

**REPORT OF THE AUDIT OF THE  
DAVISS COUNTY  
CLERK**

**For The Year Ended  
December 31, 2015**



**MIKE HARMON  
AUDITOR OF PUBLIC ACCOUNTS  
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**EXECUTIVE SUMMARY**  
**AUDIT OF THE**  
**DAVISS COUNTY CLERK**

**For The Year Ended**  
**December 31, 2015**

The Auditor of Public Accounts has completed the Daviess County Clerk's audit for the year ended December 31, 2015. Based upon the audit work performed, the financial statements present fairly in all material respects, the receipts and disbursements of the Daviess County Clerk and the receipts, disbursements, and fund balances of the Daviess County Clerk's operating fund and county fund with the State Treasurer in conformity with the regulatory basis of accounting.

**Financial Condition:**

A fee official in counties with a population over 70,000 has two funds established with the state for the deposit of fees collected. Seventy-five percent (75%) of the fees collected are deposited in a county clerk's operating fund and used for office expenses of the fee official. The remaining twenty-five percent (25%) of fees collected are deposited to the county government fund and paid quarterly to the county government. These funds are closed at the end of each four-year term by paying the balances to the respective county government.

The Daviess County Clerk had total receipts of \$23,043,957, which was an \$185,677 increase from the prior year. Except for reimbursed expenses in the amount of \$89,067, the county clerk paid 25% of receipts to the Daviess County Fiscal Court in the amount of \$591,278. This was an increase of \$32,888 from the prior year. In addition, 75% fund operating disbursements decreased by \$123,747.

**Report Comment:**

2015-001 The County Clerk Failed To Properly Document Hours Worked By Employees

**Deposits:**

The county clerk's deposits were insured and collateralized by bank securities.



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

The Honorable Al Mattingly, Daviess County Judge/Executive  
The Honorable David "Oz" Osborne, Daviess County Clerk  
Members of the Daviess County Fiscal Court

Independent Auditor's Report

**Report on the Financial Statements**

We have audited the accompanying Statement of Receipts and Disbursements - Regulatory Basis of the County Clerk of Daviess County, Kentucky and the Statement of Receipts, Disbursements, and Fund Balances of the County Clerk's Operating Fund and County Fund with the State Treasurer - Regulatory Basis for the year ended December 31, 2015, and the related notes to the financial statements.

**Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements 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 as described in Note 1. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

**Auditor's Responsibility**

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and the *Audit Guide for County Fee Officials* issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements 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 entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.



The Honorable Al Mattingly, Daviess County Judge/Executive  
The Honorable David "Oz" Osborne, Daviess County Clerk  
Members of the Daviess County Fiscal Court

### **Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles**

As described in Note 1 of the financial statements, the financial statements are prepared by the Daviess 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, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

The effects on the financial statements 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.

### **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 Opinions on U.S. Generally Accepted Accounting Principles paragraph, the financial statements referred to above do not present fairly, in accordance with accounting principles generally accepted in the United States of America, the financial position of each fund of the Daviess County Clerk, as of December 31, 2015, or cash flows thereof for the year then ended.

### **Opinion on Regulatory Basis of Accounting**

In our opinion, the financial statements referred to above present fairly, in all material respects, the receipts and disbursements of the Daviess County Clerk and the receipts, disbursements, and fund balances of the Daviess County Clerk's operating fund and county fund with the state treasurer for the year ended December 31, 2015, in accordance with the basis of accounting practices prescribed or permitted by the Commonwealth of Kentucky as described in Note 1.

### **Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated May 11, 2017, on our consideration of the Daviess County Clerk's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and 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 internal control over financial reporting 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 over financial reporting and compliance.

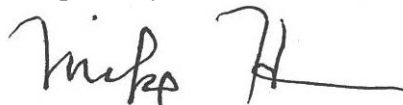


The Honorable Al Mattingly, Daviess County Judge/Executive  
The Honorable David "Oz" Osborne, Daviess County Clerk  
Members of the Daviess County Fiscal Court

Based on the results of our audit, we have presented the accompanying comment and recommendation, included herein, which discusses the following report comment:

2015-001 The County Clerk Failed To Properly Document Hours Worked By Employees

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mike Harmon". The signature is written in a cursive style with a long horizontal stroke at the end.

