### REPORT OF THE AUDIT OF THE FLEMING COUNTY SHERIFF'S SETTLEMENT - 2016 TAXES

For The Period April 16, 2016 Through April 17, 2017



### MIKE HARMON AUDITOR OF PUBLIC ACCOUNTS

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<u>CONTENTS</u> PAGE

INDEPENDENT AUDITOR'S REPORT	1
SHERIFF'S SETTLEMENT - 2016 TAXES	4
Notes To Financial Statement	5
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	9
SCHEDULE OF FINDINGS AND RESPONSES	13





## MIKE HARMON AUDITOR OF PUBLIC ACCOUNTS

To the People of Kentucky
The Honorable Matthew G. Bevin, Governor
William M. Landrum III, Secretary
Finance and Administration Cabinet
The Honorable Larry Foxworthy, Fleming County Judge/Executive
The Honorable Gary Kinder, Fleming County Sheriff
Members of the Fleming County Fiscal Court

Independent Auditor's Report

#### **Report on the Financial Statement**

We have audited the Fleming County Sheriff's Settlement - 2016 Taxes for the period April 16, 2016 through April 17, 2017 - Regulatory Basis, 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 the 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 as described in Note 1. 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 the 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 Sheriff's Tax Settlements*, 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.



To the People of Kentucky
The Honorable Matthew G. Bevin, Governor
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#### 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 Fleming County Sheriff on the basis of 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 taxes charged, credited, and paid of the Fleming County Sheriff, for the period April 16, 2016 through April 17, 2017.

#### **Opinion on Regulatory Basis of Accounting**

In our opinion, the financial statement referred to above presents fairly, in all material respects, the taxes charged, credited, and paid for the period April 16, 2016 through April 17, 2017 of the Fleming County Sheriff, 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 June 28, 2018, on our consideration of the Fleming County Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and 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 Fleming County Sheriff's internal control over financial reporting and compliance.

To the People of Kentucky
The Honorable Matthew G. Bevin, Governor
William M. Landrum III, Secretary
Finance and Administration Cabinet
The Honorable Larry Foxworthy, Fleming County Judge/Executive
The Honorable Gary Kinder, Fleming County Sheriff
Members of the Fleming 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 Sheriff Did Not Report And Pay Monthly Taxes To Districts Timely
2016-002	The Sheriff's Settlement Presented To The Fiscal Court Was Inaccurate
2016-003	The Sheriff Did Not Pay The Correct Amount Of Add-On Fees
2016-004	The Sheriff's Office Lacks Internal Controls Over Tax Receipts And Disbursements

Respectfully submitted,

Mike Harmon

**Auditor of Public Accounts** 

June 28, 2018

#### FLEMING COUNTY GARY KINDER, SHERIFF SHERIFF'S SETTLEMENT - 2016 TAXES

For The Period April 16, 2016 Through April 17, 2017

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<u>Charges</u>	Cot	unty Taxes	Tax	ing Districts	Sc	hool Taxes	Sta	ate Taxes
Real Estate	\$	832,267	\$	1,258,872	\$	2,314,743	\$	634,604
Tangible Personal Property	Ψ	65,975	Ψ	112,638	Ψ	183,082	Ψ	146,415
Fire Protection		1,304		112,030		103,002		110,115
Franchise Taxes		72,109		118,238		199,506		
Limestone, Sand, and Gravel Reserves		209		312		582		160
Penalties		4,609		7,029		12,796		3,516
Adjusted to Sheriff's Receipt		(4)		(7)		1		(2)
Gross Chargeable to Sheriff		976,469		1,497,082		2,710,710		784,693
<u>Credits</u>								
Exonerations		3,380		5,039		9,398		2,577
Discounts		13,499		20,595		37,484		12,021
Delinquents:								
Real Estate		15,226		23,240		42,246		11,582
Tangible Personal Property		496		847		1,379		1,123
Total Credits		32,601		49,721		90,507		27,303
Taxes Collected		943,868		1,447,361		2,620,203		757,390
Less: Commissions *		40,114		60,850		86,467		32,189
Taxes Due		903,754		1,386,511		2,533,736		725,201
Taxes Paid		901,339		1,382,765		2,527,133		723,440
Refunds (Current and Prior Year)		2,415		3,746		6,603		1,761
Due District								
as of Completion of Audit	\$	0	\$	0	\$	0	\$	0

