



COMMISSIONERS COURT
COMMUNICATION

REFERENCE NUMBER 0

PAGE 1 OF 10

DATE: 3/29/2011

SUBJECT: **RECEIVE AND FILE THE AUDITOR'S REPORT OVER THE CONTROLS OF THE DISTRICT CLERK'S FAMILY FEES AND COURT COSTS**

COMMISSIONERS COURT ACTION REQUESTED:

It is requested that the Commissioners Court receive and file the Auditor's Report of the District Clerk's Office Family Fees and Court Costs.

BACKGROUND:

In accordance with Local Government Code Subchapter A, Section 115.001, Examination of Records, and Section 115.002, Examination of Books and Reports, the Auditor's Office reviewed the District Clerk's family fees and court costs. The objective of the review was to determine whether controls were adequate to reasonably ensure that family fees and court costs were assessed, collected, recorded and reported accurately by the District Clerk's Office.

Attached to this report is a written response from the District Clerk's Office.

FISCAL IMPACT:

There is no direct fiscal impact associated with this item.

SUBMITTED BY: Auditor

PREPARED BY: S. Renee Tidwell
APPROVED BY:



TARRANT COUNTY

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February 17, 2011

The Honorable District Judges
The Honorable Commissioner's Court
The Honorable Thomas A. Wilder, District Clerk
Tarrant County, Texas

RE: Auditor's Report – Review of Controls over District Clerk's Family Fees and Court Costs

SUMMARY

In accordance with Local Government Code, Subchapter A, §115.001, *Examination of Records*, and §115.002, *Examination of Books and Reports*, we began a review of the District Clerk's family fees and court costs. The objective of our review was to determine whether controls were adequate to reasonably ensure that family fees and court costs were assessed, collected, recorded, and reported accurately by the District Clerk's Office.

During the planning of our review, we found that District Clerk staff did not always record the assessment of fees and court costs into the system. The reported accounts receivable balances were based on partially recorded assessed amounts and total recorded payments. The inability to compare amounts assessed and subsequent receipts increase the opportunity for errors and fraud. We also noted that accounts payable did not exist for amounts due to the Office of Attorney General (OAG). Rather, OAG receipts and subsequent reimbursements are recorded in case accounts receivables. Because of the foregoing conditions, we express no opinion regarding the accuracy of the financial records relative to the District Clerk's Family Division. These conditions are described in more detail below:

Observation 1 The District Clerk's Office could not provide accurate accounts receivable balances.

Observation 2 Procedures used to invoice and reimburse the Office of Attorney General were not adequate.

Observation 3 Procedures used to prepare cost bills and subsequent collections were not adequate.

We discussed the observations and recommendations included in this report with appropriate management and staff on February 17, 2011. Attached to this report is a written response from the District Clerk's Office. We also communicated less significant matters to District Clerk management and staff during the review.

BACKGROUND

The family law district courts hear family law matters, including divorce, adoption, and suits affecting parent-child relationships. Per Government Code Section 51.317, filing fees are typically collected at the time the suit or action is filed. However, the District Clerk, as a ministerial officer, may not refuse filing a suit based on unpaid fees. New court cost and fee schedules are prepared every two years to reflect legislative changes. The current fee schedule is effective January 1, 2010.

Title IV-D is a program authorized by the United States Code (U.S.C. Title 42, Chapter 7, Subchapter IV, Part D) and funded by a combination of federal and state sources. In the early 1990's, Tarrant County entered into a contract with the OAG for a 66% advance on court costs and fees related to Title IV-D cases filed in Tarrant County. This contract expired in 2001, but the law, Family Code Section 231, provides the mechanism for obtaining advanced payments for these fees and costs to counties. The purpose of the Title IV-D is to establish paternity and to enforce child support orders. In the State of Texas, the OAG is the designated agency over the Title IV-D cases, and the family law district courts have local jurisdiction over these cases. These cases are also referred to as "AG cases." The District Clerk's Office Family Section is responsible for managing records and receipts for fees and court costs for the Title IV-D cases in addition to other non-AG cases. A unique characteristic of family law is that a case may be reactivated multiple times after an original suit is settled. When a "divorce with children" case is reactivated, it becomes an AG monitored case and its monetary transactions are treated just like the AG cases that were filed by the OAG.