Mike Harmon  
Auditor of Public Accounts

May 11, 2017

DAVISS COUNTY  
 DAVID "OZ" OSBORNE, COUNTY CLERK  
STATEMENT OF RECEIPTS AND DISBURSEMENTS - REGULATORY BASIS

For The Year Ended December 31, 2015

Receipts

State Fees For Services	\$	34,462	
Fiscal Court			24,626
Licenses and Taxes:			
Motor Vehicle-			
Licenses and Transfers	\$	3,242,302	
Usage Tax		9,416,177	
Tangible Personal Property Tax		8,578,775	
Lien Fees		42,306	
Other-			
Passport Fees		45,575	
Marriage Licenses		29,891	
Occupational Licenses		11,665	
Deed Transfer Tax		401,287	
Delinquent Tax		390,010	22,157,988
Fees Collected for Services:			
Recordings-			
Deeds, Easements, and Contracts		54,033	
Real Estate Mortgages		155,625	
Chattel Mortgages and Financing Statements		266,253	
Powers of Attorney		6,293	
Affordable Housing Trust		94,140	
All Other Recordings		42,335	
Charges for Other Services-			
Candidate Filing Fees		200	
Copywork		55,201	
Lien Calls, Releases		38,696	
Postage		18,529	
Title Preparation, Notary, Affidavit, Dealer Reports		88,416	819,721
Other:			
Miscellaneous			5,413
Interest Earned			1,747
Total Receipts			23,043,957

The accompanying notes are an integral part of the financial statements.

DAVIESS COUNTY  
 DAVID "OZ" OSBORNE, COUNTY CLERK  
 STATEMENT OF RECEIPTS AND DISBURSEMENTS - REGULATORY BASIS  
 For The Year Ended December 31, 2015  
 (Continued)

Disbursements

Payments to State:

Motor Vehicle-

Licenses and Transfers	\$ 2,285,987	
Usage Tax	9,133,644	
Tangible Personal Property Tax	2,814,467	

Licenses, Taxes, and Fees-

Delinquent Tax	49,455	
Legal Process Tax	88,438	
Affordable Housing Trust	94,140	\$14,466,131

Payments to Fiscal Court:

Tangible Personal Property Tax	999,996	
Delinquent Tax	48,523	
Deed Transfer Tax	381,222	
Occupational Licenses	10,749	
Tax Sale Advertising	4,403	1,444,893

Payments to Other Districts:

Tangible Personal Property Tax	4,420,985	
Delinquent Tax	170,148	4,591,133

Payments to Sheriff

32,130

Payments to County Attorney

52,025

Other Disbursements:

Miscellaneous	1,771	
Returned Checks/Bad Debt	1,696	3,467

Total Disbursements \$ 20,589,779

Net Receipts 2,454,178

Payments to State Treasurer:

75% Operating Fund *	1,862,900	
25% County Fund	591,278	2,454,178

Balance Due at Completion of Audit \$ 0

\* Includes reimbursed expenses in the amount of \$89,067 for the audit period.  
 See Note 1 of Notes to Financial Statements.

The accompanying notes are an integral part of the financial statements.

DAVIESS COUNTY  
 DAVID "OZ" OSBORNE, COUNTY CLERK  
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND  
 FUND BALANCES OF THE COUNTY CLERK'S OPERATING FUND  
AND COUNTY FUND WITH THE STATE TREASURER - REGULATORY BASIS

For The Year Ended December 31, 2015

	75%	25%	
	Operating	County	Totals
	Fund	Fund	Totals
	_____	_____	_____
Fund Balance - January 1, 2015	\$	\$	\$
 <u>Receipts</u>			
Fees Paid to State - Operating Funds (75%)	1,862,900		1,862,900
Fees Paid to State - County Funds (25%)		591,278	591,278
	_____	_____	_____
Total Funds Available	1,862,900	591,278	2,454,178
	_____	_____	_____
 <u>Disbursements</u>			
Daviess County Fiscal Court		545,756	545,756
Personnel Services-			
Official's Statutory Maximum	112,306		112,306
Official's Expense Allowance	3,600		3,600
Official's Training Incentive	3,941		3,941
Deputies' Salaries	964,472		964,472
Overtime Gross	6,743		6,743
Employee Benefits-			
Employer's Share Social Security	78,954		78,954
Employer's Share Retirement	183,134		183,134
Employer's Share Health Insurance	237,828		237,828
Employer's Share Life Insurance	1,875		1,875
Workers' Compensation	19,967		19,967
Unemployment Insurance	3,635		3,635
Contracted Services-			
Advertising	423		423
Printing and Binding	19,200		19,200
Supplies and Materials-			
Office Supplies	29,575		29,575

The accompanying notes are an integral part of the financial statements.

