



Auditor of Public Accounts
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Harmon Releases Audit of Taylor County Clerk's Fee Account

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2016 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.

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 lacks adequate segregation of duties over receipts and disbursements. This is a repeat finding and was included in the prior year report as Finding 2015-001. For the majority of the year, the same deputy prepared the daily checkout sheet, prepared the daily deposit, and posted to the receipts ledger. In addition, the deputy also collects money from customers. The county clerk also performs these duties on occasion. Review of the daily checkout process by the county clerk is undocumented. Another deputy and the county clerk jointly prepare the quarterly financial reports. The county clerk prepares, signs, and posts all disbursements, with the exception of payroll. Another deputy performs the bank reconciliations for both the fee and payroll bank accounts, with the county clerk reviewing. The county clerk initialed the bank statements and occasionally the bank reconciliations, evidencing his review.

This condition is a result of a limited budget, which restricts the number of employees the county clerk can hire or delegate duties to. Segregation of duties over receipts, disbursements, and the reconciliation process, or implementation of compensating controls, when needed because the number of staff is limited, is essential for providing protection to employees in the normal course of performing their duties and can also prevent inaccurate financial reporting and misappropriation of assets.

Adequate segregation of duties would prevent the same person from having a significant role in the receiving and disbursing of funds, recording, and reporting of those receipts and disbursements. In addition, compensating controls would not be effective over duties performed by the county clerk. The lack of segregation of duties increases the county clerk's risk of misappropriation of assets, errors, and inaccurate financial reporting.

We recommend the county clerk strengthen internal controls by segregating these duties. If segregation of duties is not possible due to a limited staff, strong oversight should be implemented. The employee providing this oversight should document his or her review by initialing all source documentation.

County Clerk's response: This just seems to be a comment that will never go away. I feel pretty good about the cross training we are doing in the office and we attempt to document the different reports/tasks that we are required to do.

Auditor's Reply: Audits are required to report when an internal control weakness exists, such as a lack of segregation of duties, in order for management to be aware of the associated risks.

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 rather than a set amount for the cash drawer each day. In addition, the county clerk leaves the daily cash receipts overnight in the office vault and makes the deposit the next day. This would normally be acceptable; however, the cash drawers are housed in a wooden cabinet in the vault. This is a repeat finding and was included in the prior year report as Finding 2015-002.

This deficiency is allowed to occur because it is the county clerk's policy to only deposit cash bills, leave all change for startup cash, and to keep the cash drawers in the vault overnight.

As a result of not depositing funds intact on a daily basis, the county clerk is not in compliance with guidelines set forth by the State Local Finance Officer. Also, if a fire were to occur due to electrical wiring in the vault, the wooden cabinet would be destroyed, along with all monies contained within.

The Department for Local Government's *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 "daily deposits intact into a federally insured banking institution[.]" The practice of making daily deposits reduces 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 minimum of \$200 in each of the cash drawers as startup monies each day. We also recommend the county clerk either take the daily deposit to the bank overnight for safekeeping or house it in a fire proof safe in his office until the deposit can be made the next morning.

County Clerk's response: We choose not to count drawers down to an exact amount each afternoon and deposit all remaining monies. To do this would mean that we deposited all funds that were taken in that day, however to do this would also mean that we were depositing dollar bills, quarters, dimes, nickels and pennies. I make a business decision to not deposit our coins and then turn around and go to the bank and get change to be able to operate that day. We will continue to deposit all big bills (\$100, \$50 and \$20) that we receive each day and occasionally deposit \$10 and \$5 bills but for the most part will keep each of those for change as we operate the next day. The POS system tracks the amount in each drawer. POS makes the closing procedures real easy and quick when used as we use it now.

As far as leaving the money in the vault over night, we do leave in the vault over night and while it is stored in a wooden cabinet, the vault itself is a fire proof vault.

Auditor's Reply: The Department for Local Government (DLG) requires that deposits be made intact daily. We have recommended the official follow the DLG policy, since DLG has the authority to set the policies and procedures for officials to follow.

