

**REPORT OF THE AUDIT OF THE
OWSLEY COUNTY
CLERK**

**For The Year Ended
December 31, 2021**



**MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS
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MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

Independent Auditor's Report

The Honorable Zeke Little, Jr., Owsley County Judge/Executive
The Honorable Shanna Oliver, Owsley County Clerk
Members of the Owsley County Fiscal Court

Report on the Audit of the Financial Statement

Opinions

We have audited the accompanying Statement of Receipts, Disbursements, and Excess Fees - Regulatory Basis of the County Clerk of Owsley County, Kentucky, for the year ended December 31, 2021, and the related notes to the financial statement.

Unmodified Opinion on Regulatory Basis of Accounting

In our opinion, the accompanying financial statement presents fairly, in all material respects, the receipts, disbursements, and excess fees of the Owsley County Clerk for the year ended December 31, 2021, in accordance with the basis of accounting practices prescribed or permitted by the Commonwealth of Kentucky as described in Note 1.

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 section of our report, the financial statement does not present fairly, in accordance with accounting principles generally accepted in the United States of America, the financial position of the Owsley County Clerk, as of December 31, 2021, or changes in financial position or cash flows thereof for the year then ended.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and the *Audit Program for County Fee Officials*. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statement section of our report. We are required to be independent of the Owsley County Clerk and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.



The Honorable Zeke Little, Jr., Owsley County Judge/Executive
 The Honorable Shanna Oliver, Owsley County Clerk
 Members of the Owsley County Fiscal Court

Basis for Opinion (Continued)

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 Owsley County Clerk on the basis of the accounting practices prescribed or permitted by the laws of Kentucky to demonstrate 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. 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 and pervasive.

Responsibilities of Management for the Financial Statement

Management is responsible for the preparation and fair presentation of this 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 and budget laws. 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 Responsibilities for the Audit of the Financial Statement

Our objectives are to obtain reasonable assurance about whether the financial statement as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statement.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statement, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statement.
- Obtain an understanding of internal control relevant to the audit 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 Owsley County Clerk's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statement.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Owsley County Clerk's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we have identified during the audit.

The Honorable Zeke Little, Jr., Owsley County Judge/Executive
The Honorable Shanna Oliver, Owsley County Clerk
Members of the Owsley County Fiscal Court

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated November 18, 2022, on our consideration of the Owsley County Clerk's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, grant agreements, and other matters. The purpose of that report is solely 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 effectiveness of 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 Owsley County Clerk's internal control over financial reporting and compliance.

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:

- 2021-001 The Owsley County Clerk Did Not Comply With Department For Local Government (DLG) Requirements Regarding Approval And Submission Of Annual Budget, Quarterly Financial Reports, And Annual Settlement
- 2021-002 The Owsley County Clerk Is Not Remitting Fees In Compliance With Kentucky Revised Statutes
- 2021-003 The Owsley County Clerk Did Not Deposit Funds Timely
- 2021-004 The Owsley County Clerk's Office Does Not Have Adequate Segregation Of Duties
- 2021-005 The Owsley County Clerk Did Not Prepare Franchise Tax Bills Promptly
- 2021-006 The Owsley County Clerk Has Not Submitted Her Title Applications Timely

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Mike H", with a long horizontal line extending to the right.

Mike Harmon
Auditor of Public Accounts
Frankfort, KY

November 18, 2022

OWSLEY COUNTY
SHANNA OLIVER, COUNTY CLERK
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2021

Receipts

State Revenue Supplement	\$	66,747
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State Fees For Services		24
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Licenses and Taxes:

Motor Vehicle-

Licenses and Transfers	\$	164,576
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Usage Tax		146,797
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Tangible Personal Property Tax		379,236
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Clerk Lien		5,660
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Other-

Marriage Licenses		1,520
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Deed Transfer Tax		8,828
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Delinquent Tax		107,800	814,417
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Fees Collected for Services:

Recordings-

Deeds, Easements, and Contracts		10,265
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Real Estate Mortgages		5,076
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Chattel Mortgages and Financing Statements		9,661
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Powers of Attorney		790
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Affordable Housing Trust		3,462
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All Other Recordings		5,823
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Recording/Document Storage Fee		6,220
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Charges for Other Services-

Candidate Filing Fees		1,600
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Postage		306
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Miscellaneous		2,147
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Notary Bond/ Oath		399	45,749
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Interest Earned		68
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Total Receipts		927,005
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The accompanying notes are an integral part of this financial statement.