The Family Division of the District Clerk's Office uses the Judicial Information Management System (JIMS) to record case information and financial transactions. JIMS was implemented over 20 years ago and was initially designed as a case management system. Although modifications have been made to assist with recording financial transactions, JIMS remains very limited with regard to the financial functionality, especially for the complex nature of AG case transactions. The District Clerk's Office Family Division typically files about 2,500 new/pending cases each month. Approximately 60% represents the Title IV-D (AG) cases.

OBSERVATIONS AND RECOMMENDATIONS

Observation 1 – The District Clerk's Office could not provide accurate accounts receivable balances.

Since JIMS is very limited with regard to the financial functionality, the District Clerk's Office currently computes the accounts receivable balance by subtracting total payments received from the assessed amounts for each fee category. Any negative balances, such those described below, are excluded from the accounts receivable balance reported on the financial statements. This methodology will not compute accurate accounts receivable balances because of the following conditions.

1. Fees and costs were not always “assessed” in the JIMS. Although the system prompts clerks to enter the assessment of fees and court costs, the clerks oftentimes did not. When clerks received payment at the time a suit was filed, the clerks did not assess fees and costs onto JIMS.

Recommendation: The District Clerk's Family Division revised their procedures to assess all fees and costs into the JIMS. Management should also review system reports to verify that fees and court costs assessed and the respective accounts receivable balances are accurate.

2. Payments received from the OAG were recorded to case accounts receivable, thus reducing the accounts receivable balance although the responsible party remains liable for the full amount. For example:

Case account receivable	\$100
Less: Amount received from OAG	<u>\$66</u>
Accounts receivable balance per books	\$34

The case accounts receivable shows a balance due totaling \$34. However, the responsible party is actually liable for the entire \$100. This is further complicated if the responsible party makes a partial payment, which occurs often. For example:

Case accounts receivable	\$100
Less: Amount received from OAG	\$66
Partial payment from responsible party	<u>\$80</u>
Accounts receivable balance per books	(\$46)

The accounts receivable on the case shows a negative balance (\$46) implying an overpayment. In reality, the responsible party is still liable for the remaining \$20. As stated previously, negative balances are excluded from the calculation of accounts receivable balances. In this illustration, the accounts receivable balance would be understated by \$20.

Recommendation: Amounts received from the OAG should not be recorded in case accounts receivable, reducing the amount owed by the responsible party. Rather, District Clerk management should consult with Information Technologies about establishing a special fee category for recording amounts billed and subsequently paid by the OAG. (See “*Observation 2 Procedures used to invoice and reimburse the Office of Attorney General were not adequate,*” below for further detail.)

3. Fees and court costs waived by court order were included in the accounts receivable balances. Current processes do not provide the ability to quantify the total of the waived amounts.

Recommendation: District Clerk management should consider creating a special fee category to identify uncollectible fees and court costs due to a court. This fee category should be designed to offset accounts receivable, thereby reducing the accounts receivable balance.

4. Transactions prior to January 1, 1996 were not included in the accounts receivable balance. This occurred because staff used a specified beginning and ending date to compute the accounts receivable balance rather than an "as of" date. District Clerk staff could not provide an explanation for why this date was selected.

Recommendation: Since the nature of accounts receivable is cumulative, the District Clerk's Office should use an "as of" date in order to include all financial transactions affecting the accounts receivable balance.

5. Management review and oversight over the manual financial adjustments was not adequate. We noted that many of the financial functions performed by both the Assistant Manager and staff were not adequately reviewed for accuracy. Incorrect adjustments may affect accounts receivable balances.

Recommendation: The District Clerk's Office should establish procedures to include an independent review to verify the accuracy of all adjustments made to financial data. Furthermore, additional training may be required for Family Division staff.