#### \* Commissions:

4.25% on	\$ 2,883,507
4% on	\$ 265,112
3.3% on	\$ 2,620,203

## FLEMING COUNTY NOTES TO FINANCIAL STATEMENT

April 17, 2017

#### Note 1. Summary of Significant Accounting Policies

#### A. Fund Accounting

The sheriff's office tax collection duties are limited to acting as an agent for assessed property owners and taxing districts. A fund is used to account for the collection and distribution of taxes. 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.

#### B. Basis of Accounting

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. Basis of accounting refers to when charges, credits, and taxes paid are reported in the settlement statement. It relates to the timing of measurements regardless of the measurement focus.

Charges are sources of revenue which are recognized in the tax period in which they become available and measurable. Credits are reductions of revenue which are recognized when there is proper authorization. Taxes paid are uses of revenue which are recognized when distributions are made to the taxing districts and others.

#### C. Cash and Investments

KRS 66.480 authorizes the sheriff'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. Deposits

The Fleming County Sheriff maintained deposits of public funds with depository institutions insured by the 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 sheriff 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 sheriff's deposits may not be returned. The sheriff 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 April 17, 2017, all deposits were covered by FDIC insurance or a properly executed collateral security agreement. However, as of November 17, 2016, public funds were exposed to custodial credit risk because the bank did not adequately collateralize the sheriff's deposits in accordance with the security agreement.

Uncollateralized and Uninsured \$245,269

FLEMING COUNTY NOTES TO FINANCIAL STATEMENT April 17, 2017 (Continued)

#### Note 3. Tax Collection Period

#### A. Property Taxes

The real and personal property tax assessments were levied as of January 1, 2016. Property taxes were billed to finance governmental services for the fiscal year ended June 30, 2017. Liens are effective when the tax bills become delinquent. The collection period for these assessments was September 25, 2016 through April 17, 2017.

#### B. Limestone, Sand, and Gravel Property Taxes

The limestone, sand, and gravel property tax assessments were levied as of January 1, 2016. Property taxes are billed to finance governmental services. Liens are effective when the tax bills become delinquent. The collection period for these assessments was November 16, 2016 through April 17, 2017.

#### C. Franchise Taxes

The franchise tax assessments were levied by the Department of Revenue for various tax years. Property taxes are billed to finance governmental services. Liens are effective when the tax bills become delinquent. The collection period for these assessments was April 16, 2016 through April 17, 2017.

#### Note 4. Interest Income

The Fleming County Sheriff earned \$700 as interest income on 2016 taxes. The sheriff was in substantial compliance with his statutory responsibilities.

#### Note 5. Sheriff's 10% Add-On Fee

The Fleming County Sheriff collected \$23,332 of 10% add-on fees allowed by KRS 134.119(7). This amount was used to operate the sheriff's office. As of June 28, 2018, the sheriff owed \$5,829 in 10% add-on fees to his fee account.

#### Note 6. Unrefundable Duplicate Payments And Unexplained Receipts

The former sheriff deposited unrefundable duplicate payments and unexplained receipts in an interest-bearing account that is now maintained by the current sheriff. The sheriff's escrowed amounts was as follows:

2011 \$140

KRS 393.090 states that if the funds have not been claimed after three years, they are presumed abandoned. Abandoned funds are required to be sent to the Kentucky State Treasurer pursuant to KRS 393.110 and its accompanying regulations.

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





## MIKE HARMON AUDITOR OF PUBLIC ACCOUNTS

The Honorable Larry Foxworthy, Fleming County Judge/Executive The Honorable Gary Kinder, Fleming County Sheriff Members of the Fleming 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 Fleming County Sheriff's Settlement - 2016 Taxes for the period April 16, 2016 through April 17, 2017 - Regulatory Basis and the related notes to the financial statement and have issued our report thereon dated June 28, 2018. The Fleming County Sheriff'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 Fleming County Sheriff'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 Fleming County Sheriff's internal control. Accordingly, we do not express an opinion on the effectiveness of the Fleming County Sheriff's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting 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 a certain deficiency in internal control that we consider to be a material weakness 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 deficiency described in the accompanying Schedule of Findings and Responses as item 2016-004 to be a material weakness.