OWSLEY COUNTY
 SHANNA OLIVER, COUNTY CLERK
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2021
 (Continued)

Disbursements

Payments to State:

Motor Vehicle-

Licenses and Transfers \$ 115,365

Usage Tax 142,393

Tangible Personal Property Tax 152,266

Licenses, Taxes, and Fees-

Delinquent Tax 6,812

Legal Process Tax 3,778

Affordable Housing Trust 3,462 \$424,076

Payments to Fiscal Court:

Tangible Personal Property Tax 36,087

Delinquent Tax 10,169

Deed Transfer Tax 8,386 54,642

Payments to Other Districts:

Tangible Personal Property Tax 175,714

Delinquent Tax 57,191 232,905

Payments to Sheriff 8,792

Payments to County Attorney 13,005

Operating Disbursements:

Personnel Services-

Deputies' Salaries 26,400

Overtime 5,271

Employee Benefits-

Employer's Share Social Security 8,694

Employer's Share Retirement 29,065

Contracted Services-

Contract Labor 1,200

Materials and Supplies-

Office Supplies 3,342

The accompanying notes are an integral part of this financial statement.

OWSLEY COUNTY
 SHANNA OLIVER, COUNTY CLERK
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2021
 (Continued)

Disbursements (Continued)

Operating Disbursements: (Continued)

Other Charges-			
Conventions and Travel	\$	830	
Dues		660	
Miscellaneous		8	
Postage		542	
Refund		3,868	
Telephone		1,638	
Service Contract		<u>1,800</u>	<u>\$ 83,318</u>
Total Disbursements			<u>\$ 816,738</u>
Net Receipts			110,267
Less: Statutory Maximum			<u>78,682</u>
Excess Fees			31,585
Less: Expense Allowance			<u>3,600</u>
Balance Due Fiscal Court at Completion of Audit*			<u>\$ 27,985</u>

* - The county clerk presented a check to the fiscal court for excess fees on November 18, 2022.

OWSLEY COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2021

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. 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.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of receipts over disbursements to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the county clerk as determined by the audit. KRS 64.152 requires the county clerk to settle excess fees with the fiscal court by March 15 each year.

The financial statement has been prepared on a regulatory basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. This basis demonstrates compliance with the laws of Kentucky and is a special purpose framework. Under this regulatory basis of accounting, receipts and disbursements are generally recognized when cash is received or disbursed, with the exception of accrual of the following items (not all-inclusive) at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2021 services
- Reimbursements for 2021 activities
- Payments due other governmental entities for December tax and fee collections and payroll
- Payments due vendors for goods or services provided in 2021

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the county treasurer in the subsequent year.

C. Cash and Investments

KRS 66.480 authorizes the county clerk'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. Employee Retirement System and Other Post-Employment Benefits

The clerk's office has elected to participate, pursuant to KRS 78.530, in the County Employees Retirement System (CERS), which is administered by the Kentucky Public Pensions Authority (KPPA). This is a cost-sharing, multiple-employer, defined benefit pension plan, which covers all eligible full-time employees and provides for retirement, disability, and death benefits to plan members. Benefit contributions and provisions are established by statute.

OWSLEY COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2021
(Continued)

Note 2. Employee Retirement System and Other Post-Employment Benefits (Continued)

The county clerk's contributions were \$23,920 for calendar year 2019, \$25,295 for calendar year 2020, and \$29,065 for calendar year 2021.

Nonhazardous covered employees are required to contribute five percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008, are required to contribute six percent of their salary to be allocated as follows: five percent will go to the member's account and one percent will go to the CERS insurance fund.

In accordance with Senate Bill 2, signed by the Governor on April 4, 2013, plan members who began participating on or after January 1, 2014, were required to contribute to the Cash Balance Plan. The Cash Balance Plan is known as a hybrid plan because it has characteristics of both a defined benefit plan and a defined contribution plan. Members in the plan contribute a set percentage of their salary each month to their own accounts. Nonhazardous covered employees contribute five percent of their annual creditable compensation. Nonhazardous members also contribute one percent to the health insurance fund which is not credited to the member's account and is not refundable. The employer contribution rate is set annually by the CERS Board of Directors based on an actuarial valuation. The employer contributes a set percentage of the member's salary. Each month, when employer contributions are received, an employer pay credit is deposited to the member's account. A member's account is credited with a four percent employer pay credit. The employer pay credit represents a portion of the employer contribution.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Nonhazardous employees who begin participation on or after September 1, 2008, must meet the rule of 87 (member's age plus years of service credit must equal 87, and the member must be a minimum of 57 years of age) or the member is age 65, with a minimum of 60 months service credit.

