

**REPORT OF THE AUDIT OF THE
FORMER TODD COUNTY
CLERK**

**For The Period
January 7, 2019 Through August 10, 2019**



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MIKE HARMON
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Todd Mansfield, Todd County Judge/Executive
The Honorable Cindy O'Bryan, Todd County Clerk
Members of the Todd County Fiscal Court

Independent Auditor's Report

Report on the Financial Statement

We have audited the accompanying Statement of Receipts, Disbursements, and Excess Fees - Regulatory Basis of the former County Clerk of Todd County, Kentucky, for the period January 7, 2019 through August 10, 2019, and the related notes to the financial statement.

Management's Responsibility 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 Responsibility

Our responsibility is to express an opinion on this financial statement 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 statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statement, 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 statement 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 statement.

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



The Honorable Todd Mansfield, Todd County Judge/Executive
The Honorable Cindy O'Bryan, Todd County Clerk
Members of the Todd County Fiscal Court

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 former Todd 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 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.

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 paragraph, the financial statement referred to above does not present fairly, in accordance with accounting principles generally accepted in the United States of America, the financial position of the former Todd County Clerk, for the period January 7, 2019 through August 10, 2019, or changes in financial position or cash flows thereof for the period then ended.

Opinion on Regulatory Basis of Accounting

In our opinion, the financial statement referred to above presents fairly, in all material respects, the receipts, disbursements, and excess fees of the former Todd County Clerk for the period January 7, 2019 through August 10, 2019, 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 September 25, 2020, on our consideration of the former Todd 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 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. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the former Todd 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:

- 2019-001 The Former County Clerk's Office Lacked Adequate Segregation Of Duties
- 2019-002 The Former County Clerk's Quarterly Report Was Significantly Overstated

Respectfully submitted,



Mike Harmon
Auditor of Public Accounts

September 25, 2020

TODD COUNTY
 LESLIE CUNNINGHAM, FORMER COUNTY CLERK
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS

For The Period January 7, 2019 Through August 10, 2019

Receipts

State Revenue Supplement	\$	67,769	
State Fees For Services			63
Fiscal Court			2,755
Licenses and Taxes:			
Motor Vehicle-			
Licenses and Transfers	\$	467,943	
Usage Tax		613,101	
Tangible Personal Property Tax		721,611	
Notary Fees		513	
Other-			
Marriage Licenses		1,598	
Deed Transfer Tax		24,670	
Delinquent Tax		138,904	1,968,340
Fees Collected for Services:			
Recordings-			
Deeds, Easements, and Contracts		4,185	
Real Estate Mortgages		2,115	
Chattel Mortgages and Financing Statements		20,680	
Powers of Attorney		286	
Affordable Housing Trust		6,912	
All Other Recordings		11,886	
Charges for Other Services-			
Candidate Filing Fees		50	
Copy Work		1,953	
Charges for Other Services		197	
Miscellaneous		387	48,651
Other:			
Refunds/Overpayments			17,512
Interest Earned			485
Total Receipts			2,105,575

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

TODD COUNTY
 LESLIE CUNNINGHAM, FORMER COUNTY CLERK
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS
 For The Period January 7, 2019 Through August 10, 2019
 (Continued)

Disbursements

Payments to State:

Motor Vehicle-

Licenses and Transfers \$ 379,722

Usage Tax 594,621

Tangible Personal Property Tax 262,542

Licenses, Taxes, and Fees-

Delinquent Tax 14,935

Legal Process Tax 6,589

Boat License 648

Handicap Placards 1,136

Affordable Housing Trust 6,912 \$ 1,267,105

Payments to Fiscal Court:

Tangible Personal Property Tax 54,620

Delinquent Tax 11,701

Deed Transfer Tax 23,436 89,757

Payments to Other Districts:

Tangible Personal Property Tax 371,098

Delinquent Tax 69,093 440,191

Payments to Sheriff

12,224

Payments to County Attorney

19,162

Operating Disbursements:

Personnel Services-

Deputies' Salaries 54,814

Part-Time Salaries 5,754

Employee Benefits-

Employer's Share Social Security 8,197

Employer's Share Retirement 18,891

Employer's Paid Health Insurance 15,495

Materials and Supplies-

Office Supplies 21,088

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

TODD COUNTY
 LESLIE CUNNINGHAM, FORMER COUNTY CLERK
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES - REGULATORY BASIS
 For The Period January 7, 2019 Through August 10, 2019
 (Continued)

Disbursements (Continued)

Operating Disbursements: (Continued)

Other Charges-		
Conventions and Travel	\$	613
Dues		737
Postage		1,657
Refunds/Overpayments		18,441
Miscellaneous		229
Insufficient Funds Checks		24
		<u>\$ 145,940</u>
Total Disbursements		<u>\$ 1,974,379</u>
Net Receipts		131,196
Less: Statutory Maximum		<u>47,959</u>
Excess Fees		83,237
Less: Expense Allowance		<u>2,100</u>
Excess Fees Due County for 2019		81,137
Payment to Fiscal Court - October 11, 2019		<u>81,282</u>
Due From Fiscal Court at Completion of Audit*		<u>\$ (145)</u>

* - Excess fees were overpaid due to a payment including outstanding checks in the amount of \$145 that had yet cleared the bank.

