



Auditor of Public Accounts
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Harmon Releases Audit of Elliott County Clerk's Fee Account

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2020 financial statement of Elliott County Clerk Jennifer Carter. 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 Elliott 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.

Finding 1 of this report will be referred to the Department of Revenue, Office of the Attorney General, and the Department for Local Government (DLG).

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 the internal control over financial operations and reporting.

The audit contains the following comments:

The Elliott County Clerk is not fulfilling her duties as an elected county official: This is a repeat finding and was included in the prior year audit report as Finding 2019-001. The county clerk is not fulfilling her duties as an elected county official. The county clerk is not meeting these requirements and other statutory requirements. We have noted the following findings, which are detailed in the subsequent findings:

- The Elliott County Clerk's Office does not have adequate segregation of duties and internal controls over fee receipts and disbursements
- The Elliott County Clerk's fourth quarter report was not accurate and required numerous adjustments

- The Elliott County Clerk did not submit quarterly reports to the Department for Local Government
- The Elliott County Clerk did not present an annual settlement to the fiscal court
- The Elliott County Clerk owes \$190,546 in usage tax to the Department of Revenue
- The Elliott County Clerk owes ad valorem taxes to taxing districts in the amount of \$57,975
- The Elliott County Clerk did not pay delinquent taxes to districts timely and owes \$45,307 to taxing districts
- The Elliott County Clerk did not comply with the county's fee pooling ordinance
- The Elliott County Clerk did not remit affordable housing payments to the state timely and owes \$4,728
- The Elliott County Clerk did not remit legal process tax payments to the state timely and owes \$4,697
- The Elliott County Clerk did not pay license fees timely
- The Elliott County Clerk did not prepare all franchise tax bills

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.

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. 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 Department of Revenue, Office of the Attorney General and the Department for Local Government (DLG).

County Clerk's Response: My office is grossly under funded. I perform duties everyday along with my employees. I believe we are the lowest deputy salaries, annual budget statewide. Compared to the offices with adequate funding, we serve our community well. We continue to improve.

The Elliott County Clerk's Office does not have adequate segregation of duties and internal controls over fee receipts and disbursements: This is a repeat finding and was included in the prior year audit report as Finding 2019-002. The county clerk prepares daily deposits, prepares and signs checks, and collects cash from customers. The bookkeeper posts to receipts disbursements ledger, reconciles bank accounts, and prepares quarterly report.

According to the county clerk, this condition is a result of a limited budget, which restricts the number of employees the county clerk can hire or delegate duties to. Inadequate segregation of duties allows for one person to have a significant role in processing and recording receipts and disbursements, which would increase the risk that undetected misappropriations of assets and inaccurate financial reporting will occur.

Internal controls and proper segregation of duties protects employees and the county clerk 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 county clerk's office adequately segregate duties and implement internal controls to ensure transactions are recorded timely. Employees receiving payments and preparing deposits should not be posting to the receipts 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 county clerk or bookkeeper could take on the responsibility of reviewing the daily deposits, receipts and disbursements ledgers, monthly reports, and bank reconciliations prepared by another employee. These reviews must be documented in a way that indicates what was reviewed, by whom, and when, because signing off on inaccurate information does not provide internal control. Further, the county clerk could require dual signatures on all checks, with one signature being the county clerk's.

County Clerk's Response: I am asking if there is a specific procedure to be shared among my 4 employees (2) are part-time to assess if this is a possibility to perform, and if there's a way we can accomplish this we are willing to try and hope to achieve overcoming this recurring finding.

The Elliott County Clerk's fourth quarter report was not accurate and required numerous adjustments: The county clerk's fourth quarter financial report was not accurate and required numerous adjustments. Several errors were made when classifying items on the receipts and disbursements ledgers and when carrying items over from the ledgers to the fourth quarterly report.

The clerk did not have procedures in place to ensure that posting was accurate on the clerk's fourth quarterly financial report.

As a result, the county clerk's fourth quarter report submitted to the Department for Local Government (DLG) was inaccurate.

KRS 68.210 gives the state local finance officer the authority to prescribe a uniform system of accounts. DLG's *County Budget Preparation and State Local Finance Officer Policy Manual* requires officials to submit quarterly reports to DLG by the 30th day following the close of each quarter. The uniform system of accounts has specific requirements on how to record various types of transactions for different funds and fund types. The most basic requirement of the uniform system of accounts is that all transactions are recorded and classified correctly.

We recommend the county clerk ensure that all quarterly financial reports are accurate prior to submission to DLG.

County Clerk's Response: I have reached out to DLG for advice and direction, training to better prepare the DLG reports. Only recently have I requested help.

