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Harmon Releases Audit of Estill County Clerk's Fee Account

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2020 financial statement of Estill County Clerk Brian Crowe. 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 Estill 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 2 of the audit report will be referred to the Department for Local Government (DLG) for further review.

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 findings:

The county clerk overspent available funds and has a deficit of \$10,514 in his 2020 fee account: This is a repeat finding and was included in the prior year audit report as Finding 2019-001. The county clerk overspent the funds that were available to him in 2020. For calendar year 2020, the county clerk had recognized receipts of \$2,922,657, and recognized disbursements of \$2,933,171, which resulted in a deficit of \$10,514 in the 2020 fee account. The county clerk overspent his 2020 budget, which contributed to the deficit. Specifically, the amounts for matching retirement and social security were significantly over budget. Due to inaccurate calculations, the original budget did not allot enough matching funds given the deputies salaries that were

anticipated. Additionally, the amount spent for elections and postage greatly exceeded the budgeted amounts due to unanticipated costs associated with the COVID-19 pandemic and the necessary changes to operating procedures.

Total actual disbursements (including payroll and all other expenses) were \$376,415 more than budgeted disbursements. Total receipts also exceeded budgeted amounts by a total of \$268,072. When actual receipts and disbursements exceed anticipated and budgeted amounts, it is essential to closely monitor the budget to ensure funds are available to meet all obligations. Budget amendments can be submitted as necessary to account for unanticipated receipts and disbursements.

The combination of inaccurate calculations for payroll matching disbursements and the unanticipated expenses associated with the global pandemic caused the deficit. Further, the county clerk did not have proper internal controls and oversight procedures in place to monitor the budget to ensure expenses did not exceed available funds for 2020.

There are outstanding receivables that have not been collected and outstanding obligations that have not been paid from the 2020 fee account. The 2020 fee account is owed \$29,608 from the 2019 fee account for 2019 disbursements paid from the 2020 fee account in the prior year. The 2020 fee account owes the 2021 fee account \$30,223 for December state tangible personal property taxes paid from the wrong account. The county is owed \$6,137 for tangible personal property taxes, \$890 for delinquent property taxes, and \$3,450 for deed transfer taxes. Various taxing districts are owed a total of \$2,899 for tangible personal property taxes.

Strong internal controls and proper oversight procedures require the budget to be monitored to ensure any deviations from expected receipts and disbursements be properly accounted for and considered when financial decisions are made. If funds available are not sufficient to meet obligations, expenses must be reduced to compensate and to avoid overspending and a fund deficit.

We recommend the county clerk consult with the fiscal court and the county attorney to determine how to eliminate this deficit, up to and including using personal funds to pay the office's obligations that are currently outstanding.

County Clerk's Response: This was due to salary. We have since went from 5 full time employees to 4 and 1 part time.

The county clerk failed to implement adequate internal controls regarding oversight and review of daily activities: This is a repeat finding and was included in the prior year audit report as finding 2019-002. The county clerk failed to maintain adequate oversight and review of daily office functions during the period January 1, 2020 through December 31, 2020, resulting in the following issues:

- The budget was overspent, and the 2020 fee account has a deficit of \$10,514.
- The fourth quarter financial statement was not materially accurate and required numerous adjustments and reclassifications.
- Usage taxes were not paid to the state timely.

- License fees were not paid to the state timely and weekly reports were not filed timely.
- Tangible taxes are owed to the county and other taxing districts.
- Deposits were not made timely.
- Invoices were not paid timely.
- The 2019 fee account has not been settled.
- Franchise tax bills were not prepared timely.

The county clerk was inexperienced and was unaware of all compliance requirements. The county clerk has several noncompliance issues, undetected errors, and a deficit totaling \$10,514 as noted in Finding 2020-001. Good internal controls dictate that strong supervisor review and oversight should be in place to reduce the risk of misstatement, uncorrected errors, and unnecessary penalties.

