



Auditor of Public Accounts
Mike Harmon

FOR IMMEDIATE RELEASE

Contact: Michael Goins
Michael.Goins@ky.gov
502.564.5841
502.209.2867

**Harmon Releases Agreed-Upon Procedures Engagement of Bullitt County
Clerk's Fee Account**

FRANKFORT, Ky. – State Auditor Mike Harmon today released the 2020 agreed-upon procedures engagement of Bullitt County Clerk Kevin Mooney. State law requires the auditor to conduct annual audits of county clerks and sheriffs.

In 2018 the Kentucky General Assembly, following a recommendation by the State Auditor, passed legislation that allows county sheriffs and clerks that met certain criteria to apply for an Agreed-Upon Procedures (AUP) engagement in lieu of an audit of their fee account. The intent of the change, which became effective in July 2018, was to reduce audit costs for sheriffs and clerks that have a history of clean audits, while still maintaining an appropriate level of accountability.

The Bullitt County Clerk applied for and received approval from the Auditor of Public Accounts (APA) to obtain an AUP engagement for calendar year 2020 in accordance with KRS 43.070(1)(c). AUP reports present the procedures performed and the results of those procedures, called findings. Auditors performed the procedures, which were agreed to by the Bullitt County Clerk, on receipts and disbursements, excess fees, recordkeeping, and leases, contracts, and liabilities for the period January 1, 2020 through December 31, 2020.

The following exception was identified during the AUP engagement:

- **The county clerk's operating disbursements were compared to the county clerk's approved term order and the county clerk overspent his general term order.**

County Clerk's Response: The Exit Conference was held on December 2, 2021 with the County Clerk, Kevin Mooney, Director of Finance & HR, [name redacted] and Auditor, [name redacted] were all present.

All 16 sections were found to be without exceptions as a result of applying procedures, except for section #3. I will address that one section below.

It is stated that the County Clerk overspent the General Term Order as approved by the Bullitt County Fiscal Court. Bullitt County exceeded 70,000 people in the 2010 U.S. Census, with 74,319 people. 2012 was the first year applying the KRS's that exist for counties over 70,000. During trainings received by the KY Dept. of Revenue, County Fees Branch we were told how to calculate the General Term Order (GTO) and provided with examples by the County Fees Branch. We have been doing this the same way each year without exceptions being brought up about the lack of the County Clerk's salary being present. The audit of the year 2020 is the first time.

We have reached out to the County Fees Branch and spoken with the Director. He confirmed that we were doing it properly and provided us with KRS's to confirm the procedure.

KRS 64.350 - Return of fees to counties whose officers pay fees into State Treasury -- Applicability of KRS 64.368 if population decreases below 70,000. (1) In counties having a population of seventy thousand (70,000) or more, the salaries of the county clerks and sheriffs and of their deputies and all necessary office expenses, including the equipping, furnishing, maintaining, and operation of the offices, shall be paid out of the State Treasury in amounts not to exceed seventy-five percent (75%) of the fees collected by the officers respectively, and received into the Treasury;

64.530 Compensation of county officers, employees, deputies and assistants, and members of fiscal court -- Excess fees -- Applicability of KRS 64.368 if population decreases below 70,000.

(3) In 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.

64.535 Annual salaries of certain county officers.

The county judge/executive, clerk, jailer who operates a full service jail, and sheriff shall each receive a monthly salary of one-twelfth (1/12) of the amount indicated by the salary schedule in KRS 64.5275.

64.345 Clerks and sheriffs and jailers in counties having population of 70,000 or more -- Compensation -- Expenses -- Deputies and assistants -- Applicability of KRS 64.368 if population decreases below 70,000 -- Expenses not to exceed annual approved budgetary amounts.

(1) The county clerk and sheriff of each county having a population of seventy thousand (70,000) or over shall receive an annual salary pursuant to the salary schedule in KRS 64.5275.

