



Auditor of Public Accounts  
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**FOR IMMEDIATE RELEASE**

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**Harmon Releases Audit of Martin County Fiscal Court**

**FRANKFORT, Ky.** – State Auditor Mike Harmon has released the audit of the financial statement of the Martin County Fiscal Court for the fiscal year ended June 30, 2021. State law requires annual audits of county fiscal courts.

Auditing standards require the auditor's letter to communicate whether the financial statement presents fairly the receipts, disbursements, and changes in fund balances of the Martin County Fiscal Court in accordance with accounting principles generally accepted in the United States of America. The fiscal court's financial statement did not follow this format. However, the fiscal court'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 116 of 120 fiscal court audits in Kentucky.

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 internal control over financial operations and reporting.

The audit contains the following comments:

**The Martin County Fiscal Court failed to maintain proper controls over the procurement and bidding processes:** This is a repeat finding and was included in the prior year audit report as Finding 2020-002. The county failed to properly bid disbursements that exceeded \$30,000. The county did not advertise for bids on all disbursements. Three disbursements totaling \$164,928 were not properly bid. These disbursements were for repairs to a road and purchases of technology and associated labor totaling \$96,919 and \$68,009, respectively. The technology and associated labor disbursements were purchased using federal funds.

In addition, the following was noted:

- Four disbursements totaling \$345,572 were not paid within 30 days.
- Six disbursements were missing purchase orders.
- Penalty paid due to late payment of \$1,097.

The county wasn't aware that purchases that exceed the \$30,000 bid threshold must still be bid in accordance with Kentucky Revised Statutes even though federal and state emergencies had been declared. In addition, the lack of effective controls resulted in the additional disbursement exceptions noted above.

As a result, the fiscal court was not in compliance with procurement laws, the county administrative code, and the Budget & Policy Manual issued by the Department for Local Government (DLG). In addition, the county may not have received the best value for services or products provided.

KRS 424.260(1) states, in part, “[e]xcept where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county, or district, or board or commission of a city or county, or sheriff or county clerk, may make a contract, lease, or other agreement for: (a) Materials; (b) Supplies, except perishable foods such as meat, poultry, fish, egg products, fresh vegetables, and fresh fruits; (c) Equipment; or (d) Contractual services other than professional; involving an expenditure of more than thirty thousand dollars (\$30,000) without first making newspaper advertisement for bids.”

KRS 65.140(2) states, in part, “all bills for goods or services shall be paid within thirty (30) working days of receipt of vendor’s invoice except when payment is delayed because the purchaser has made a written disapproval of improper performances or improper invoicing by the vendor or by the vendor’s subcontractor.” It continues to state that if a payment of invoices exceeds 30 working days, a 1% interest penalty should be added.

KRS 68.210 gives the state local finance officer the authority to prescribe a uniform system of accounts. The uniform system of accounts is set forth in DLG’s *County Budget Preparation and State Local Finance Officer Policy Manual* which states, “[p]urchases shall not be made without approval by the judge/executive (or designee), and/or a department head . . . Purchase requests shall not be approved in an amount that exceeds the available line item appropriation unless the necessary and appropriate transfers have been made.” DLG requests that purchase orders be issued for all disbursements.

We recommend the county monitor disbursements to ensure procurement procedures are followed properly for all purchases in the future.

*Former County Judge/Executive Colby Kirk’s Response: These items occurred during the COVID pandemic. The county was not sure how to navigate the isolation restrictions and supply chain issues. We were informed by a trusted party that we could make these purchases without bidding because we were in a declared emergency. In the future, when we have questions, we will reach out to the DLG for guidance. In addition, we have had additional training and instruction on the procurement process, and we are adding an annual retraining at the monthly department head meeting every January.*

**The Martin County Fiscal Court did not have effective internal controls, review procedures, and oversight for the budget and reporting processes:** This is a repeat finding and was included in the prior year audit report as Finding 2020-004. The budget approved in the fiscal court minutes and submitted to the Department for Local Government (DLG) did not agree to the amount reported on the fourth quarter report. The approved budget for receipts was a total of \$6,620,378 and the amount reported on the fourth quarter was for \$7,550,990 for a difference of \$930,613. In addition, budget amendments were not properly recorded in the fourth quarter report. Furthermore, one budget amendment was incorrect which resulted in the general fund and federal fund budgets to not balance.