By implementing the above recommendations, the current methodology used to compute accounts receivable balances should be materially correct for those cases where the new procedures are used.

Observation 2 – Procedures used to invoice and reimburse the Office of Attorney General were not adequate.

Background

Section 231 of the Family Code describes services provided by Title IV-D cases. In Title IV-D cases, certain court costs are billable to the OAG. The District Clerk Family Division is responsible for invoicing the OAG for the advanced payment of various fees such as filing fees and fees for issuance and service of processes. When the District Clerk's Office receives full payment for these fees from the responsible party, the District Clerk's Office refunds the advanced payment to the OAG.

Observation

Procedures used for invoicing and reimbursing the OAG for authorized IV-D fees and court costs were not adequate. Specifically, the following conditions exist:

1. Currently, the District Clerk's Office does not reimburse the OAG until all fees and costs are paid in full by the responsible party. In cases where full payment is never received, current procedures do not allow partial payment to be made to the OAG. As an illustration, assume the following:

Case accounts receivable	\$100
Less: Amount received from OAG	\$66
Amount received from responsible party	<u>\$80</u>
Accounts receivable balance	\$(46)

According to District Clerk staff, the OAG would not be reimbursed until the account has been paid in full by the responsible party and the case has an accounts receivable balance of (\$66). Oftentimes, these accounts are never paid in full, and a partial payment is not made to the OAG.

Recommendation: The District Clerk's Office should remit partial payments received for Title IV-D cases to the OAG monthly.

2. The District Clerk's Office invoiced the OAG for citation service fees before the constables executed the process. Therefore, the District Clerk's Office oftentimes received payment from the OAG although services had not been executed; thus, the fees had not been earned.

Recommendation: We recommend that the District Clerk's Office invoice the OAG after a process has been executed for all types of processes including citation, capias, warrant, and/or writs of attachments.

3. As previously illustrated, amounts owed to the OAG are recorded in case accounts receivable rather than an accounts payable account. It is not possible to determine the amounts owed (and previously received) to the OAG at a given point in time.

Recommendation: The District Clerk's Office should consider creating an accounts payable account, or special fee category, to identify amounts received and subsequently owed to the OAG.

4. A periodic reconciliation is not performed of the amounts billed to the OAG and subsequent payments, credits, and/or adjustments to verify the electronic transactions posted onto JIMS.

Recommendation: Procedures should be established to perform a monthly reconciliation between the amounts billed to the OAG and subsequent payments, credits, and/or adjustments. This reconciliation should be independently reviewed and approved by a manager or senior level staff.

Observation 3 – Procedures used to prepare cost bills and subsequent collections were not adequate.

Staff manually prepares cost bills (invoices) by reviewing case files to determine the costs and fees to include on the invoice. During our review, we also observed the following:

1. Cost bills do not detail all costs and fees, payments made to date, and the current amount due for the relevant case. Rather, cost bills state the total court costs due and the designated due date.
2. The billing period reflected on cost bills is not consistent. Sometimes cost bills included the total amount due on the case, and other times only transactions relative to the current suit were included on the cost bill.
3. The Family Code Section 231.211 authorizes the clerk of the court to take any action necessary to collect fees or costs assessed under the Title IV-D cases. Currently, the District Clerk is performing a review to determine whether additional collection procedures are cost effective.

Furthermore, there is no supervisory or independent review of the cost bills.

Recommendations:

We recommend that management review the overall procedures related to the preparation of cost bills, including the level of detail included on the cost bills. Furthermore, the methodology used to determine the billing period should be consistent. Upon management's completion of its review of the overall procedures for cost bills, additional training should be provided to the appropriate employees. Procedures should also be designed for collection of aged receivables. Last, cost bills should be independently reviewed for accuracy before being sent to the responsible parties.

CLOSING REMARKS

We appreciate the responsiveness and cooperation of District Clerk and his staff during our review. Please call me if you have any questions regarding the contents of this report.