*KRS 64.535 & 64.345 both state that the **County Clerks salary is set by KRS**, not the Fiscal Court.*

*KRS 64.530(3) states that the fiscal court shall fix the reasonable maximum compensation that any officer **except those names in KRS 64.535. The County Clerk is named in 64.535.***

*KRS 64.530 also states that **“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.***

The County Clerk is the officer and the fiscal court is only supposed to “fix” or set the reasonable amount for deputies and assistants. The “officer” is not listed as being fixed or set along with the deputies and assistants.

CONCLUSION: *I believe that the findings in the AUP Audit of the year 2020 for the Bullitt County Clerk’s office are not accurate with regard to office payroll and are explained below in the spreadsheet. Office Operating Expenses encountered many challenges due to COVID 19. Many of the challenges were able to be reimbursed for, while others were simply treated as increased costs of doing business, because of COVID 19. GTO budgeted numbers and actual numbers are listed and adjustment numbers are listed below, along with explanations by line item. Payroll and Operating Expenses were not adjusted in front of the BC Fiscal Court in the year 2020 because our budget was approved in whole, not by line item. If any mistake was made, it was due to the fact that we failed to move money around to keep every line in budget. Ultimately though, our budget is approved in whole and my office’s money that is held by the Department of Revenue, County Fees Branch, is in the black with more than sufficient excess fees.*

Response to number 3-Audit 2020						
Payroll	2020	2020				
	Approved	Actual				
	Term order	County Clerk Figures				
	\$ 1,628,920.00	\$ 1,669,347.09	total			
		\$ (2,603.71)	Election OT reimbursement			
		\$ (117,023.37)	Kevin's Salary (adj by moving 1/2020 back to 2019 and 1/2021 back to 2020)			
		\$ 1,549,720.01				
Operating Expenses	\$ 90,000.00	\$ 278,614.63	total			
		\$ (11,909.68)	moved to Capital Outlay			
		\$ (9,477.65)	Election account reimbursed			
		\$ (29,128.33)	Covid Election related postage (which the SBE reimbursed us)			
		\$ (40,000.00)	Covid postage for mailing ALL plates, renewals, etc)			
		\$ (11,555.00)	Extra covid related expenses			
		\$ 176,543.97				
Capital Outlay	\$ 50,000.00	\$ 11,909.68	Equipment			
	\$ 1,768,920.00	\$ 1,738,173.66	Budget approved in whole, therefore term order approved in whole			

Auditor's Reply: There is no issue with the amount of the Clerk's salary or who sets/fixes the salary, but rather that the Clerk overspent his approved budget. The fiscal court approved the Clerk's budget in whole in the amount of \$1,768,920, however the Clerk spent a total of \$1,944,227 (per EMARS 2550 reports), for a total overage of \$175,307. The Finance Cabinet's manual for "Financial Operation In Counties With Population Of 70,000 Or More" (which binds this Clerk), expressly requires the Clerk to include a Clerk's salary amount, and includes the form and process the Clerk is to use calculating and presenting this amount. This was not done. Moreover, the official's reply above subtracts the dollars paid to the Clerk as salary from being included as expenditures of the office. While statute sets the amount of the Clerk's salary, the actual payment of those dollars are payments of the office, and must be not only properly budgeted but also accounted for as an expenditure. This was not done above. The fundamental point of this finding is that the Clerk overspent his budget. While the reply notes that some expenditures were reimbursed, that does not negate the fact that expenditures in excess of a lawfully approved budget were made. Where a public official has available unbudgeted funding coupled with a public purpose of the office upon which such funds may be spent, such expenditures of unbudgeted funds are not authorized until a budget amendment has been approved by law through the fiscal court. Such amendments may be presented to and approved by the fiscal court in the middle of a calendar year.

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 agreed-upon procedures report can be found on the [auditor's website](#).

###

The Auditor of Public Accounts ensures that public resources are protected, accurately valued, properly accounted for, and effectively employed to raise the quality of life of Kentuckians.

Call 1-800-KY-ALERT or visit our website to report suspected waste and abuse.