The county's contribution rate for nonhazardous employees was 24.06 percent for the first six months and 26.95 percent for the last six months.

Other Post-Employment Benefits (OPEB)

A. Health Insurance Coverage - Tier 1

CERS provides post-retirement health care coverage as follows:

For members participating prior to July 1, 2003, years of service and respective percentages of the maximum contribution are as follows:

Years of Service	% Paid by Insurance Fund	% Paid by Member through Payroll Deduction
20 or more	100%	0%
15-19	75%	25%
10-14	50%	50%
4-9	25%	75%
Less than 4	0%	100%

OWSLEY COUNTY
 NOTES TO FINANCIAL STATEMENT
 December 31, 2021
 (Continued)

Note 2. Employee Retirement System and Other Post-Employment Benefits (Continued)

Other Post-Employment Benefits (OPEB) (Continued)

A. Health Insurance Coverage - Tier 1 (Continued)

As a result of House Bill 290 (2004 General Assembly), medical insurance benefits are calculated differently for members who began participation on or after July 1, 2003. Once members reach a minimum vesting period of ten years, non-hazardous employees whose participation began on or after July 1, 2003, earn ten dollars per month for insurance benefits at retirement for every year of earned service without regard to a maximum dollar amount. This dollar amount is subject to adjustment annually based on the retiree cost of living adjustment, which is updated annually due to changes in the Consumer Price Index.

Benefits are covered under KRS 78.5536.

B. Health Insurance Coverage - Tier 2 and Tier 3 - Nonhazardous

Once members reach a minimum vesting period of 15 years, they earn ten dollars per month for insurance benefits at retirement for every year of earned service without regard to a maximum dollar amount. This dollar amount is subject to adjustment annually by 1.5 percent. This was established for Tier 2 members during the 2008 Special Legislative Session by House Bill 1. During the 2013 Legislative Session, Senate Bill 2 was enacted, creating Tier 3 benefits for members.

The monthly insurance benefit has been increased annually as a 1.5 percent cost of living adjustment (COLA) since July 2003 when the law changed. The annual increase is cumulative and continues to accrue after the member's retirement.

Tier 2 member benefits are covered by KRS 78.5536. Tier 3 members are not covered by the same provisions.

C. Cost of Living Adjustments - Tier 1

The 1996 General Assembly enacted an automatic cost of living adjustment (COLA) provision for all recipients of KRS benefits. During the 2008 Special Session, the General Assembly determined that each July beginning in 2009, retirees who have been receiving a retirement allowance for at least 12 months will receive an automatic COLA of 1.5 percent. The COLA is not a guaranteed benefit. If a retiree has been receiving a benefit for less than 12 months, and a COLA is provided, it will be prorated based on the number of months the recipient has been receiving a benefit.

D. Cost of Living Adjustments - Tier 2 and Tier 3

No COLA is given unless authorized by the legislature with specific criteria. To this point, no COLA has been authorized by the legislature for Tier 2 or Tier 3 members.

E. Death Benefit

If a retired member is receiving a monthly benefit based on at least 48 months of service credit, KRS will pay a \$5,000 death benefit payment to the beneficiary designated by the member specifically for this benefit. Members with multiple accounts are entitled to only one death benefit.

OWSLEY COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2021
(Continued)

Note 2. Employee Retirement System and Other Post-Employment Benefits (Continued)

Kentucky Retirement System Annual Financial Report and Proportionate Share Audit Report

Kentucky Retirement System issues a publicly available annual financial report that includes financial statements and required supplementary information on CERS. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, KY 40601-6124, or by telephone at (502) 564-4646.

Kentucky Retirement System also issues proportionate share audit reports for both total pension liability and other post-employment benefits for CERS determined by actuarial valuation as well as each participating county's proportionate share. Both the Schedules of Employer Allocations and Pension Amounts by Employer and the Schedules of Employer Allocations and OPEB Amounts by Employer reports and the related actuarial tables are available online at <https://kyret.ky.gov>. The complete actuarial valuation report, including all actuarial assumptions and methods, is also available on the website or can be obtained as described in the paragraph above.