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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* (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 2016-002 and 2016-003 to be significant deficiencies.

#### **Compliance And Other Matters**

As part of obtaining reasonable assurance about whether the Fleming County Sheriff'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 and 2016-003.

#### Views of Responsible Official and Planned Corrective Action

The Fleming County Sheriff's views and planned corrective action for the findings identified in our audit are described in the accompanying Schedule of Findings and Responses. The sheriff's responses were not subjected to the auditing procedures applied in the audit of the financial statement and, accordingly, we express no opinion on them.

#### **Purpose of this Report**

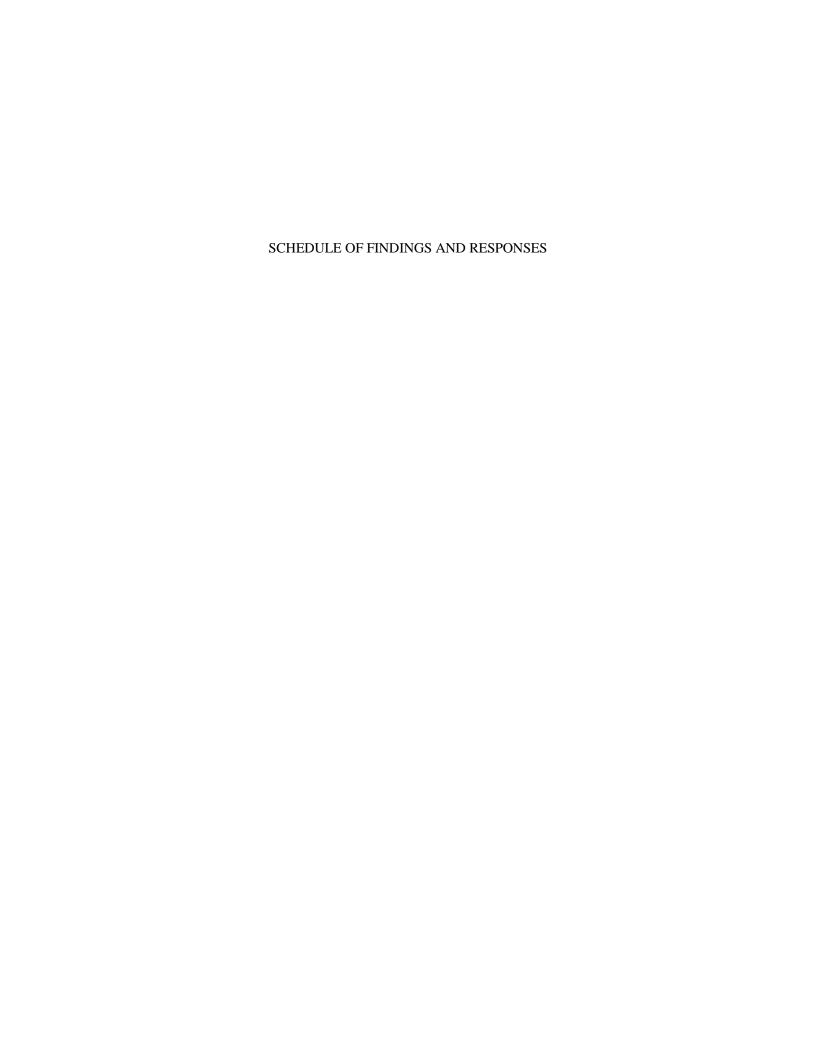
The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in 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

June 28, 2018





# FLEMING COUNTY GARY KINDER, SHERIFF SCHEDULE OF FINDINGS AND RESPONSES

For The Period April 16, 2016 Through April 17, 2017

#### FINANCIAL STATEMENT FINDINGS:

#### 2016-001 The Sheriff Did Not Report And Pay Monthly Taxes To Districts Timely

This is a repeat finding and was included in the prior year audit report as finding 2015-001. The sheriff's monthly tax reports and payments were often late, depriving the taxing districts of timely receipt of their tax collections.

