Auditor of Public Accounts
Mike Harmon

FOR IMMEDIATE RELEASE

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

Harmon Releases Audit of Taylor County Clerk's Fee Account

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2021 financial statement of Taylor County Clerk Mark Carney. 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 Taylor 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 3 of the audit report will be referred to the Kentucky Labor Cabinet, and the Taylor County Attorney 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 comments:

The Taylor 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 2020-001. The deputy who prepares the daily checkout sheet also collects money, prepares the daily deposit, and posts to the ledger. The county clerk also performs these duties. Another deputy and the county clerk jointly prepare the quarterly financial reports. The county clerk prepares, signs, and posts all disbursements. The county clerk performs bank reconciliations. No reviews of any records, ledgers, or reports were documented.

The lack of segregation of duties occurred because the county clerk failed to segregate incompatible duties. The county clerk states that he cannot hire additional employees to allow segregation of duties due to budget limitations. The limited number of employees restricts how the county clerk can delegate duties. This deficiency increases the risk of misappropriation of assets, errors and inaccurate financial reporting. Errors were not caught on delinquent tax disbursements causing additional amounts due after settlement.

Adequate segregation of duties over receipts, disbursements, and the reconciliation process would prevent the same person from having a significant role in these incompatible functions. The county clerk can implement oversight when duties cannot be segregated.

We recommend the county clerk segregate duties over receipts, disbursements, and reconciliations. If segregation of duties is not feasible due to lack of staff, we recommend the county clerk implement and document strong oversight over incompatible functions. The person providing this oversight should document his or her review by initialing all source documentation.

County Clerk's Response: No Comment. See prior year audits.

The Taylor County Clerk did not deposit funds intact daily: This is a repeat finding and was included in the prior year audit report as Finding 2020-002. This finding has been included in the audit report since calendar year 2008. The Taylor County Clerk did not deposit all funds collected intact daily. The county clerk's daily checkout sheets show each day's cash on hand is different. This deficiency is allowed to occur because it is the county clerk's policy to only deposit larger cash bills and checks, leave all change and smaller cash bills for startup cash. The county clerk knew the requirements to make all deposits intact daily but didn't agree with them for operational management purposes.

As a result of not depositing funds intact daily, the county clerk is not in compliance with guidelines set forth by the state local finance officer and increases the risk of possible theft. For the week tested, the following was noted:

- Additional receipts of $198 were deposited on August 2, 2021.
- Receipts of $35 were not deposited on August 3, 2021.
- Receipts of $82 were not deposited on August 4, 2021.
- Receipts of $77 were not deposited on August 5, 2021.
- Additional receipts of $84 were deposited on August 6, 2021.

The Department for Local Government's (DLG) *County Budget Preparation and State Local Finance Officer Policy Manual* recommends the minimum requirements for handling public funds pursuant to KRS 68.210. The manual requires "[d]aily deposits intact into a federally insured banking institution."

Good internal controls dictate the practice of making daily deposits to reduce the risk of misappropriation of cash, which is the asset most subject to possible theft. Additionally, when deposits are not made timely, the risk that the bank account can be overdrawn is increased. We recommend the county clerk make daily deposits intact and leave a set amount in each of the cash drawers as startup monies each day.

County Clerk's Response: As state in prior year audits, we will always choose not to deposit change and small bills. Therefore, it is my management decision to never count the drawers down to a set amount.

Auditor's Reply: The county clerk is legally required to make deposit of all receipts intact daily, and management cannot judgmentally choose which laws and regulations to follow or disregard. Not having a fixed amount of change fund in the drawers and not depositing all funds received each day increases fraud risk.

The Taylor County Clerk did not have adequate controls over payroll: This is a repeat finding and was included in the prior year audit as Finding 2020-004. The Taylor County Clerk required full time deputies to maintain timesheets; however, the hours did not always reflect the actual hours worked by the employees for the pay period tested. Additionally, the Taylor County Clerk's controls over payroll allowed employees to carry forward unused personal leave to subsequent years contrary to fiscal court policies.

- Full-time employees' individual earnings records and paycheck stubs show they received bonus payments indicated as "Election Bonus" above their established salaries.
- Full-time employees did not record hours worked on their timesheets the day of the special election. They were paid their regular pay rate on the eight hours and also received $100 listed on paycheck as "Election Bonus" for working the day of the special election. Timesheets for this pay period did not record complete and accurate hours worked and could not support full pay or overtime due employees. Overtime was not calculated for this pay period.
- One part-time employee did not record hours worked on the day prior to and the day after the special election. Payroll records indicated payment for 25.75 hours not supported by time worked on the weekly timesheet.
- During tested pay periods, the county clerk paid one employee in advance of the end of pay period during calendar year 2021. The employee was paid seven days in advance.
- The county clerk did not accurately track all sick leave usage for the year. Leave balances maintained by the clerk on weekly timesheets did not reconcile to leave time paid per payroll records for four employees.
- The county clerk allowed personal leave hours to be carried forward to subsequent years, contradicting fiscal court's policy of personal leave expiring annually.

These deficiencies occurred due to the county clerk not having a written policy stating his office hours and work schedule. Also, these deficiencies occurred due to the county clerk not adhering to the Taylor County Fiscal Court's *Personnel Policies and Procedures Handbook* and state statutes, and the county clerk's lack of oversight over the payroll process. As a result of inaccurate timesheets, employees could be paid for more or less hours than actually worked especially if overtime is worked during elections.