Note 3. Deposits

The Owsley County Clerk maintained deposits of public funds with federally insured banking institutions as required by the Department for Local Government's (DLG) *County Budget Preparation and State Local Finance Officer Policy Manual*. The DLG Manual strongly recommends perfected pledges of securities covering all public funds except direct federal obligations and funds protected by federal insurance. In order to be perfected 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 county clerk 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. These requirements were met.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the county clerk's deposits may not be returned. The Owsley County Clerk does not have a deposit policy for custodial credit risk, but rather follows the requirements of the DLG *County Budget Preparation and State Local Finance Officer Policy Manual*. As of December 31, 2021, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

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*

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MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

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

The Honorable Zeke Little, Jr., Owsley County Judge/Executive
The Honorable Shanna Oliver, Owsley County Clerk
Members of the Owsley County Fiscal Court

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 Statement of Receipts, Disbursements, and Excess Fees - Regulatory Basis of the Owsley County Clerk for the year ended December 31, 2021, and the related notes to the financial statement and have issued our report thereon dated November 18, 2022. The Owsley County Clerk'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 Owsley County Clerk's internal control over financial reporting (internal control) as a basis for designing 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 Owsley County Clerk's internal control. Accordingly, we do not express an opinion on the effectiveness of the Owsley County Clerk'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 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 did identify certain deficiencies in internal control that we consider to be material weaknesses.

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 deficiencies described in the accompanying Schedule of Findings and Responses as items 2021-001, 2021-002, 2021-003, 2021-004, 2021-005, and 2021-006 to be material weaknesses.



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)

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Owsley County Clerk'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 financial statement. 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 2021-001, 2021-002, 2021-003, 2021-005, and 2021-006.

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,

A handwritten signature in black ink, appearing to read "Mike Harmon", with a long horizontal line extending to the right.

Mike Harmon
Auditor of Public Accounts
Frankfort, KY

November 18, 2022

SCHEDULE OF FINDINGS AND RESPONSES

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OWSLEY COUNTY
SHANNA OLIVER, COUNTY CLERK
SCHEDULE OF FINDINGS AND RESPONSES

For The Year Ended December 31, 2021

FINANCIAL STATEMENT FINDINGS:

2021-001 The Owsley County Clerk Did Not Comply With Department For Local Government (DLG) Requirements Regarding Approval And Submission Of Annual Budget, Quarterly Financial Reports, And Annual Settlement

This is a repeat finding and was included in the prior year audit report as finding 2020-001. The county clerk presented her budget and annual order setting maximum salary for deputies and assistants to the fiscal court for calendar year 2021; however, it was not presented in a timely manner as required by the Department for Local Government (DLG) guidelines. Furthermore, the county clerk has not submitted her annual settlement and excess fees to the fiscal court for the calendar year ending December 31, 2021, nor has she submitted the quarterly financial reports and annual settlement to DLG as required.

Per the county clerk, the office lost one full-time employee in early February and a replacement was not hired. In addition to being down one employee for most of calendar year 2021, the office had to close for several weeks due to COVID. These issues have put the county clerk's office behind in processing documentation timely and filing reports.

The lack of compliance with statutory and 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 said financial activity and make fully informed financial decisions for the county.

KRS 68.210 gives the state local finance officer the authority to prescribe a uniform system of accounts. Pursuant to this authority, the state local finance officer has prescribed minimum accounting and reporting standards in DLG's *County Budget Preparation and State Local Finance Officer Policy Manual*, which requires the fiscal court approve a calendar year budget for each fee office as a component of the county's budget preparation process by January 15 of each year.

In addition, the state local finance officer also requires the quarterly report to be submitted to their office no later than 30 days following the close of the quarters ending March 31, June 30, September 30, and December 31.

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..."

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."

We recommend the county clerk comply with the applicable statutes and the DLG manual by submitting her annual budget, quarterly financial reports, and annual settlement to DLG as required. In addition, we recommend the county clerk submit her annual settlement and excess fees accurately and completely to the fiscal court no later than March 15.

County Clerk's Response: The official did not provide a response.

OWSLEY COUNTY
SHANNA OLIVER, COUNTY CLERK
SCHEDULE OF FINDINGS AND RESPONSES
For The Year Ended December 31, 2021
(Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2021-002 The Owsley County Clerk Is Not Remitting Fees In Compliance With Kentucky Revised Statutes

This is a repeat finding and was included in the prior year audit report as finding 2020-002. During calendar year 2021 it was noted that the payments for the following items were not remitted in compliance with the corresponding KRS.