Sincerely,



S. Renee Tidwell, CPA
County Auditor

Attachment:
District Clerk's response dated March 4, 2011

Distribution:
Doug Gowin, Operations Manager

Team:
Ron Bertel, First Assistant County Auditor
Kim Trussell, Audit Manager
Maki Ogata, Senior Auditor



TARRANT COUNTY

THOMAS A. WILDER
DISTRICT CLERK

March 4, 2011

Renee Tidwell
County Auditor
100 E. Weatherford St
Fort Worth TX 76196

Dear Renee,

I wanted to express my appreciation for the cooperative spirit in which your staff conducted the recent audit of my Family Court operations. While we have some work to do, as the report's findings indicate, I am satisfied with the audit results.

As I stated in my response to the audit of my Criminal Court operations, I would like to address the fact that the case management system currently used, JIMS, was never designed to include accounting functions. Over the 20 year period that JIMS has been in use, IT staff has added the necessary accounting functions dictated by statutory changes, auditor recommendations, and business practices. Where feasible, we will do so once again. However, with an aging system, such as JIMS, it may be neither feasible nor cost effective to implement the full functionality requested. Accordingly, I request your support in urging Commissioners Court to approve funding for a replacement system.

A detailed response to each Observation follows -

Observation #1

Finding #1 -

Agree with Auditor recommendation. This change was fully implemented in January 2010.

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Finding #2 –

Agree with Auditor recommendation. OAG payments will no longer offset (reduce) receivable (GASB) amounts.

Finding #3 –

We will adjust court costs receivable amounts to reflect waived or other court ordered reductions. Changes made will be identical to the Criminal partial fee waived process.

Finding #4 –

Agree with Auditor recommendations. We will immediately begin using an “as of” date to include all transactions affecting receivable balances.

Finding #5 –

Agree with Auditor recommendations. Procedures have been implemented to provide better oversight and review of the accounting adjustment process. We have added additional staff to review accounting adjustments. However, full compliance with recommendations will require additional staff.

Observation #2

Finding #1 –

Agree with Auditor recommendations. District Clerk will begin remitting partial payments received as credits on future monthly OAG invoicing. However, to fully implement recommendation regarding prior payments will require additional staff.

Finding #2 –

Agree with Auditor recommendation. We will invoice OAG after process has been returned on all types of service including citations and warrants and additional programming changes are implemented by IT.

Finding #3 -

Agree with Auditor recommendations. We will work with IT and Auditor staff to develop an acceptable method of identifying amounts received and subsequent amounts to be credited to OAG upon receipt of payment from responsible party. Implementation will require programming changes

Finding #4 -

Agree with Auditor recommendations. We will review existing periodic reconciliation procedures with OAG and Auditor staff to insure that adequate independent review and oversight is performed. Implementation will require additional management duties to be added.

Observation #3

We will review our cost bill preparation and review process to insure that cost bill documents prepared are accurate and complete. Additional management and training oversight will be required to insure future compliance.

In regard to actions by the District Clerk pursuant to Texas Family Code Chapter §231.211:

We agree that the District Clerk can issue a writ of execution against the property of someone who owes money on the court costs from a child support case. This is noted in bold on the cost bill sent to the non-prevailing property.

However, we are still subject to the Rules of Civil Procedure that would limit the constable from collecting “exempt property”. As these amounts owed rarely exceed \$300, it would not be cost – effective to identify non-exempt property in most instances. Also, there would be an extra burden on the constables work load as well as the potential liability if exempt property was seized.

We have been reviewing other possibilities to collect all of our delinquent accounts for some time including using our tax collection attorneys contract but again, we are dealing with small amounts on each case especially if partial payment has been made as often happens.

CLOSING REMARKS

As I have requested on previous audit reviews, District Clerk, Auditor and IT staffs, conducted this review with as little disruption to day-to-day operations as possible. The entire audit team is to be commended for a job well done.

Sincerely,



Thomas A. Wilder