DAVIESS COUNTY  
 DAVID "OZ" OSBORNE, COUNTY CLERK  
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND  
 FUND BALANCES OF THE COUNTY CLERK'S OPERATING FUND  
 AND COUNTY FUND WITH THE STATE TREASURER - REGULATORY BASIS  
 For The Year Ended December 31, 2015  
 (Continued)

	75%	25%	
	Operating	County	Totals
	Fund	Fund	
	<u>          </u>	<u>          </u>	<u>          </u>
<u>Disbursements (Continued)</u>			
Other Charges-			
Conventions and Travel	\$ 10,971	\$	\$ 10,971
Equipment Rental	13,298		13,298
Fuel	558		558
Parking	9,072		9,072
Memberships	3,040		3,040
Miscellaneous	2,957		2,957
Postage	2,507		2,507
Telephone	4,975		4,975
Capital Outlay			
Office Equipment	7,888		7,888
	<u>1,720,919</u>	<u>545,756</u>	<u>2,266,675</u>
Total Disbursements			
	<u>\$ 141,981</u>	<u>\$ 45,522</u>	<u>\$ 187,503</u>
Fund Balance - December 31, 2015			

The accompanying notes are an integral part of the financial statements.

DAVISS COUNTY  
NOTES TO THE FINANCIAL STATEMENTS

December 31, 2015

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 due from the county clerk as determined by the audit.

KRS 64.350 establishes that a fee official in counties with a population over 70,000 has two funds with the state treasurer for the deposit of fees collected. Seventy-five percent (75%) of the fees collected are deposited in a county clerk's operating fund and used for office expenses of the fee official. The remaining twenty-five percent (25%) of fees collected are deposited to the county fiscal court fund and paid to the fiscal courts, urban-county governments, or consolidated local governments of the respective counties quarterly no later than April 15, July 15, October 15, and January 15. These funds are closed at the end of each official term by paying the balances to the respective county government.

The financial statements have been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. 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:

- Interest receivable
- Collection on accounts due from others for 2015 services
- Reimbursements for 2015 activities
- Payments due other governmental entities for December tax and fee collections
- Payroll expenditures incurred but not paid
- Payments due vendors for goods or services provided in 2015

Also, some revenues of the fee official offices could be considered reimbursed expenses. All reimbursed expenses are treated as revenue in the 75 percent fund.

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).

DAVIESS COUNTY  
 NOTES TO THE FINANCIAL STATEMENTS  
 December 31, 2015  
 (Continued)

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

The county official and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems (KRS). 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.

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 the plan. The county's contribution rate for nonhazardous employees was 17.67 percent for the first six months and 17.06 percent for the last six months.

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 account. Members contribute five percent (nonhazardous) of their annual creditable compensation and 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 Board 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 (nonhazardous) employer pay credit. The employer pay credit represents a portion of the employer contribution.

The county clerk's contribution for calendar year 2013 was \$215,548, calendar year 2014 was \$200,992, and calendar year 2015 was \$183,134.

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.

CERS also 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:

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

DAVIESS COUNTY  
NOTES TO THE FINANCIAL STATEMENTS  
December 31, 2015  
(Continued)

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

Historical trend information showing the CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report. 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.

KRS also issues a proportionate share audit report that includes the total pension liability for CERS determined by actuarial valuation as well as each participating county's proportionate share. The Schedules of Employer Allocations and Pension Amounts by Employer report and the related actuarial tables are available online at <https://kyret.ky.gov/Employers/Resources/Pages/GASB.aspx>. 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 Daviess County Clerk maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240, the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC 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.

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 county clerk does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 66.480(1)(d) and KRS 41.240. As of December 31, 2015, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

Note 4. Lease

The Daviess County Clerk's office committed to a lease agreement for computer software, hardware, and maintenance. The agreement requires a monthly payment of \$1,600 for 60 months to be completed in December 2019. The total remaining balance of the agreement was \$76,800 as of December 31, 2015.



DAVIESS COUNTY  
NOTES TO THE FINANCIAL STATEMENTS  
December 31, 2015  
(Continued)

Note 5. Escrow Account

The county clerk deposited non-refundable duplicate payments and unexplained receipts in an interest bearing account. The county clerk's escrowed amounts were as follows:

2011	\$52
2012	\$1,091
2013	\$923
2015	\$625

KRS 393.090 states that after three years, if the funds have not been claimed, they are presumed abandoned and abandoned funds are required to be sent to the Kentucky State Treasurer by KRS 393.110.

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REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND  
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL  
STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*





MIKE HARMON  
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Al Mattingly, Daviess County Judge/Executive  
The Honorable David "Oz" Osborne, Daviess County Clerk  
Members of the Daviess County Fiscal Court

Report On Internal Control Over Financial Reporting And  
On Compliance And Other Matters Based On An Audit Of The Financial  
Statements Performed In Accordance With *Government Auditing Standards*

Independent Auditor's Report

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 and Disbursements - Regulatory Basis of the County Clerk of Daviess County, Kentucky, the Statement of Receipts, Disbursements, and Fund Balances of the County Clerk's Operating Fund and County Fund with the State Treasurer - Regulatory Basis for the year ended December 31, 2015, and the related notes to the financial statements, and have issued our report thereon dated May 11, 2017. The Daviess County Clerk's financial statements are 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 statements, we considered the Daviess County Clerk's control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Daviess County Clerk's internal control. Accordingly, we do not express an opinion on the effectiveness of the Daviess County Clerk's internal control.