The county clerk collects motor vehicle property tax receipts which are to be paid to the state, county, and districts on or before the tenth of the following month; however, for calendar year 2021 the payments and reports were not submitted timely. Eleven of 12 monthly payments due to the state, county, and districts were paid late, (seven were late by five days or less and one monthly payment was late because the office was closed due to COVID-19).

The county clerk collects delinquent tax receipts which are to be paid to the state, county, and districts on or before the tenth of the following month. However, for calendar year 2020, the payments and reports were not submitted timely. Delinquent tax collections due to the state, county, and districts were not paid timely for 11 months (seven of the 11 payments were made within five days after the due date of the tenth of the month).

The county clerk collects legal processing receipts which are to be paid to the state on or before the tenth of the following month; however, for calendar year 2021, six of 12 payments due to the state were paid late as noted below:

- January, March, August, September, October, and December checks were not issued/delivered timely.

The county clerk collects affordable housing receipts which are to be paid to the state by the tenth of the month after the quarter ends; however, for calendar year 2021, the county clerk made monthly payments instead of quarterly payment for all four quarters. Since the payments are not due until the tenth of the month after the quarter ends, some of the quarterly payments were made on time and some were late. Of the 12 payments made, two payments were not made timely.

The county clerk collects deed transfer tax receipts which are to be paid to the county by the tenth of the month after the quarter ends; however, for calendar year 2021, the county clerk made monthly payments instead of quarterly payment for all four quarters. Since the payments are not due until the tenth of the month after the quarter ends, some of the quarterly payments were made on time and some were late. Of the 12 payments made, four payments were not made timely.

Due to the lateness of the payments due to the state, the county clerk has received numerous fees, penalties, and interest notifications from the state going back to 2013 and continuing into 2020. The total presently known due to the state in fines, penalties, and interest is \$226. Since fees, penalties, and interest are not an allowable office expense, the county clerk will be personally responsible for the payment of these bills. In addition, the county clerk's records indicate she had made additional late payments in calendar year 2021, so there could be additional invoices she had not received yet which will increase the amount due.

The county clerk stated she did not have adequate controls and procedures in place to ensure disbursements were made timely; nevertheless, for the later part of calendar year 2019 she stated she had made significant changes to her procedures to ensure compliance and disbursements are made timely. However, due to COVID-19 parts of calendar year 2020 and 2021 were not in compliance. She further stated that that her office had to close several times due to COVID-19 which has caused a setback in implementing the new controls and procedures that were developed in calendar year 2019. In addition, in February 2021, she lost one full-time employee which will further hamper her office from ensuring payments and reports can be made and processed timely.

OWSLEY COUNTY
 SHANNA OLIVER, COUNTY CLERK
 SCHEDULE OF FINDINGS AND RESPONSES
 For The Year Ended December 31, 2021
 (Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2021-002 The Owsley County Clerk Is Not Remitting Fees In Compliance With Kentucky Revised Statutes
 (Continued)

The state, county, and districts did not have all the funds they budgeted for and may have not been able to provide services to taxpayers due to lack of funding. In addition, the county clerk is not in compliance with Kentucky Revised Statutes which allow for penalties and interest be assessed for late payments.

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 county clerk.”

KRS 134.126 states in part, “(3) [t]he county clerk shall report by the tenth day of each month to the department, the county treasurer, the sheriff, and the proper officials of the taxing districts. The governing body of a county may require the county clerk to report and pay on a more frequent basis if necessary for bonding requirements; however, the county clerk shall not be required to report and pay more frequently than weekly. (4) The county clerk shall allocate payments among the various entities entitled to a portion of the payment. The county clerk shall, at the time he or she makes the reports required by subsection (3) of this section: (a) Pay to the department for deposit in the State Treasury all moneys received due the state; (b) Pay to the county treasurer all moneys received due the county; (c) Pay to the authorized officers of the taxing districts the amount due each taxing district; and (d) Pay the amount of fees, costs, commissions, and penalties to the persons, agencies, or parties entitled thereto.”

KRS 64.012(1)(a) outlines the fees charged by county clerks and says in part, “2. The thirty-three dollar (\$33) fee imposed by this subsection shall be divided as follows: a. Twenty-seven dollars (\$27) shall be retained by the county clerk; and b. Six dollars (\$6) shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk within ten (10) days following the end of the quarter in which the fee was received. Each remittance to the affordable housing trust fund shall be accompanied by a summary report on a form prescribed by the Kentucky Housing Corporation.”