The Taylor County Clerk did not adhere to the Taylor County Fiscal Court's *Personnel Policies and Procedures Handbook* or implement his own written policy. The county clerk's office employees were granted vacation leave according to the fiscal court's policy; however, sick leave balances were not in accordance with the fiscal court's policy. This is a repeat finding and was included in the prior year report as Finding 2015-003.

Per the county clerk, he allows each employee to receive 12 sick/personal leave days per year, which complies with the fiscal court's policy. He only allows his employees to carry a maximum total of 30 days (240 hours) over into the next year. He also allows each employee to retain a maximum of six unused days (48 hours) for the year.

Retained leave days can only be used in case of surgery, illness, or retirement. Any unused hours in excess of six retained days and hours that should be carried to the next year are lost.

Since the county clerk is not following the fiscal court's policy, his employees are not receiving the full benefits of being a county employee. County employees should not receive different levels of benefits without a "classification based on reasonable and natural distinctions{.}" OAG 83-150.

The Taylor County Fiscal Court's *Personnel Policies and Procedure Handbook* states, "[e]mployees hired prior to 7/1/11 may carry forward 968 hours of accumulated sick leave for retirement through Kentucky Retirement Systems. These hours will be used to extend the employees retirement date, wages and benefits from Taylor County Fiscal Court. At time of retirement any additional hours accumulated above the 968 will be forfeited."

We recommend the county clerk adhere to the Taylor County Fiscal Court's *Personnel Policies and Procedure Handbook* or implement his own written policy.

County Clerk's response: As stated in the audit, it says "per the county clerk, he allows each employee to receive 12 sick/personal days per year, which complies with fiscal court's policy". The next sentence states "he only allows his employees to carry a maximum total of 30 days (240 hours) over into the next year". The words he only allows would make you think that we are not following the county code, but on page 43 of the Taylor County Administrative Code Section 3.44 article A and in bold letters it states "employees can accumulate up to thirty (30) days to be carried forward from year to year". We are right on track with this. Where we are different is in the number of days that can be banked if not used. In the clerk's office, I have a policy that only 6 days can be banked per year. An employee can start a year with 30 days max per County Administrative Code.

They accumulate 12 more during the year. Since an employee can only carry 30 over to the next year if none were used then the County does allow for all 12 days to be banked. I have an agreement with the employees who are eligible to bank that they can bank only six days. I do this because I believe in a small office when someone retires with a huge number of banked days that it could be a burden on the office who would still be paying wages to the employee and in some cases could not replace the employee with another employee until those banked days or at least a big majority of them have been paid. Our budget is set in January with a maximum amount to be spent on deputies defined during January. Someone could retire in April and a clerk not know that in January and because maximum has been set it could be months before we could replace that employee if they were allowed to bank the full 12 days each year. That is one reason I limit banked days to 6. However, employees do not "lose" the other 6 days. We work together to make sure their total allowable days are used even if it means extra days off in December. All employees that are eligible for banked days in a certain year understand how this works. All employees in the office are given a personal benefit statement in January of each year that covers wages, insurance, sick/personal days, vacation, banked days, etc.

However, all of that being said, I do realize that a written policy presented to fiscal court could help with this comment in the audit. I do feel like the benefit statements are a written agreement between the deputies and the clerk, but understand I should present a written policy to the court as well. I will plan to do a policy with the court in December 2017.

Auditor's Reply: We reiterate the recommendation in the finding that the official implement his own written policy or fully follow the fiscal court policy.

Timesheets did not reflect actual hours worked by employees. The Taylor County Clerk required full time deputies to maintain timesheets; however, the hours did not always reflect the actual hours worked or leave taken by the employees for the pay period.

The following deficiencies were noted:

- The county clerk allows deputies who work four hours on Saturday to have an eight hour day off during the same week. Therefore, timesheets would reflect 36 hours and the individual earning records (IER) would reflect 40 hours worked.
- The county clerk paid each of his full time employees \$100, less withholdings twice a year during elections without the amount being tied to overtime hours worked. Only one employee's timesheet shows overtime hours worked during the general election; however, the overtime hours are not included on the employee's IER.
- Employees are paid for 40 hours of vacation leave in advance.

These deficiencies occurred due to the county clerk not having a written policy stating his office hours and work schedule and by not adhering to the Taylor County Fiscal Court's *Personnel Policies and Procedures Handbook*.