Employees are granted leave benefits superior to other county employees as a result of personal leave carried forward to subsequent years. Employees could be granted more or less leave time than they are due if leave use is accounted for inconsistently.

Good internal controls dictate timesheets should be reviewed for accuracy by the immediate supervisor and recalculated by someone other than the preparer after employees sign timesheets documenting hours worked. KRS 337.320(1) states, in part "[e]very employer shall keep a record of: …(b)The hours worked each day and each week by each employee[.]" KRS 337.285(1) requires employers to pay employees for hours worked in excess of forty hours in a work week at a rate of not less than one and one-half (1-1/2) times the hourly wage rate at which he is employed. In addition, the Taylor County Fiscal Court's *Personnel Policies and Procedures Handbook* requires "employees should accurately record the time they begin and end their work" and non-exempt employees to "be paid at the rate of one and one-half their regular hourly rate of pay for all time worked in excess of 40 hours in any one workweek."

The Taylor County Fiscal Court's *Personnel Policies and Procedures Handbook* states, "Personal leave is not carried forward from year to year." The policies do not contain a leave banking system such as the county clerk has implemented for sick leave, but instead state that "[A] regular full-time employee will receive 48 hours of sick leave per year after their one year anniversary date" with no limitation on leave balance accrual limit.

KRS 45.340 states, in part, "[c]hecks shall be tendered to an officer or an employee only after he has completed the work for which he is being paid and not later than fifteen (15) days after the designated pay period…" In addition, the Department for Local Government's (DLG) *County Budget Preparation and State Local Finance Officer Policy Manual* recommends the minimum requirements for handling public funds pursuant to KRS 68.210. The manual states "[n]o bonuses, no prepayment for goods or services, and no contributions. (Section 3, Kentucky Constitution)."

We recommend the following:

- All employees should prepare and sign a timesheet each pay period indicating the actual hours worked and any sick or vacation leave taken.
- The county clerk should not pay bonuses to employees.
- The county clerk should pay employees appropriate overtime pay based on actual hours worked.
- The county clerk should not pay employees before end of pay period.
- The county clerk should separately account for the accrual, use, and available balances of leave types.
- A secondary review should be documented to reconcile leave balances to leave paid, and to ensure payroll is properly supported.
- The county clerk should adhere to fiscal court's policy or implement his own written policy including his office hours and work schedule.

This finding will be referred to the Kentucky Labor Cabinet and the Taylor County Attorney.

County Clerk's Response: The Election Day pay given to the deputies for their extra work on Election day is always in the budget that is approved each year by Taylor County Fiscal Court. The auditors do not like the term "bonus", but really it is money earned for extra work done on this day and while it probably should be called something else, I do not understand while it appears in the audit as a comment when one can see that it has been approved each year by fiscal court. The audit also indicates that I pay early when giving employees vacation checks the Friday before their vacation. I work under the theory that employees have already earned their vacation check/pay based on their years of service. I feel that the other comments about payroll are minor oversights or mistakes and should not make it appear as though the clerk does not have control over the payroll.

Auditor's Reply: The law requires timesheets to reflect actual hours worked each day, and the county clerk to pay overtime when required. The prohibition against bonuses paid to public employees derives from the Kentucky Constitution.

The Taylor County Clerk did not require third-party purchasers to make deposits and payments in accordance with 103 KAR 5:180: This is a repeat finding and was included in the prior year audit report as Finding 2020-003. The Taylor County Clerk did not require purchasers to make deposits at the time of registration as required by 103 KAR 5:180 for priority certificates of delinquency and current certificates of delinquency . The county clerk stated he followed the tax sale registration and deposit process as required in 2019 and felt the extra steps of requiring deposits then refunding large unused portions negatively affected the tax sale. The county clerk stated he made a management decision in 2020 to only require purchasers to pay registration fees, but he did not collect any deposits.

Failure to collect deposits can result in the county clerk not being able to cover any additional costs and expenses associated with any purchaser who fails to make full payment at the time of the tax sale. Establishing procedures contrary to established regulations places the county clerk in noncompliance with the relevant laws.

KRS 134.128(2)(g) requires the Department of Revenue to "[e]stablish advance deposit requirements for registered participants based upon the maximum amount the registered participant may pay for desired certificates of delinquency[.]" Consequently, 103 KAR 5:180 requires third party purchasers make a deposit with county clerk for tax bills they wish to purchase at the tax sale. Purchasers are required to provide a deposit of 100% of the value of each certificate of delinquency included on the purchaser's list of priority certificates of delinquency; deposit all clerk's fees associated with each certificate of delinquency included on the purchaser's list of priority certificates of delinquency and deposit 25% of the value of each certificate of delinquency included on the purchaser's list of current certificates of delinquency. The county clerk shall accept payment of the deposit in a method of payment that complies with KRS 134.126(1)(b). The deposits should be applied to the payment of the certificates of delinquency the purchaser purchases at the sale and any unused portion of the deposit refunded to the third-party purchasers. The registration fee paid by the third-party purchasers should be deposited to the fee account when received.

We recommend the county clerk require third party purchasers make deposits for certificates of delinquency they wish to purchase as required by 103 KAR 5:180.

County Clerk's Response: After doing this practice one year, we made a management decision to not require the deposits by the third party companies. The interest received from the bank these days, certianly does not warrant the extra time of handling the funds and paying most, if not all ot it, back after the sale.

Auditor's Reply: Relevant Kentucky Statutes and Regulations require the county clerk to demand and collect deposits for delinquent tax sale procedures, and management cannot judgmentally choose which laws and regulations to follow or disregard.

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.

###

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

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