The following table illustrates when regular tax payments were made:

	To	otal Taxes			Dates Checks	
Month	Due Districts		Date Due	Check Dates	Cleared Bank	
October	\$	3,704,950	11/10/2016	11/15/2016	11/18/2016 - 11/29/2016	
February	\$	68,161	3/10/2017	3/13/2017	3/17/2017 - 3/28/2017	
April	\$	106,703	5/10/2017	5/11/2017	5/12/2017 - 5/22/2017	

The following table illustrates when franchise tax payments were made:

	To	tal Taxes			Dates Checks
Month	Du	e Districts	Date Due	Check Dates	Cleared Bank
February	\$	1,686	3/10/2017	3/13/2017	3/17/2017 - 3/28/2017
March (school only)	\$	13,376	4/10/2017	4/25/2017	4/26/2017

The sheriff is not ensuring his office is complying with the requirement to report and pay taxes collected to districts by the tenth of each month. Also, rather than mailing payments to the taxing districts, an employee of the sheriff's office delivers the payments. It appears from the sheriff's records that the delivery date is often later than the day the reports were prepared, making the receipt of payments by the districts further delayed. Taxing districts rely on tax collections to fund a significant portion of their budgeted services. Not receiving these payments timely can lead to cash flow problems for taxing districts.

As indicated in the tables, payments were delayed ranging from one to 15 days. While the sheriff cannot control when districts deposits their checks, he can control when he distributes the checks. KRS 134.191 requires the sheriff to provide monthly reports by the tenth day of each month. Any sheriff failing to pay over taxes collected shall be subject to a penalty of 1 percent for each thirty day period or fraction thereof that the payment is not made, plus interest. The governing body of a county or taxing district shall charge the sheriff with penalties and interest. The county judge/executive may grant an extension of time, not to exceed fifteen days, for filing the monthly reports. Penalties and interest would be suspended during an extension, but would apply at the expiration of the extension.

We recommend the sheriff ensure monthly tax reports are prepared and paid by the tenth of each month. We also recommend the sheriff consider mailing tax collection payments to the districts. As long as the payments are postmarked by the tenth of the month, the sheriff would be in compliance with KRS 134.191. This would also give the districts a more consistent timeframe in which to expect their payments.

Sheriff's Response: We corrected this issue in 2017.

FLEMING COUNTY GARY KINDER, SHERIFF SCHEDULE OF FINDINGS AND RESPONSES For The Period April 16, 2016 Through April 17, 2017 (Continued)

#### FINANCIAL STATEMENT FINDINGS: (Continued)

#### 2016-002 The Sheriff's Settlement Presented To The Fiscal Court Was Inaccurate

This is a repeat finding and was included in the prior year audit report as comment 2015-002. The sheriff's 2016 tax settlement presented to fiscal court included April 2016 franchise taxes totaling \$73,467 that were accounted for in the 2015 sheriff's tax settlement. The sheriff did not ensure that he or his staff provided the correct reports to the person paid to complete the tax settlement. The sheriff's 2016 tax settlement presented to the fiscal court was inaccurate, and could be misleading to users of the information. If taxing districts and the sheriff did not receive the correct amount of taxes and commissions, their budgets could be negatively impacted. While these errors can be corrected during the audit, typically there is a significant amount of time that passes before that occurs, which could create budgeting difficulties for those agencies. The sheriff's tax settlement provides important financial information to the fiscal court and the taxing districts, and therefore should be as accurate as possible when presented to the fiscal court. In order to present the most accurate information possible to the public, the sheriff should ensure the correct information is provided to the tax settlement preparer.

Sheriff's Response: We will be more careful in the future with presenting information.