KRS 142.010 outlines taxes imposed on legal processes and instruments and the applicable fees: “(3) [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. (4) Any county clerk who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180. In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.”

KRS 142.050(4) states, “[t]he county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain five percent (5%) as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund.”

OWSLEY COUNTY
 SHANNA OLIVER, COUNTY CLERK
 SCHEDULE OF FINDINGS AND RESPONSES
 For The Year Ended December 31, 2021
 (Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2021-002 The Owsley County Clerk Is Not Remitting Fees In Compliance With Kentucky Revised Statutes
 (Continued)

KRS 131.180(1) states, “[a]ny taxpayer who files any return or report after the due date prescribed for filing or the due date as extended by the department shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to two percent (2%) of the total tax due for each thirty (30) days or fraction thereof that the report or return is late. The total penalty levied pursuant to this subsection shall not exceed twenty percent (20%) of the total tax due; however, the penalty shall not be less than ten dollars (\$10).”

KRS 131.183(1)(a) states, “[e]xcept for the addition to tax required when an underpayment of estimated tax occurs under KRS 141.044 and 141.305, all taxes payable to the Commonwealth not paid at the time prescribed by statute shall accrue interest at the tax interest rate.”

We recommend the county clerk pay over receipts timely to ensure compliance with all Kentucky Revised Statutes and to prevent penalties and interest payments being due for late payments. We further recommend the county clerk settle late fees, penalties, and interest, due to the Department of Revenue.

County Clerk’s Response: The official did not provide a response.

2021-003 The Owsley County Clerk Did Not Deposit Funds Timely

This is a repeat finding and was included in the prior year audit report as finding 2020-003. The county clerk did not process receipts timely nor did her office make daily deposits. Test of daily receipts for the week of October 18 through October 23, noted the following issues:

- October 20, 2021 receipts included 10 checks. Five checks were dated over a week prior to processing with dates of August 19 and September 20 through September 27, 2021.
- October 21, 2021 receipts through October 23, 2021 receipts were not deposited until November 1, 2021, which is not timely.

The county clerk stated the week selected for testing is the week the only other employee in the office was on vacation. She further stated the five checks that were not processed and deposited timely were mail items which are processed as time allows. She further stated that she has changed the process and the daily deposits have been made timely apart from issues beyond her control such as the deputy off due to COVID or leave, which leaves only one person in the office to perform all functions. Delaying deposit can increase the risk that funds will be lost, stolen, or otherwise misappropriated.

The Department for Local Government 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, “[d]aily deposits intact into a federally insured banking institution. (KRS 68.210)”, emphasis added. Additionally, strong internal controls require all payments be deposited timely and on the date received.

We recommend the county clerk comply with KRS 68.210 regarding deposits. We further recommend the county clerk ensure all payments are deposited timely by establishing effective internal controls over receipts and deposits.

County Clerk’s Response: The official did not provide a response.

OWSLEY COUNTY
 SHANNA OLIVER, COUNTY CLERK
 SCHEDULE OF FINDINGS AND RESPONSES
 For The Year Ended December 31, 2021
 (Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2021-004 The Owsley County Clerk's Office Does Not Have Adequate Segregation Of Duties

This is a repeat finding and was included in the prior year audit report as finding 2020-004. The Owsley County Clerk and her employees all collect cash and process transactions. In addition, the Owsley County Clerk prepares the daily deposits, daily, weekly, and monthly reports as well as writes and signs disbursement checks and although a receipt/disbursement ledger is prepared by another employee, there is no documentation of a review nor does it appear to be completed in a timely manner.

According to the county clerk, this lack of segregation of duties is a result of a limited budget, which restricts the number of employees the county clerk can hire and delegate responsibilities to. Without adequate segregation of duties, there is an increased risk of misappropriation of assets, errors, and inaccurate financial reporting to external agencies, such as the Department for Local Government.

The segregation of duties over various accounting functions such as preparing deposits, preparing daily checkout sheets, and issuing cash receipts is essential for providing protection from asset misappropriation and inaccurate financial reporting. Good internal controls further dictate that duties of preparing deposits, preparing checks, signing checks, posting to ledgers, and reconciliations of ledgers to bank accounts be segregated. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities.