We recommend the county clerk's office strengthen internal controls over daily work by providing strong oversight and review processes to ensure all financial activity is complete and accurate and is properly recorded and classified. Procedures should also be implemented to ensure compliance will applicable statutes, regulations, and policies. This matter will be referred to the Department for Local Government (DLG).

County Clerk's Response: We are training all employees on monthly, weekly and daily work. Clerk is checking everybody's work daily.

The county clerk's office lacks adequate segregation of duties: This is a repeat finding and was included in the prior year audit report as Finding 2019-003. The county clerk's office lacks adequate segregation of duties. According to the county clerk, due to a small staff size, the responsibilities of recording, depositing, disbursing, reporting, and reconciling funds are delegated to the same individual.

The county clerk prepares all weekly and monthly reports, signs all checks, performs all bookkeeping duties, and prepares all bank reconciliations. Since only one person performs these functions, there is no assurance that financial transactions are accurate, complete, and free of error/misstatement. It increases the risk of undetected fraud and errors.

The functions of receiving, recording, depositing, disbursing, reporting, and reconciling should be separated whenever possible in order to decrease the risk of undetected errors, misstatements, and fraud. If duties cannot be segregated due to a small staff size, the county clerk could implement and document compensating controls to reduce the risk of inadequate segregation of duties.

Examples of compensating controls include: another employee comparing daily checkout sheet to receipts ledger and bank deposit, reviewing bank reconciliations for accuracy, reviewing invoices prior to payment, and reviewing all financial reports. The employee should document the review process by initialing reports and supporting documentation.

We recommend the county clerk segregate the duties of receiving, recording, depositing, disbursing, reporting, and reconciling funds or implement and document compensating controls to offset this control weakness.

County Clerk's Response: We try and have implemented policy to teach different jobs in office. But with small staff it makes this difficult.

The 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 quarter report. Receipts were misstated by \$138,138 and disbursements were misstated by \$115,872 when comparing amounts reported to actual bank activity. The county clerk did not have procedures in place to ensure amounts reported for receipts and disbursements were accurate on the fourth quarter financial report. As a result, the county clerk's quarterly report submitted to the Department for Local Government was materially inaccurate.

KRS 68.210 gives the state local finance officer the authority to prescribe a uniform system of accounts. The *County Budget Preparation and State Local Finance Officer Policy Manual* requires officials to submit quarterly reports to the Department for Local Government (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: We are looking to outsource our bookkeeping to help us to keep up with our books.

The county clerk did not remit usage tax fees to the state timely: The county clerk did not pay usage tax payments to the state timely. The county clerk transferred usage tax payments to the usage tax account daily but did not remit the necessary documentation to the Kentucky Transportation Cabinet (KYTC) in order for the auto withdrawals of fund to occur. Due to inadequate controls, the county clerk failed to remit usage tax to the state timely. Failure to file the required documentation with the state timely resulted in usage tax being withdrawn from the usage tax account by the state in batches of several days or weeks at a time. This makes it harder to track usage payments to ensure proper amounts have been remitted and makes it more difficult to reconcile the usage tax account. Late remittance of usage taxes and late filing of weekly reports could potentially lead to penalties and other fees.

KRS 131.155(2)(c) states, in part, "the clerk shall 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 times prescribed by the department[.]"

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.”

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 implement procedures to ensure usage tax fees are remitted in accordance with statutes and ensure weekly reports are sent to the state in a timely manner.

County Clerk’s Response: Clerk has changed the way we handle this. Deputy Clerk has took over this and currently we are on time.

The county clerk did not remit license fees to the state timely and paid 2019 license fees out of the 2020 fee account: The county clerk did not pay license fee payments to the state timely. The county clerk did not have adequate money in his 2019 fee account to pay weeks 46-53 in the amount of \$24,505, so the county clerk waited until January 2020 and paid license fee payments out of the 2020 Fee account. The county clerk has not reimbursed the 2020 fee account.

