposits be made intact daily. We have recommended the official follow the DLG policy since DLG has the authority to set the policies and procedures for official's to follow.

The Taylor County Clerk did not adhere to the fiscal court's *Personnel Policies And Procedure Handbook* or implement his own written policy: The Taylor County Clerk did not adhere to the Taylor County Fiscal Court's *Personnel Policies and Procedures Handbook* or implement his own written policy. The county clerk's office employees were granted vacation leave according to fiscal court's policy. However, sick leave balances were not in accordance with fiscal court's policy. This is a repeat finding and was included in the prior year audit report as Finding 2016-003.

Per the county clerk, he allows each employee to receive 12 sick/personal leave days per year, which complies with the fiscal court's policy. He only allows his employees to carry a maximum total of 30 days (240 hours) over into the next year. He also allows each employee to "bank" a

maximum of six unused days (48 hours) for the year. “Banked” days can only be used in case of surgery, illness, or retirement. Any unused hours in excess of six “banked” days and hours that should be carried to the next year are lost.

Since the county clerk is not following fiscal court’s policy, his employees are not receiving the same benefits as other county employees under the fiscal court’s policies.

The Taylor County Fiscal Court’s *Personnel Policies and Procedure Handbook* states, “[e]mployees hired prior to 7/1/11 may carry forward 968 hours of accumulated sick leave for retirement through Kentucky Retirement Systems. These hours will be used to extend the employees retirement date, wages and benefits from Taylor County Fiscal Court. At time of retirement any additional hours accumulated above the 968 will be forfeited.”

We recommend the county clerk adhere to the Taylor County Fiscal Court’s *Personnel Policies and Procedure Handbook* or implement his own written policy.

County Clerk’s Response: As stated in the audit, it says “per the county clerk, he allows each employee to receive 12 sick/personal days per year, which complies with fiscal court’s policy.” The next sentence states, “he only allows his employees to carry a maximum total of 30 days (240 hours) over into the next year.” The words he only allows would make you think that we are not following the county code, but on page 43 of the Taylor County Administrative Code Section 3.44 article A and in bold letters it states “employees can accumulate up to thirty (30) days to be carried forward from year to year.” We are right on track with this. Where we are different is in the number of days that can be banked if not used. In the clerk’s office, I have a policy that only 6 days can be banked per year. An employee can start a year with 30 days max per County Administrative Code. They accumulate 12 more during the year. Since an employee can only carry over 30 to the next year if none were used then the County does allow for all 12 days to be banked. I have an agreement with the employees who are eligible to bank that they can bank only six days. I do this because I believe in a small office when someone retires with a huge number of banked days that it could be a huge burden on the office who would still be paying wages to the employee and in some cases could not replace the employee with another employee until those banked days or at least a majority of them have been paid. Our budget is set in January with a maximum amount to be spent on deputies defined in January. Someone could retire in April and a clerk not know that in January and because maximum has been set it could be months before we could replace the employee if they were allowed to bank the full 12 days each year. That is one reason I limit banked days to 6. However, employees do not “lose” the other 6 days. We work together to make sure their total allowable days are used even if it means extra days off in December. All employees that are eligible for banked days in a certain year understand how this works. All employees in the office are given a personal benefit statement in January of each year that covers wages, insurance, sick/personal days, vacation, banked days, etc. I do realize that a written policy presented to fiscal court could help with this comment in the audit. I do believe that the benefit statements that the deputies receive each year serve as a written agreement between the deputies and the clerk.

Auditor’s Reply: As mentioned in the prior year audit, we reiterate the recommendation that the official implement his own written policy or fully follow the fiscal court policy.

The Taylor County Clerk did not have adequate controls over payroll: This is a repeat finding and was included in the prior year audit report as Finding 2016-004. The Taylor County Clerk required full time deputies to maintain timesheets. However, the hours did not always reflect the actual hours worked or leave taken by the employees for the pay period tested. In addition, two employees during the pay period tested did not sign their timesheets.

The following deficiencies were noted:

- The county clerk allows deputies who work four hours on Saturday to have an eight hour day off during the same week. Therefore, timesheets would reflect 36 hours and the individual earning records (IER) would reflect 40 hours worked.
- Employees were paid for 40 hours of vacation leave in advance.
- Employees were paid for hours worked during pay period tested in advance. This pay period ended on a Friday and the checks were written on the Tuesday before. In addition, employees were paid for the last week of the year in advance before actual hours worked.

These deficiencies occurred due to the county clerk not having a written policy stating his office hours and work schedule and by not adhering to the Taylor County Fiscal Court's *Personnel Policies and Procedures Handbook*.

As a result of inaccurate timesheets, employees could be paid for more or less hours than actually worked especially if overtime is worked during elections.