#### 2016-003 The Sheriff Did Not Pay The Correct Amount Of Add-On Fees

This is a repeat finding and was included in the prior year report as finding 2015-003. The sheriff did not pay the correct amount of add-on fees to the 2017 fee account. The sheriff did not have procedures in place to ensure February 2017 add-on fees were deposited to the 2017 fee account. The sheriff collected \$23,332 of 10 percent add on fees for 2016 collections. Of this amount, \$17,503 has been paid over to the sheriff's fee account. The sheriff's 2017 fee account is owed \$5,829 in additional add-on fees. The sheriff's 2017 fee account had to borrow funds to operate and the fiscal court contributes funds to the sheriff's office to repay borrowed funds. If these payments had been made to the respective fee account timely, the sheriff could have reduced the amount borrowed and the fiscal court could have reduced its contributions. KRS 134.119(7) states, "the sheriff shall be entitled to an amount equal to ten percent (10%) of the total taxes due plus ten percent (10%) of the ten percent (10%) penalty for all delinquent taxes. This fee shall be added to the total amount due, and shall be paid by the person paying the tax claim[.]" This amount should be distributed to the sheriff's fee account monthly. Auditors compared add-on fees collected per monthly reports to the checks written to the sheriff's fee account, and found that no check was written for February 2017. We recommend the sheriff establish procedures to ensure add-on fees are paid for each month they are collected. This will improve the cash flow for the fee account, as payments would be made timely.

Sheriff's Response: We are currently paying these monthly to the sheriff fee account.

#### 2016-004 The Sheriff's Office Lacks Internal Controls Over Tax Receipts And Disbursements

This is a repeat finding and was reported in the prior year audit report as finding 2015-004. The sheriff's office lacks adequate segregation of duties and internal controls over tax receipts and disbursements. The bookkeeper, deputy clerk, and the sheriff collect tax receipts. The bookkeeper or deputy clerk prepares the daily bank deposit. The bookkeeper reconciles the daily receipts to the daily collection report and posts items to the receipts ledger. The bookkeeper prepares the month-end tax reports, prepares checks for tax distribution based on the monthend tax reports, and posts checks to the disbursements ledger. The bookkeeper signs the majority of tax distribution checks, with the sheriff signing occasionally. The bookkeeper prepares the monthly bank reconciliation. As previously described, the sheriff has not structured his office in a way that segregates duties and responsibilities. The sheriff has also not provided sufficient oversite of the financial reporting process.

FLEMING COUNTY GARY KINDER, SHERIFF SCHEDULE OF FINDINGS AND RESPONSES For The Period April 16, 2016 Through April 17, 2017 (Continued)

#### FINANCIAL STATEMENT FINDINGS: (Continued)

2016-004 The Sheriff's Office Lacks Internal Controls Over Tax Receipts And Disbursements (Continued)

Without internal controls in place, there is no way to know that the tax account financial information is accurate. Internal controls should be implemented and duties should be segregated to decrease the risk of misappropriation of assets, errors, and inaccurate financial reporting to external agencies. By not segregating these duties, there is an increased risk of undetected misappropriation of assets either by error or fraud.

Internal controls and proper segregation of duties protect employees and the sheriff in the normal course of performing their daily responsibilities. Good internal controls dictate the same employee should not receive payments, prepare deposits, and post to the receipts ledger; the same employee should not prepare monthly reports, sign checks, and post to the disbursements ledger; and the same employee should not deposit funds, sign checks, post to ledgers, and prepare bank reconciliations and monthly reports.

We recommend the sheriff's office implement internal controls and segregate duties as much as possible. Employees receiving payments and preparing deposits should not be posting to the receipts ledger and preparing bank reconciliations. Employees preparing and signing checks should not be posting to the disbursements ledger and preparing bank reconciliations. A proper segregation of duties may not be possible with a limited number of employees, and in that case, the sheriff could take on the responsibility of reviewing the daily deposits, receipts and disbursements ledgers, monthly reports, and bank reconciliations. These reviews should be documented in a way that indicates what was reviewed, by whom, and when, because signing off on inaccurate information is not an effective internal control. The sheriff could also choose to prepare the bank reconciliations and other reports himself. Furthermore, the sheriff could require dual signatures on all checks, with one signature being the sheriff's.

Sheriff's Response: The sheriff did not provide a response.