Due to inadequate controls to ensure timely payments, the county clerk failed to remit license fees to the state timely. The county clerk owes the 2020 fee account \$25,013 from the 2019 fee account as noted on the Schedule of Excess Liabilities Over Assets. This also results in incorrect totals listed on the fourth quarter report for license fees paid to the state for calendar year 2020 and required adjustment.

KRS 186.230 states, in part, “[t]he county clerk shall see that KRS 186.005 to KRS 186.260 in his county are enforced. In so doing he shall: ... (5) Report and remit each Monday to the Transportation Cabinet all moneys collected during the previous week, together with a duplicate of all receipts issued by him during the same period. He shall make all checks payable to the State Treasurer. Unless the clerk forwards duplicates of all receipts issued by him during the reporting period with his report and remits the amount shown due by the report within seven (7) days after the report and remittance are due, he shall pay a penalty of one percent (1%) per month or fraction thereof on the amount of money shown to be due on the report. The cabinet may in its discretion grant a reasonable extension of time to file his report and remit all moneys not to exceed ten (10) days for any one (1) report[.]”

We recommend the county clerk ensure that license fees are remitted in accordance with statutes and ensure that payments are made from the correct fee account each year.

County Clerk’s Response: We had to pay 2019 fees out of 2020 because of lack of funds for 2019. Deputy Clerk is now in charge of weekly reports and we are getting caught up.

The county clerk lacks adequate controls over ad valorem taxes and did not remit ad valorem tax payments timely: The county clerk's office lacks adequate controls over the reporting and disbursement of ad valorem taxes. The county clerk miscalculated the amount due for all taxing districts for the month of June, resulting in districts being underpaid by \$3,277. In addition, the county clerk did not remit ad valorem tax payments of \$5,759 to the county for the month of December and paid \$30,223 to the state from the 2021 fee account. Furthermore, one ad valorem tax payment was paid from the usage account and not recorded on the ledgers or quarterly report.

The errors on the June monthly report were a result of the county clerk using the incorrect amounts. According to the county clerk, he did not remit the amount due the county for December due to insufficient funds in the 2020 fee account to cover the obligation. It is also why the December tangible tax payment to the state was made from the 2021 fee account. The account would have been overdrawn had he remitted those payments.

Due to inadequate controls and no review process, the county clerk failed to properly remit ad valorem tax payments and did not properly record payments on the ledgers or quarterly reports. Also, the lack of oversight resulted in inaccurate financial reporting to external agencies, such as the Department for Local Government (DLG). The Estill County Clerk owes the following districts:

Taxing District	Amount Owed
County	\$ 6,137
Library	134
Health	288
Extension	140
Ambulance	360
Board of Education	1,972
City of Irvine	5
2021 Fee Account	30,223
	<u>\$ 39,259</u>

Strong internal controls dictate that all disbursements are reviewed by a knowledgeable employee who is not involved in posting to the ledgers or writing checks. Adequate supervisory review is essential for providing protection from asset misappropriation and inaccurate financial reporting.

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 him for the preceding month, less the collection fee of the county clerk, which shall be deducted before payment to the depository. The county clerk shall be required to deposit state collections in a manner consistent with procedures established by the department for the prompt payment to the state of other state tax moneys collected by the clerk."

We recommend the county clerk strengthen controls and implement procedures to ensure ad valorem taxes are properly calculated and remitted timely. The clerk should remit the amounts due each taxing district as indicated on the schedule of excess liabilities over assets.

County Clerk's Response: Ad valorem is currently up to date. We segregated duties to Deputy Clerk to keep this up to date.

The county clerk has not settled the 2019 fee account: This is a repeat finding and was included in the prior year audit report as Finding 2019-001. Per the prior year audit report, the 2019 fee account has a deficit of \$30,461. Web renewals that had accumulated in the account have been properly paid to the 2020 fee account; however, all other amounts remain outstanding and unpaid.