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.

Good internal controls dictate timesheets should be reviewed for accuracy by an immediate supervisor and recalculated by someone other than the preparer. KRS 337.320 states "[e]very employer shall keep a record of ...[t]he hours worked each day and each week by each employee[.]" Also, the Taylor County Fiscal Court's *Personnel Policies and Procedures Handbook* requires "...employees should accurately record the time they begin their work and end their work..." KRS 337.285(1) states, "[n]o employer shall employ any of his employees for a work week longer than 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, KRS 45.340 and OAG 79-448 state that checks shall be tendered to an officer or employee only after he/she has completed the work for which he/she is being paid.

We recommend the following:

- All employees should prepare a timesheet each period indicating the actual hours worked and any sick or vacation leave taken.
- The county clerk should ensure overtime is paid in compliance with KRS 337.285(1).
- The county clerk should adhere to fiscal court's policy or implement his own written policy including his office hours and work schedule.
- The county clerk should ensure no employee is paid for any hours worked or leave taken prior to actually working the hours or taking the leave.

County Clerk's response: Employees sign time sheets on a weekly basis. It is my management decision to give those individuals who work a Saturday a full day off the next week. This is a practice that we have been doing for 15 years, since I first became clerk in January of 2003.

As far as vacation pay goes, employees are paid the week before their vacation. Deputies get paid each Friday. If a deputy is going to be on vacation the following week they are paid on the Friday before they leave for the week. The clerk thinks this is standard operating procedure for any business. The employee will not be at work the next week to get their check because they are on

vacation. Vacation checks are not earned during the actual week the deputy is on vacation. The vacation check has already been earned through their time of service.

Auditor's Reply: We reiterate the recommendation in the finding that the official should consider implementing his own written policy detailing how employees are to be paid. This policy must adhere to all applicable wage and hour laws.

The Taylor County Clerk did not maintain records to support hours worked by individuals performing scanning duties and issued 1099 forms instead of W-2 forms. The Taylor County Clerk did not maintain records or require timesheets to support \$3,545 in payments to individuals hired to scan documents. In addition, he issued 1099 forms instead of W-2 forms.

The county clerk does not require individuals to keep track of hours worked. He tracks the hours and notes number of hours worked on each check paid to the individual. His policy is to issue IRS 1099 forms to individuals hired to scan documents that earn over \$600.

As a result of not keeping supporting documentation for hours worked, the county clerk and payee could disagree on hours worked. Also, by not withholding social security taxes from the paychecks, the individuals will not receive benefits to be paid out upon retirement age. Benefit payments are based upon how much an individual earns during their working career. Higher lifetime earnings results in higher benefits upon reaching retirement age.

Funk v. Milliken, 317 S.W.2d 499 (Ky. 1958) established the criterion that all expenses of the county officials office be supported by adequate documentation.

Per the Internal Revenue Service's Quick Reference Guide for Public Employees, "an employee is anyone who performs services subject to the will and controls of the individual or entity paying for the services." In addition, the Guide states "Employers report taxable wages on Form W-2, Wage and Tax Statement, which is furnished to the employees and transmitted to the Social Security Administration using Form W-3, Transmittal of Wage and Tax Statements." KRS 337.320 states "[e]very employer shall keep a record of ... [t]he hours worked each day and each week by each employee[.]"

We recommend the county clerk maintain supporting documentation for individuals performing scanning duties for his office. We further recommend the county clerk review the definition of an employee and comply with the requirements of the Internal Revenue Service and state law.

County Clerk's response: Part time employees who help with special projects or fill in during vacation time are paid for their services but do not receive any benefits. Since no benefits are involved and no sick days, vacation used, etc needs to be tracked on a check stub or other document, I was thinking that the part time employees signature on the back of the check and my signature on the front of the check with the number of hours worked on the memo line of the check could mean that the actual check would actually serve as a "time sheet". However, I understand that this could bring about other issues such as tracking/posting/proving when someone actually worked not just the number of hours, we will begin using a log for each part time employee.

The county clerk's responsibilities include collecting certain taxes, issuing licenses, maintaining county records and providing other services. The clerk's office is funded through statutory fees collected in conjunction with these duties.

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

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