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 statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses, or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our audit we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.



Report On Internal Control Over Financial Reporting And  
On Compliance And Other Matters Based On An Audit Of The Financial  
Statements Performed In Accordance With *Government Auditing Standards*  
(Continued)

### **Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the Daviess County Clerk's financial statements are 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 determination of financial statement amounts. 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 one instance of noncompliance or other matters that is required to be reported under *Government Auditing Standards*, and which is described in the accompanying comment and recommendation as item 2015-001.

### **County Clerk's Response to Finding**

The Daviess County Clerk's response to the finding identified in our audit is included in the accompanying comment and recommendation. The Daviess County Clerk's response was not subjected to the auditing procedures applied in the audit of the financial statements and, according we express no opinion on it.

### **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

May 11, 2017

COMMENT AND RECOMMENDATION





DAVIESS COUNTY  
DAVID "OZ" OSBORNE, COUNTY CLERK  
COMMENT AND RECOMMENDATION

For The Year Ended December 31, 2015

**STATE LAWS AND REGULATIONS:**

2015-001 The County Clerk Failed To Properly Document Hours Worked By Employees

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The county clerk failed to properly document all hours worked by bookkeeping and supervisory employees. Timesheets did not accurately reflect the time worked by the bookkeeping or supervisory employees. These employees were informed they would not be paid for overtime worked since the clerk considered the bookkeeping and supervisory employees to be exempt from overtime requirements. The supervisors perform the same work as the employees they supervise. The bookkeeping employees are recording transactions and make no financial decisions.

Also, the county clerk paid other employees for time not worked when employees were allowed to leave early without using leave time. These same employees worked over during the same week and were paid overtime. Overtime could not be recomputed properly because the hours worked did not agree to hours paid.

The county clerk did not get a decision by the U.S. Department of Labor Wage and Hour Division as to the applicability of salary exempt status to his supervisor and bookkeeping employees. This was recommended to the county clerk in the prior year audit. Additionally, the county clerk did not realize the effects on overtime computations when he allowed employees to leave early but compensated the same employees for a full day's work.

Supervisory and bookkeeping employees may have been denied wages due for overtime worked. Some employees were paid for time not worked or overtime not earned, which is a waste of county resources. Those employees could be required to repay amounts paid to them but not earned.

KRS 337.320 states, "(1) Every employer shall keep a record of: (a) The amount paid each pay period to each employee; (b) The hours worked each day and each week by each employee; and (c) Such other information as the commissioner requires." Also, KRS 337.285 requires that no employer "employ any of his employees for a work week longer than forty (40) hours, unless such employee receives compensation for his employment in excess of forty (40) 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." Additionally, in accordance with Funk v. Milliken, 317 S.W.2d 499 (Ky. 1958), Kentucky's highest court ruled that county fee officials' expenditures of public funds will be allowed only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not primarily personal in nature.

We recommend the county clerk keep an accurate record of hours worked by all employees and compensate employees only for actual hours worked (or taken off in the form of paid leave time). Employees should only be paid for overtime actually worked. If the county clerk wishes to question the salary exempt status of employees, the county clerk should contact the federal wage and labor board and get a written ruling as to the actual status of each employee in the clerk's office. The county clerk should follow the Funk v. Milliken ruling to determine if a payments to employees in excess of amounts owed for hours worked or leave taken are necessary, adequately documented, reasonable in amount, beneficial to the public, and not primarily personal in nature.

DAVISS COUNTY  
DAVID "OZ" OSBORNE, COUNTY CLERK  
COMMENT AND RECOMMENDATION  
For The Year Ended December 31, 2015

**STATE LAWS AND REGULATIONS: (Continued)**

2015-001 The County Clerk Failed To Properly Document Hours Worked By Employees (Continued)

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*County Clerk David Osborne's Response: For several years including 2015, my office has been trying to determine the applicable interpretation of wage and hour laws that pertain to management and employees of the Clerk's Office. I requested a decision in writing from the Federal Department of Labor but was only directed to published materials already available on line which was not acceptable. Though I am still not in total agreement, my office has made the necessary adjustments that were requested to reflect that all employees with the exception of the Clerk are on an hourly wage and are subject to overtime pay. In reference to the employees who left early, this situation has also been addressed and adjustments have been made that comply with the auditor's recommendations and state law. In no way was I nor any employee intentionally trying to circumvent any state or federal wage and hour laws. I respect our auditor's decision and will do my utmost to comply with the recommendations.*