The Elliott County Clerk did not submit quarterly reports to the Department for Local Government: This is a repeat finding and was included in the prior year audit report as finding 2019-004. The county clerk did not submit quarterly reports to the Department for Local Government (DLG). Further, a fourth quarter report was not completed until it was requested at the start of audit. On September 27, 2021, DLG received a copy of the clerk's fourth quarter report for the 2020 fee account. However, it was submitted approximately eight months late.

The county clerk does not have controls in place to ensure that quarterly reports are completed timely and submitted to DLG. Failure to submit required reports prevents proper oversight from DLG and increases the risk that errors, misstatements, or fraud can occur and go undetected for a significant time period.

KRS 68.210 gives the state local finance officer the authority to prescribe a uniform system of accounts. The DLG's *County Budget Preparation and State Local Finance Officer Policy Manual* requires that fee official's quarterly financial reports should be submitted by the 30th day following the close of each quarter.

We recommend the county clerk implement controls to ensure her quarterly reports are completed and submitted to DLG in a timely manner.

County Clerk's Response: I have reached out to DLG for advice, and training to better prepare reports for timely submission.

The Elliott County Clerk did not present an annual settlement to the fiscal court: This is a repeat finding and was included in the prior year audit report as Finding 2019-005. The county clerk did not prepare or present an annual settlement of excess fees to the fiscal court. The county clerk does not have controls in place to ensure that an annual settlement is prepared and presented to the fiscal court.

The lack of compliance with applicable state laws and Department for Local Government (DLG) reporting requirements has led to the fiscal court not being adequately informed of the financial activities of the county clerk's office, resulting in the limited ability to appropriately monitor the financial activity and make fully informed financial decisions for the county.

KRS 64.152(1) states, in part, “. . . 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[.]”

We recommend the county clerk implement controls to ensure compliance with KRS 64.152 by presenting an annual settlement to the fiscal court by March 15.

County Clerk's Response: We are working on completing the annual settlement.

The Elliott County Clerk owes \$190,546 in usage tax to the Department of Revenue: This is a repeat finding and was included in the prior year audit report as Finding 2019-009. The Elliott County Clerk did not properly account for usage tax collections. For calendar year 2020, the county clerk owes usage tax to the Department of Revenue (DOR) in the amount of \$190,546. The county clerk did not properly deposit usage tax collections daily and transfer amounts to the state depository as required. The county clerk only transferred usage funds once during the year to the usage account for the weeks 1 through 15 in August and paid those amounts. The remaining weeks usage tax was not transferred to DOR. Also, weekly usage tax reports were not properly maintained. The county clerk completed reports for weeks 16 through 53 while we were on site.

The county clerk did not have procedures in place to ensure the correct amount of usage tax was remitted from the fee account to the usage tax account daily and properly transferred to the state timely. In addition, the county clerk was not reconciling her usage tax account monthly.

As a result of not properly remitting usage tax from the fee account to the usage tax account, the county clerk runs the risk of overpaying excess fees to the county and not having the funds to remit to DOR. The county clerk also runs the risk of incurring penalties that are prohibited from being paid from the fee account.

KRS 131.155(2)(c) requires the county clerk to, “deposit motor vehicle usage tax and sales and use tax collections in the clerk’s local depository account not later than the next business day following receipt. The clerk shall cause the funds to be electronically transferred from the clerk’s local depository account to the State Treasury in the manner and at the time prescribed by the department[.]”

KRS 138.464(4) states, “[f]ailure to deposit or, if required, transfer collections as required above shall subject the clerk to a penalty of two and one-half percent (2.5%) of the amount not deposited or, if required, not transferred for each day until the collections are deposited or transferred as required above. The penalty for failure to deposit or transfer money collected shall not be less than fifty dollars (\$50) nor more than five hundred dollars (\$500) per day.”

We recommend the county clerk remit the \$190,546 in usage tax owed to DOR from the usage tax account. In the future, the county clerk should ensure the correct amount of usage tax is deposited from the fee account to the usage tax account daily and transferred to the DOR timely. The easiest way to do this would be to perform monthly bank reconciliations of the usage tax account.

County Clerk's Response: While I agree the payment was not remitted timely, it has been paid in full.

The Elliott County Clerk owes ad valorem taxes to taxing districts in the amount of \$57,975:

This is similar to a repeat finding and was included in the prior year audit report as Finding 2019-010. The county clerk did not properly pay ad valorem taxes due to the taxing districts. Payments for motor vehicle ad valorem taxes were not made for the months of July, August, and September, except for the county and state districts. In February, March, and December the county clerk did not remit the proper amount owed to the state. The following chart depicts amounts due to districts.

	State	County	Health	Extension	Ambulance	School	Total
February	\$ 2,934	\$	\$	\$	\$	\$	\$ 2,934
March	(4,140)						(4,140)
July				1,075	2,687	15,181	18,943
August			2,310	1,156	2,891	16,332	22,689
September			1,662	833	2,083	11,766	16,344
December	1,206						1,206
Total Due To Districts	\$ 0	\$ 0	\$ 3,972	\$ 3,064	\$ 7,662	\$ 43,279	\$ 57,976

Also, monthly ad valorem tax reports were not paid timely. Every month that had payments had payments being made late, with some months up to 3 months late.

