



COMMISSIONERS COURT
COMMUNICATION

CO#114322

REFERENCE NUMBER 0

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DATE: 12/11/2012

SUBJECT: **RECEIVE AND FILE THE AUDITOR'S REPORT FOR THE REVIEW OF THE TARRANT COUNTY CLERK BOND FORFEITURE PROCESS**

COMMISSIONERS COURT ACTION REQUESTED:

It is requested that the Commissioners Court receive and file the Auditor's Report of the Tarrant County Clerk Bond Forfeiture Process.

BACKGROUND:

The Auditor's Office reviewed the bond forfeiture process and related internal controls for the five months ended February 29, 2012. Both the County Clerk's Office and the District Attorney's Office have certain responsibilities related to the bond forfeiture process. The County Clerk has a strictly ministerial role with regard to bond forfeitures. The audit is limited in scope since the review was limited only to the County Clerk's Office.

Attached to this report is a written response from the County Clerk.

FISCAL IMPACT:

There is no direct fiscal impact associated with this action.

SUBMITTED BY: Auditor

PREPARED BY: S. Renee Tidwell
APPROVED BY:



TARRANT COUNTY

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October 24, 2012

Ms. Mary Louise Garcia, County Clerk
The Honorable District Judges
The Honorable Commissioners Court
Tarrant County, Texas

Re: Auditor's Report – County Clerk's Bond Forfeiture Process

SUMMARY

In accordance with Local Government Code, Subchapter A, Sections 115.001 *Examination of Records*, and 115.002 *Examination of Books and Reports*, we reviewed the bond forfeiture process and related internal controls for the five months ended February 29, 2012. Our audit is limited in scope since the review was limited to the County Clerk's Office. Specifically:

Observation 1 Partial payments received for bond forfeiture cases were not allocated consistently.

Observation 2 Controls were not adequate to ensure that fees and payment information were properly recorded.

Observation 3 Bond forfeiture accounts receivable balances could not be verified.

We discussed these issues with the County Clerk's Office on October 29, 2012. Attached is the County Clerk's response to the audit report.

BACKGROUND

When a defendant posts bond, he or she agrees, as a condition of being released, that he or she will appear in court at a later date as required by the court. The failure to perform any of the conditions on the bond causes the court to declare forfeiture of the bond. The judge enters a "NISI judgment." NISI is a civil judgment that will be made final unless good cause is shown as to why the defendant did not appear in court. Although bond forfeiture is considered a criminal case, the bond forfeiture proceedings are governed by the rules that govern civil lawsuits.

Both the County Clerk's Office and the District Attorney's Office have certain responsibilities related to the bond forfeiture process. The County Clerk strictly has a ministerial role with regard to bond forfeitures. The District Attorney's Office initiates the bond forfeiture and notifies the County Clerk's Office the amount of the bond to be forfeited. Upon receipt of this notification, County Clerk Bond Forfeiture staff prepares the court order paperwork that specifies the amount of forfeiture and the court costs for a judge's signature and final judgment.

During the review period, the County Clerk's Bond Forfeiture Section filed 1,276 cases and assessed fees totaling approximately \$383,000. Court costs and judgment amounts were collected, and subsequently disbursed to the Auditor's Office, totaling approximately \$598,000. As of February 29, 2012, the recorded NISI accounts receivable balance totaled over \$2.3 million.

OBSERVATIONS AND RECOMMENDATIONS

Observation 1 – Partial payments received for bond forfeiture cases were not consistently allocated in any particular order.

Observation

Due to system limitations, bond forfeiture staff is required to manually allocate partial payments into the NISI application. We observed that partial payments received for bond forfeiture cases were not consistently allocated in any particular order of priority. This condition occurred because the County Clerk does not have a clear authoritative guideline for the allocation of partial payments received on bond forfeiture cases.

According to County Clerk staff, legislation does not exist that specifically defines the proper allocation of partial payments made for bond forfeitures. Although the County Clerk has an *Order for Application of Partial Payments of Fines and Court Costs of County Criminal Courts of Tarrant County* dated December 12, 1994, the intent of the Order was for criminal cases and it does not specifically address bond forfeiture cases.

Recommendation

The County Clerk should consult with the District Attorney's Office to determine the appropriate allocation of partial payments collected for fees related to bond forfeiture cases. Since the current NISI application has limited functionality, we recommend that new applications provide the ability to automatically allocate partial payments in accordance with authoritative guidelines.

Observation 2 – Bond forfeiture accounts receivable balances could not be verified.

Observation

We could not verify the accuracy of bond forfeiture accounts receivable balances. The system only allows County Clerk staff to obtain balances as of the date they run the report. For example, staff must run the report at the end of the day on the last day of the month to obtain the accounts receivable balances as of that particular month. The system is set up to automatically generate the report on the last day of the month. Furthermore, accounting staff had not performed a reconciliation of the bond forfeiture accounts receivable balances. *Based on our limited testing, we believe that any over- or under-statement of bond forfeiture accounts receivable balances is immaterial to the County's financial statements.*

Recommendation

Since the current NISI application has limited functionality, any new applications should allow the County Clerk staff to obtain account balances for any designated time frame. Also, County Clerk staff began reconciling bond forfeiture account balances in May 2012.

Observation 3 – Controls were not adequate to ensure that fees and payment information were properly recorded.

Observation

During our review, we observed the following:

1. *Management did not perform a review of fees and receipts manually entered by bond forfeiture staff.* We tested 50 transactions and found one instance where the Clerk Issuance fee was incorrectly assessed, collected, and recorded as \$116 instead of \$16. This occurred because staff is required to manually enter add-on fees, such as abstract and certified mail costs, since those types of fees are not pre-populated into NISI. Ideally, all fees should be pre-populated into the NISI system. Although standard court costs are pre-populated into NISI, add-on fees are not since they are not applicable for all cases.

We recommended that management generate system-generated reports to review the accuracy of fees assessed and receipted into the NISI application. Management began this process in September 2012. *No further recommendation is required.*


2. *The NISI Receipt Program did not store payer information related to partial payments made on cases.* In some instances, we observed that the clerks recorded the payer's name in the "remarks" field. When receipting and recording a full payment, the payer's name was stored in NISI accurately. Clerks had not communicated this issue to management. As a result, payment history did not have complete payer information.

During the audit, we informed Information Technology that the NISI Receipt Program did not store payer information relative to partial payments. IT updated the program so that all future payer information, regardless of whether the amount paid was a full payment or a partial payment, is retained in the NISI Receipt Program. Payer information for past partial payments was not retroactively added into NISI Receipt Program. *No further recommendation is required.*

CLOSING REMARKS

We appreciate the responsiveness and cooperation of County Clerk's Office during our review. Please call me if you have any questions regarding the contents of this report.

Sincerely,



S. Renee Tidwell, CPA
County Auditor

Attachment:
County Clerk's response dated December 3, 2012

Distribution:
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Team:
Kim Trussell, Audit Manager
Maki Ogata, Senior Auditor



MARY LOUISE GARCIA
County Clerk

TARRANT COUNTY COURTHOUSE

100 W. Weatherford, Rm. 130
Fort Worth, Texas 76196-0401

Date: December 3, 2012

To: Renee Tidwell, County Auditor

From: Mary Louise Garcia, County Clerk

Re: BOFO Audit Response

We would like to thank the Auditor's Office for their professionalism and expertise in this audit. As is often the case with departments that rely on the main frame, a significant lack of functionality is noted during an audit. We look forward to the acquisition of a more modern application that satisfies our collective needs and interests. We take no issue with the given recommendations, planning to implement them in the very near future if not having already done so.



Mary Louise Garcia