The county clerk does not have funds available to settle outstanding liabilities for the 2019 fee account and has not created a satisfactory resolution to the deficit. As a December 31, 2020, \$25,013 is still due the 2020 fee account for license fees paid from the wrong account and \$4,596 is due the 2020 fee account for funds borrowed from 2020 to pay 2019 obligations that were not returned. Consequently, the 2020 fee account cannot pay outstanding obligations until these funds are repaid and has a fund deficit of \$10,514, as discussed in finding 2020-001.

KRS 64.152(1) states, “[i]n counties containing a population of less than seventy-five thousand (75,000), 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, including his salary, compensation of deputies and assistants, and reasonable expenses.

KRS 64.152(2) states, “[a]t the time of filing the statement required by subsection (1) of this section, the clerk shall pay to the fiscal court any income of his office, including income from investments, which exceeds the sum of his maximum salary as permitted by the Constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810, and the provisions of this section shall not be construed to amend KRS 64.820.”

We recommend the county clerk consult with the fiscal court and county attorney to determine a resolution to the 2019 fund deficit.

County Clerk's Response: Due to over budget we are still in process to settle 2019.

The county clerk did not prepare franchise bills timely: During calendar year 2020, there were 4 franchise bills out of 29 certified by the Kentucky Department of Revenue that were not prepared timely by the county clerk. Delays of up to five months were noted.

The county clerk was not familiar with the process of preparing franchise bills due to inexperience and did not have adequate controls in place to ensure franchise tax bills were prepared timely.

The total face value of these bills was \$240,541, meaning various taxing districts in the county were delayed in receiving their proportionate share of the franchise taxes. Delays of this magnitude

for taxing districts can create cash flow problems, create an unnecessary burden for their budget, and impact the ability to provide services to taxpayers.

KRS 136.180(5) states, “[t]he certification of valuation shall be filed by each county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection.” While the statute does not provide a time frame, good internal controls and efficient civil servitude require the bills be prepared and sent to the sheriff for collection in a reasonable time frame.

We recommend the county clerk implement procedures to ensure franchise bills are prepared timely.

County Clerk’s Response: Franchise bills went to electronic send and we failed to realize they were sent and got behind. Currently, all franchise bills are up to date.

The county clerk did not submit the maximum salary limit for deputies and assistants to the fiscal court: The county clerk did not submit the maximum salary limit for deputies and assistants to the fiscal court for approval. This occurred because the county clerk was unfamiliar with the budget process. The county clerk is in violation of KRS 64.530(3).

KRS 64.530(3) states, in part, “[t]he 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[.]”

Strong internal controls and oversight procedures require the official to closely monitor expenses to ensure they don’t exceed the budgeted amounts, statutory limitations, or funds available to meet obligations.

We recommend the county clerk ensure the maximum salary limit for deputies and assistants is submitted to the fiscal court each year when the budget is submitted.

County Clerk’s Response: Oversight on Clerk’s part. Failure to know I had to do this.

The county clerk did not deposit funds timely: The county clerk did not deposit all receipts timely during calendar year 2020. During testing procedures, we noted numerous instances in which deposits for several days cleared the bank on the same day indicating that deposits are not being made daily. We also noted that year end deposits did not clear the bank timely and were delayed by up to a month.

The county clerk did not have adequate controls and procedures in place to ensure deposits were made timely. Inadequate controls over deposits increase the risk that undetected fraud, errors, and misstatements will occur. Delaying deposits also increases the risk that funds will be lost, stolen, or otherwise misappropriated.

The Department for Local Government (DLG) has issued standards regarding “Handling Public Funds Minimum Requirements Pursuant To KRS 68.210 for All Local Government Officials (And Employees)”. One of the requirements is “Daily deposits intact into a federally insured banking institution. (KRS 68.210)”. Additionally, strong internal controls require all payments be deposited timely.

We recommend the county clerk ensure all payments are deposited timely by establishing effective internal controls over deposits.

County Clerk’s Response: Segregated duties to Deputy Clerk and currently deposits are made daily.

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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