The county clerk did not have procedures in place to ensure ad valorem taxes were remitted timely. As a result, districts were not paid timely and unable to use funds due to them. In addition, the county clerk increases the risk of incurring penalties that are prohibited from being paid from the fee account.

KRS 134.815(1) states, “[t]he county clerk shall, by the tenth of each month, report under oath and pay to the state, county, city, urban-county government, school, and special taxing districts all ad valorem taxes on motor vehicles collected by her for the preceding month, less the collection fee of the county clerk, which shall be deducted before payment to the depository.”

KRS 134.815(2) states, “[a]ny county clerk who fails to pay over any taxes collected by him on motor vehicles as required by subsection (1) of this section shall be required to pay a penalty of 1% for each 30 day period or fraction thereof, plus interest at the legal rate per annum of such taxes.”

We recommend the county clerk prepare all monthly reports and pay the taxing districts in accordance with state law. We also recommend the county clerk remit the amounts due above to the state and districts.

County Clerk's Response: While I agree the payments were not remitted timely, it has been paid in full to the districts.

THE ELLIOTT COUNTY CLERK DID NOT PAY DELINQUENT TAXES TO DISTRICTS TIMELY AND OWES \$45,307 TO TAXING DISTRICTS: This is similar to a repeat finding and was included in the

prior year audit report as Finding 2019-006. The county clerk did not pay delinquent tax payments to districts timely. Delinquent tax payments for May through December 2020 were paid in December 2021, up to 18 months late. Further, remaining delinquent tax in the amount of \$45,307 is due to districts as follows:

Taxing District	Amount Due
State	\$ 11,287
Health	5,460
Extension	6,657
Ambulance	8,365
Soil Conservation	4,339
County Attorney	874
Sheriff	8,325
Total Owed	<u>\$ 45,307</u>

The county clerk does not have controls in place in order to make sure delinquent tax payments are made timely. By not remitting payments timely to taxing districts, cash flow problems can occur for these taxing districts as they rely on tax collections to fund a significant portion of their budgeted services.

KRS 134.126(3) requires the county clerk to, “report by the tenth day of each month to the department, the county treasurer, the sheriff, and the proper officials of the taxing districts.”

We recommend the county clerk implement controls to ensure monthly delinquent tax payments are paid by the tenth of each month in accordance with KRS 134.126(3).

County Clerk’s Response: Currently preparing reports and remitting payments to taxing districts.

The Elliott County Clerk did not comply with the county’s fee pooling ordinance: This is a repeat finding and was included in the prior year audit report as Finding 2019-003. As depicted in the following chart, the county clerk did not remit her monthly excess fees timely to fiscal court per the fee-pooling ordinance:

Excess Fee Month	Date Check Written	Days Late
January	3/2/2020	21
February	3/17/2020	7
March	5/19/2020	39
April	5/19/2020	9
May	7/21/2020	41
June	7/17/2020	7
July	8/13/2020	3
August	9/16/2020	6
September	12/16/2020	67
October	12/16/2020	36
November	1/21/2021	42
December	1/21/2021	11

According to the county clerk, she wanted to ensure she was remitting the correct amount of excess fees which delayed payment timeliness. Also, the clerk does not have adequate controls to ensure that excess fees are paid timely in accordance with the county fee pooling ordinance. By not submitting the monthly excess fees to the fiscal court by the tenth of each month as required by Elliott County Fiscal Court Ordinance FY-13-001, the county clerk is not in compliance with the ordinance. In addition, the fiscal court is deprived of these funds for a significant amount of time potentially impacting their budget.

On February 4, 2013, Elliott County Fiscal Court passed Ordinance FY-13-001, which requires the sheriff's office and county clerk's office to participate in fee pooling. Under fee pooling, the sheriff's office and county clerk's office pay net income (excess fees) monthly to the fiscal court, and fiscal court pays all salaries and expenses of those offices. Net income is due no later than the tenth of the month for the preceding month.

We recommend the county clerk comply with the county's fee pooling ordinance by paying excess fees based on calculations from the county clerk's financial records no later than the tenth of the month for the preceding month and implement controls to ensure that excess fees are paid timely.

County Clerk's Response: We do comply with the ordinance as with the required fees to be paid to the fiscal court - we have been unable to distribute the fees by the 10th day of each month. I would recommend the deadline be moved to the end of the month.

The Elliott County Clerk did not remit affordable housing payments to the state timely and owes \$4,728: This is similar to a prior year finding and was included in the prior year audit report as Finding 2019-007. The county clerk did not remit quarterly affordable housing payments for calendar year 2020, and owes \$4,728 to the Department of Revenue (DOR) accordingly.