TODD COUNTY
NOTES TO FINANCIAL STATEMENT

August 10, 2019

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 2019 services
- Reimbursements for 2019 activities
- Payments due other governmental entities for December tax and fee collections and payroll
- Payments due vendors for goods or services provided in 2019

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 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.

TODD COUNTY
 NOTES TO FINANCIAL STATEMENT
 August 10, 2019
 (Continued)

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

The county clerk's office contribution for calendar year 2017 was \$35,815, calendar year 2018 was \$24,585, and for the period January 7, 2019 through August 10, 2019 was \$18,891.

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 KRS 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 KRS 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 21.48 percent for the first half of the year and 24.06 percent for the second half of the year.

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%

TODD COUNTY
 NOTES TO FINANCIAL STATEMENT
 August 10, 2019
 (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 161.714 with exception of COLA and retiree health benefits after July 2003.

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

Once members reach a minimum vesting period of 15 years, 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 161.714 with exception of COLA and retiree health benefits after July 2003. 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.

TODD COUNTY
 NOTES TO FINANCIAL STATEMENT
 August 10, 2019
 (Continued)

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

KRS Annual Financial Report and Proportionate Share Audit Report

KRS 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.

KRS 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 former Todd 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 former county clerk did not have a deposit policy for custodial credit risk but rather followed the requirements of KRS 66.480(1)(d) and KRS 41.240. As of August 10, 2019, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

Note 4. Lease Agreement

The Todd County Clerk's office was committed to a lease agreement for recording hardware and software. The agreement requires a monthly payment of \$1,890 for 60 months to be completed on February 29, 2024. The total balance of the agreement was \$103,950 as of August 10, 2019.

Note 5. Outstanding Checks Held In Escrow

The former Todd County Clerk deposited outstanding checks into an escrow account. When statutorily required, the county clerk's office will turn over the escrowed funds to the Kentucky State Treasurer as unclaimed property. The former county clerk's escrowed amounts were as follows:

2016	\$34
2017	\$30
2018	\$97

TODD COUNTY
NOTES TO FINANCIAL STATEMENT
August 10, 2019
(Continued)

Note 6. Subsequent Events

The former county clerk passed away on August 10, 2019 and a new county clerk was appointed by the county judge/executive on August 15, 2019.

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

The Honorable Todd Mansfield, Todd County Judge/Executive
The Honorable Cindy O'Bryan, Todd County Clerk
Members of the Todd County Fiscal Court

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

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 former Todd County Clerk for the period January 7, 2019 through August 10, 2019, and the related notes to the financial statement and have issued our report thereon dated September 25, 2020. The former Todd 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 former Todd County Clerk's internal 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 statement, but not for the purpose of expressing an opinion on the effectiveness of the former Todd County Clerk's internal control. Accordingly, we do not express an opinion on the effectiveness of the former Todd County Clerk's internal control.

Our consideration of internal control 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 identified 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 2019-001 and 2019-002 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 former Todd 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 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 no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

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

September 25, 2020

SCHEDULE OF FINDINGS AND RESPONSES

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TODD COUNTY
LESLIE CUNNINGHAM, FORMER COUNTY CLERK
SCHEDULE OF FINDINGS AND RESPONSES

For The Period January 7, 2019 Through August 10, 2019

INTERNAL CONTROL - MATERIAL WEAKNESSES:

2019-001 The Former County Clerk's Office Lacked Adequate Segregation Of Duties

The former county clerk's office lacked adequate segregation of duties. The former county clerk was responsible for receiving cash, preparing daily checkout sheets, preparing financial reports, entering items into the ledgers, signing checks, and preparing monthly bank reconciliations.

A lack of segregation of duties existed over the financial functions of the county clerk's office because a limited number of employees were available to properly segregate these job duties. A lack of segregation of duties could result in undetected misappropriation of assets and inaccurate financial reporting to external agencies such as the Department for Local Government.

Segregation of duties or the implementation of compensating controls, when needed because of the number of staff is limited, is essential for providing protection to employees in the normal course of performing their duties and can also help prevent inaccurate financial reporting and misappropriation of assets.

We recommend the county clerk's office segregate the duties over these areas in order to adequately protect employees in the normal course of performing their duties and to help prevent misappropriation of assets and inaccurate financial reporting. If the county clerk's office cannot segregate duties, we recommend the implementation of compensating controls over these processes to mitigate the risks.

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

2019-002 The Former County Clerk's Quarterly Report Was Significantly Overstated

The former county clerk's final quarterly report was significantly overstated. Receipts were overstated by \$60,009 and disbursements were over stated by \$61,389 due to items being reported in 2019 that were related to financial activity from the previous calendar year.

According to the current county clerk, who prepared the final quarterly report, these items were included in the final quarterly report in an attempt to balance the report and to show all transactions in the accounts. By including these prior year receipts and disbursements, the financial statement was materially overstated.

Good internal controls dictate that all financial reports only include transactions for the correct fiscal period in order to present an accurate and clear picture of the office's financial standing.

We recommend that the clerk's quarterly report only include transactions related to the current calendar year.

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