The fiscal court did not have effective internal controls, review procedures, and oversight for the budget, budget amendment, and financial reporting processes to ensure that correct budget amounts were approved and reported on the fourth quarter report.

Inadequate controls over the budget process resulted in the undetected errors noted above. The fiscal court relies on information presented in the quarterly financial reports and inaccurate information could lead to improper decision making.

KRS 68.210 states, “[t]he administration of the county uniform budget system shall be under the supervision of the state local finance officer who may inspect and shall supervise the administration of accounts and financial operations and shall prescribe and shall install, by July 1, 1985, a system of uniform accounts for all counties and county officials.” DLG’s *County Budget Preparation and State Local Finance Officer Policy Manual* requires county officials to submit quarterly reports that show, among other things, the amounts from the original budget for each category of receipts and expenditures. The fourth quarter financial report must agree to the original budget and budget amendments submitted to and approved by DLG.

We recommend the fiscal court implement effective internal controls, oversight, and review procedures to ensure all budgeted amounts reflected on the fourth quarter financial report are complete and accurate and agree to the original budget.

*Former County Judge/Executive Colby Kirk’s Response: This was an error made by the treasurer. The previous process had the treasurer inputting all of the information and the treasurer was the only person who reviewed the input. In June 2022, the process changed. The Finance Officer now confirms that the budget and the other inputs are correct in the Quarterly Reports. In addition, the fiscal court is in the process of changing to a new software that is designed specifically for government use that will not require a separate input and review for the budget or budget amendments.*

**The Martin County Fiscal Court failed to implement adequate controls over debt related transactions that resulted in exceeding the approved budget:** This is a repeat finding and was included in the prior year audit report as Finding 2020-005. During the year, there was a debt instrument where the principal and interest was paid on the county’s behalf by another party totaling \$18,934. These transactions were not included in the receipts and disbursements of the

county. As a result, the fiscal court failed to properly budget for the debt-related receipts and disbursements in the general fund. Failing to account for this activity resulted in appropriations in excess of budget in the general fund debt service category of \$18,934.

Management was unaware that financing obligations proceeds and activity paid on the county's behalf by a third party must be shown on the financial statement and budgeted, even when the county does not receive the proceeds or the funds do not flow through the county.

The occurrence described above resulted in adjustments to include this activity on the fourth quarter financial report which resulted in county appropriations exceeding the approved budget.

KRS 68.300 states, "[a]ny appropriation made or claim allowed by the fiscal court in excess of any budget fund, and any warrant or contract not made within the budget appropriations, shall be void." KRS 68.280 gives fiscal courts the ability to amend the budget when necessary, which would have prevented appropriations from exceeding the approved budget. Because the fiscal court is obligated for these financing obligations, all debt should be budgeted for and recorded.

We recommend fiscal court comply with KRS 68.300 and KRS 68.280 by budgeting all fiscal court disbursements and amending the budget as necessary to reflect all receipts and disbursements involving obligations of the county.

*Former County Judge/Executive Colby Kirk's Response: The fiscal court will start reporting the third-party loan in their annual budget. Appropriations transfers will be made in the October meeting to incorporate it into the 2023 budget.*

**The Martin County Fiscal Court did not prepare an accurate schedule of expenditures of federal awards:** The county did not prepare an accurate schedule of expenditures of federal awards (SEFA) for Fiscal Year 2021. The SEFA provided by the county was understated by \$117,739.

The fiscal court did not have adequate procedures in place to ensure that all federal expenditures were accurately reported in the SEFA.