The county clerk does not have proper internal controls implemented to ensure that timely payments are made for affordable housing. As a result, the county clerk did not remit timely payments for affordable housing to the state. The county clerk is supposed to file a report with DOR on or before the tenth day of the month following the quarter covered by the report, and attach payment for the total amount computed due.

We recommend the county clerk pay the \$4,728 due to DOR without delay. We also recommend the county clerk implement internal controls to ensure that affordable housing fees are paid timely.

County Clerk's Response: Payment has been remitted.

The Elliott County Clerk did not remit legal process tax payments to the state timely and owes \$4,697: This is similar to a prior year finding and was included in the prior year audit report as Finding 2019-008. The county clerk did not remit payments totaling \$4,697 for legal process taxes during calendar year 2020 to the state. These taxes are collected on legal process and instruments received by the county clerk such as marriage licenses, power of attorney, mortgage, financing statements, deeds, etc.

The county clerk does not have controls in place to ensure that payments are made to the state for legal process tax in a timely manner. As a result, the county clerk did not remit legal process tax timely to the state.

KRS 142.010(3) 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.”

We recommend the county clerk implement controls to ensure that legal process tax payments are made to the state timely. In addition, we recommend the county clerk remit the legal process tax due for calendar year 2020 to the state in the amount of \$4,697, without delay.

County Clerk's Response: Payment has been remitted.

The Elliott County Clerk did not pay license fees timely: This is a repeat finding and was included in the prior year audit report as Finding 2019-011. The county clerk did not properly remit weekly license fees to the Kentucky Transportation Cabinet (KYTC). Payments were not made at all for over six months. Payments were made over four months late. Also, weekly license tax reports were not properly maintained. The county clerk was missing reports for weeks 16 through 53 and completed when we were on site. The county clerk did not have procedures in place to ensure weekly license fees were remitted timely. As a result, the state was not paid timely for license fees collected by the county clerk. The county clerk also runs the risk of incurring penalties that are prohibited from being paid from the fee account.

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.” KRS 138.464(3) states, “[f]ailure to forward duplicates of all receipts issued during the reporting period or failure to file the weekly report of moneys collected within seven (7) working days after the report is due shall subject the clerk to a penalty of two and one-half percent (2.5%) of the amount of moneys collected during the reporting period for each month or fraction thereof until the documents are filed.”

We recommend the county clerk ensure that payments to the state for license fees are paid timely in the future.

County Clerk's Response: We have improved in this procedure, all payments were made in full. This duty has been assigned to a deputy, and is working smoothly. We are on track this year and all payments have been made timely.

The Elliott County Clerk did not prepare all franchise bills: This is a repeat finding and was included in the prior year audit report as Finding 2019-012. The sheriff did not receive all franchise tax bills from the county clerk. The county clerk's office receives the certifications from the Department of Revenue and is supposed to prepare the franchise tax bill.

According to the sheriff, the county clerk did not prepare the franchise tax bills. Since a copy of the certification is not sent to the sheriff's office, the sheriff had no way to know these certifications existed. Further, the county clerk did not have controls in place to ensure franchise tax bills were properly handled.

As a result, there are 42 unbilled franchise tax bills, five of which were from the current audit period and the remaining 37 were from previous audit periods. The total of the unbilled franchise is \$159,158. Of this amount, \$6,507 is commission due the sheriff and the remaining \$152,652 is due to taxing districts as follows:

<u>Taxing District</u>	<u>Amount Due</u>
County	\$ 21,120
School	81,147
Ambulance	17,800
Health	14,118
Extension	18,326
Soil Conservation	<u>141</u>
Total	<u>\$ 152,652</u>

The county clerk should prepare franchise tax bills upon receipt of the state assessment certification and promptly give to the sheriff to mail. KRS 133.220 requires the county clerk to prepare tax bills and states, in part, "the county clerk shall prepare for the sheriff...a correct tax bill for each taxpayer in the county."

We recommend the county clerk work with the sheriff to ensure that franchise tax bills are prepared and mailed timely. Further, we recommend the sheriff show the list of unbilled-uncollected franchises to the county clerk to determine the status of each tax bill.

County Clerk's Response: This comment I feel is unfair and does not apply to my responsibility as the current clerk, being cited for 'not preparing all franchise' bills, I did prepare all certifications that I was responsible for, and to remedy this finding, I gathered certifications all the way back to 2008, obviously I was not in office back then, I have issued bills for ALL.

Auditor's Reply: While some of the unbilled franchise tax bills go back to prior years, we have noted in previous audits of this clerk that the prior bills were now the current clerk's responsibility and at the time of this audit, the clerk had still failed to prepare both prior and current bills, as noted in this finding.

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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