We recommend the Owsley County Clerk segregate duties over receipts, report preparation, bank reconciliations, and disbursements. If segregation of duties is not feasible due to lack of staff, the Owsley County Clerk should implement compensating controls to help mitigate any weakness. These compensating controls can and should be documented by initialing and dating the supporting documentation by the person who completed the comparison or review.

County Clerk's Response: The official did not provide a response.

2021-005 The Owsley County Clerk Did Not Prepare Franchise Tax Bills Promptly

This is a repeat finding and was included in the prior year audit report as finding 2020-005. The county clerk received 15 notifications from the Department of Revenue regarding certifications for 2021 franchise bills. Two of the 15 notifications were billed and turned over to the sheriff in a timely manner. Four franchises bills were issued by the Department of Revenue between January 14, 2021 and June 9, 2021; however, these bills were not billed by the county clerk until August 17, 2021. Nine franchises bills were issued by the Department of Revenue between October 15, 2021 and December 29, 2021; however, these bills were not billed by the clerk until December 29, 2021.

The county clerk stated she has now acquired a computerized program to help expedite the process. Since the county, school district, sheriff, and other taxing districts rely on franchise taxes to create their budgets and meet the associated expenses, not issuing franchise taxes bills timely could have a negative cash flow effect on the county, districts, or sheriff.

In accordance with KRS 133.220, the county clerk is the local official responsible for the preparation of property tax bills each year. Public service (franchise) and other centrally assessed companies are handled in Frankfort by the Division of State Valuation, Office of Property Valuation, within the Department of Revenue. Assessments for these companies can get quite complicated and they can be finalized at any time during the year. This means that the county clerk's office will likely receive assessment certifications throughout the year. When these certifications are received by the clerk, a franchise property tax bill needs to be generated as soon as possible.

OWSLEY COUNTY
 SHANNA OLIVER, COUNTY CLERK
 SCHEDULE OF FINDINGS AND RESPONSES
 For The Year Ended December 31, 2021
 (Continued)

FINANCIAL STATEMENT FINDINGS: (Continued)

2021-005 The Owsley County Clerk Did Not Prepare Franchise Tax Bills Promptly (Continued)

We recommend the county clerk implement procedures and controls to ensure franchise tax bills are prepared promptly after receiving the state assessment certification from the state and recommend they are immediately presented to the sheriff to be mailed and collected.

County Clerk's Response: The official did not provide a response.

2021-006 The Owsley County Clerk Has Not Submitted Her Title Applications Timely

When a vehicle is bought or sold the customer will go to the county clerk to request a new title. The customer will provide the information to the county clerk and pay a fee based on the vehicle's value. The county clerk should submit a title application and supporting documentation for the customer to the Department of Transportation to receive a first-time title. However, based on a report received from the Department of Transportation, the county clerk has not submitted the title applications and supporting documentation timely. As of August 2022, the county clerk had 41 missing transmittals for calendar year 2021, and an additional 93 missing transmittals for calendar year 2022. Although the county clerk has continued to file the transmittals as time allows and since August 2022 has made progress in getting the transmittals submitted, this is an ongoing issue.

The county clerk stated that during calendar year 2021 she lost one employee who was not replaced and had to close her office several times during the year due to COVID-19. In addition, Lee County flooded and the courthouse was closed for an extended period of time, which caused the citizens of Lee County to seek another means of processing their vehicle titles, which ended up being in the Owsley County Clerk's office, increasing the flow of business without any additional employees. These issues caused the office to get behind on submitting reports and transmittals in a timely manner. She further stated it was her goal to work on getting reports and transmittals caught up as the opportunity arose while still having the office open and waiting on customers. She stated that she has been trying to get the transmittals caught up and has sent some of the past due transmittals to the Department of Transportation; however, with the office short one employee she has not been able to catch up.

The county clerk is not in compliance with KRS 186A.165 and customers are not receiving titles timely which can prevent them for conducting business regarding the sale and trade of their vehicles.

KRS 186A.165 states, "[n]ot later than 3 p.m. on the next business day after an application for a first certificate of registration or title for a vehicle is received by him, the county clerk shall prepare on forms supplied by the Department of Vehicle Regulation, an application transmittal record."

We recommend the county clerk comply with the KRS regarding application transmittal records by ensuring timely provision to the Department of Vehicle Regulation. We further recommend the county clerk develop a plan to remit the past due transmittal reports.

County Clerk's Response: The official did not provide a response.