The failure to properly prepare the SEFA may result in the county failing to be in compliance with the single audit requirement and/or resulting in federal monies being suspended.

2 CFR 200.510(b) requires the auditee to "also prepare a schedule of expenditures of Federal awards for the period covered by the auditee's financial statements." At a minimum, the schedule should include the following, if applicable.

- (1) List individual Federal programs by Federal agency.
- (2) For Federal awards received as a sub-recipient, the name of the pass-through entity and identifying number assigned by the pass-through entity shall be included.
- (3) Provide total Federal awards expended for each individual Federal program and the Assistance Listings Number or other identifying number when the Assistance Listings information is not available.

- (4) Include the total amount provided to subrecipients from each Federal program.
- (5) For loan or loan guarantee programs...identify in the notes to the schedule the balances outstanding at the end of the audit period. This is in addition to including the total Federal awards expended for loan or loan guarantee programs in the schedule.
- (6) Includes notes that describe the significant accounting policies used in preparing the schedule and note whether or not the auditee elected to use the 10% de minimis cost rate.

We recommend the county establish procedures to ensure that the SEFA is prepared accurately.

*Former County Judge/Executive Colby Kirk's Response: The treasurer inadvertently did not include the USDA vehicle grants on the SEFA. As the threshold for the Single Audit was met, the county is in compliance with the Single Audit requirement. A new procedure will be in place by October 31, 2022 where the treasurer will generate and maintain a spreadsheet of all Federal grants as the MOAs are executed. In addition, the SEFA will be reviewed by both the finance officer and the judge prior to submission to the DLG.*

**The Martin County Fiscal Court submitted ineligible expenses for federal reimbursement from the Coronavirus Relief Fund:**

Federal Program: ALN 21.019 COVID-19 Coronavirus Relief Fund

Award Number and Year: 2100000009, C-104

Name of Federal Agency and Pass-Through Agency: U.S. Department of Treasury and Kentucky Department for Local Government

Compliance Requirements: Activities Allowed or Unallowed, Allowable Costs/Cost Principles

Type of Finding: Material Weakness and Noncompliance

Amount of Questioned Costs: \$68,312

Modified Opinion: Adverse

The Martin County Fiscal Court submitted expenses that either did not qualify for reimbursement or were not allowable due to not following proper procurement procedures. Total questioned costs of \$68,312 were noted for this major program.

The county performed computer upgrades for the offices in the Martin County Courthouse. The county did not follow proper procurement procedures and failed to bid the technology and associated labor for these upgrades that totaled \$68,190.

There were two instances where the county paid sales tax for purchases and were reimbursed with federal funds that totaled \$122.

The county was under the understanding that since an emergency declaration had been made that the bid requirements were not applicable to the situation. In addition, controls in place were not effective to prevent the payment of sales tax.

As a result, the county submitted expenses that did not qualify for reimbursement from the Coronavirus Relief Fund administered by the Department for Local Government (DLG). This resulted in \$68,312 of questioned costs.

The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) established the Coronavirus Relief Fund (the “Fund”) and appropriated \$150 billion for payments by Treasury to States, tribal governments, and certain local governments. The CARES Act provides that payments from the Fund may only be used to cover costs that— 1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); 2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and 3. were incurred during the period that begins on March 1, 2020, and ends on December 31, 2021.

Additionally, 2 CFR 200.303 states: “The non-Federal entity must: (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award.”

We recommend the county establish and maintain effective internal control over federal awards that provides reasonable assurance that the non-federal entity is managing the federal award in compliance with federal statutes, regulations, and the terms and conditions of the federal award. We also recommend the county contact DLG for guidance on how to resolve this issue.

*Former County Judge/Executive Colby Kirk’s Response: The county sought guidance from a trusted party who indicated that the procedure we followed was allowable. This was reimbursement grant, and the DLG approved the submission and reimbursement. See 2021-001 for corrective actions.*

The audit report can be found on the [auditor’s website](#).

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