Good internal controls dictate timesheets should be reviewed for accuracy by an immediate supervisor and recalculated by someone other than the preparer after employees sign timesheets documenting hours worked. KRS 337.320(1) states, “[e]very employer shall keep a record of. . .The hours worked each day and each week by each employee[.]” Also, the Taylor County Fiscal Court's *Personnel Policies and Procedures Handbook* requires, “employees should accurately record the time they begin their work and end their work” Additionally, KRS 45.340 and OAG 79-448 state that checks shall be tendered to an officer or employee only after he/she has completed the work for which he/she is being paid.

We recommend the following:

- All employees should prepare and sign a timesheet each period indicating the actual hours worked and any sick or vacation leave taken.
- The county clerk should adhere to fiscal court's policy or implement his own written policy including his office hours and work schedule.
- The county clerk should ensure no employee is paid for any hours worked or leave taken prior to actually working the hours or taking the leave.

County Clerk's Response: Employees sign time sheets on a weekly basis on a normal basis-even though it looks like we forgot to sign two. It is my management decision to give those individuals who work Saturday a full day off the next week. This is a practice that we have been doing for 15 years, since I became clerk in 2003.

The comment that employees were paid for 40 hours of vacation leave in advance is mind boggling to me. We have done this-and I think do it correctly-since 2003 and I do not ever remember this comment showing up until the 2016 audit and then here it is again. VACATION PAY is already earned when the year starts. The administrative code says if you have worked X amount of years you have earned X number of weeks of vacation. We give the vacation check the pay period before your vacation because the employee will not be here the next week to get the check and they HAVE ALREADY EARNED IT BASED ON THEIR YEARS OF SERVICE.

As far as the audit comment about checks being written on a Tuesday, the auditor said the month she tested was November. I explained to her that we have a major Holiday in November where we are closed on Thursday and Friday so payday that week was a Wednesday not a Friday. I usually try to get the payroll done the afternoon before payday which would mean the checks were written on a Tuesday during one of the weeks tested. I feel this comment should not have been included considering the Holiday week. If I am blessed to still be living this Thanksgiving, I hope to get the payroll done on November 20th, which will be a Tuesday.

The comment that employees were paid for the last week of the year in advance before actual hours worked is definitely a comment that should be removed from the audit. For the first time in my Clerk career I took the week off between Christmas and New Years to go to Florida to watch my daughter play basketball during her Senior year. I did do the payroll and write the checks before I left, but the checks were kept in my drawer and chief deputy passed the checks out to the employees on the last day they worked not the week before.

Auditor's Reply: As mentioned in the prior year audit, we reiterate the recommendation that the official implement his own written policy or fully follow the fiscal court policy. Currently, the practice of awarding eight hours of leave for four hours worked on a Saturday, or the equivalent of double time regardless of the hours worked that week, is not an authorized policy and effectively treats Saturday hours worked differently than other time worked. OAG 79-448 states that checks shall be tendered to an officer or employee only after he/she has completed the work for which he/she is being paid. The payroll checks mentioned above tested in November were dated on Tuesday and cleared the bank on Wednesday when employees would have still been working for this pay period.

The Taylor County Clerk did not require third-party purchasers to make deposits and payments in accordance with 103 KAR 5:180. The county clerk stated he has some third party purchasers that may send a check, but not end up purchasing the bills, so he feels it is better to give them the check back instead of depositing the check and refunding it.

Failure to collect deposits can result in the county clerk not being able to cover any additional costs and expenses associated with any purchaser who fails to make full payment at the time of the tax sale.

103 KAR 5:180 requires third party purchasers make a deposit with county clerk for tax bills they wish to purchase at the tax sale. Purchasers are required to provide a deposit of 100% of tax bills listed on the purchaser's priority tax bill list and deposit 25% of the list of tax bills that the purchaser wishes to purchase at tax sale. Additionally, 103 KAR 5:180 requires purchasers to pay

a registration fee of \$5 for each priority tax bill and \$10 for each current tax bill included on their list of tax bills they wish to purchase with the total registration fee not to exceed \$250. The deposits made by the third party purchasers should be deposited to an official bank account when received. The deposits should be applied to the payment of the tax bills the purchaser purchases at the tax sale date and any balances refunded to the third party purchasers. The registration fee paid by the third party purchasers should be deposited to the fee account when received.

We recommend the county clerk require third party purchasers make deposits for tax bills they wish to purchase as required by 103 KAR 5:180.

County Clerk's Response: As stated in the last year's comments, I knew this would be a comment in the 2017 audit. I think it is a much simpler process the way we have always conducted the sale. We have always conducted the tax sale without requiring the third party purchasers to pay a deposit, which I believe was an option when the tax sale law was created. We have had very well run and successful tax sales in the past with good participation. To me the more participation, the more delinquencies get sold, the more money goes to the local taxing districts. However, I do recognize the importance of following statute and will try to implement in 2019.

The county clerk's responsibilities include collecting certain taxes, issuing licenses, maintaining county records and providing other services. The clerk's office is funded through statutory fees collected in conjunction with these duties.

The audit report can be found on the [auditor's website](#).

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