



COMMISSIONERS COURT
COMMUNICATION

REFERENCE NUMBER CO#123096

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DATE: 08/02/2016

SUBJECT: **RECEIVE AND FILE THE AUDITOR'S REPORT OF THE COUNTY CLERK'S RECORDS PRESERVATION FUNDS**

COMMISSIONERS COURT ACTION REQUESTED:

It is requested that the Commissioners Court receive and file the Auditor's Report of the County Clerk's Records Preservation Funds.

BACKGROUND:

As required by Local Government Code, the Auditor's Office performed an audit of the County Clerk's Records Preservation Funds. The objective of the audit was to determine whether the County Clerk complied with relevant statutes related to expenditures made from the Records Management and Preservation Fund 211 and the Records Archive Fund 213 during FY 2015.

FISCAL IMPACT:

There is no direct fiscal impact associated with this item.

SUBMITTED BY: Auditor's Office

PREPARED BY: S. Renee Tidwell
APPROVED BY:



TARRANT COUNTY
TARRANT COUNTY ADMINISTRATION BUILDING - ROOM 506
100 E. WEATHERFORD
FORT WORTH, TEXAS 76196-0103
817/884-1205
Fax 817/884-1104

S. RENEE TIDWELL, CPA
COUNTY AUDITOR
rtidwell@tarrantcounty.com

CRAIG MAXWELL
FIRST ASSISTANT COUNTY AUDITOR
cmaxwell@tarrantcounty.com

July 15, 2016

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

Re: Auditor's Report – County Clerk, Records Preservation Funds

SUMMARY

As required by Local Government Code, we performed an audit of the County Clerk's Records Preservation Funds. The objective of the audit was to determine whether the County Clerk complied with relevant statutes related to expenditures made from the Records Management and Preservation Fund 211 and the Records Archive Fund 213 during FY2015. As a result of our review, we observed the following:

- Observation 1 Policies and procedures do not exist that describe allowable expenditures to be paid from the Records Management and Preservation Fund 211 and the Records Archive Fund 213.
- Observation 2 The FY2015 budget and the annual plan relative to the Records Archive Fund 213 do not provide sufficient detail.

We discussed these observations with the County Clerk on June 20 and July 13, 2016. Attached is the County Clerk's written response.

BACKGROUND

According to the Texas Constitution, the County Clerk is the clerk and recorder for the County and the Commissioners Court. The County Clerk is also responsible for maintaining and preserving the records of the Commissioners Court and other public documents including deeds, liens, birth certificates, and marriage licenses.

As required by statute, the County Clerk prepares an annual budget for the Records Management and Preservation Fund 211 and the Records Archive Fee Fund 213 for Commissioners Court approval. The Commissioners Court approved that the County Clerk collect \$5 for each of these funds. The FY2015 budget for Fund 211, Records Management and Preservation, totaled \$6,660,571. Of this amount, over \$4 million was undesignated. Actual expenditures recorded to Fund 211 totaled \$1,000,641. The FY2015 budget for Fund 213, Records Archive, totaled \$7,141,323. Of this amount almost \$5 million was undesignated. Actual expenditures recorded to Fund 213 totaled \$3,035,311.

OBSERVATIONS

Observation 1 Policies and procedures do not exist that describe allowable expenditures to be paid from the Records Management and Preservation Fund 211 and the Records Archive Fund 213.

Background

Relative to the Records Management and Preservation fee, Local Government Code Sec. 118.0216(d) states, “*The fee may be used only to provide funds for specific records management and preservation, including for automation purposes.*” The Texas Attorney General’s Opinion No. GA-0118 states that the adjective “specific” is synonymous with the term “distinguishable” suggesting that the legislature intended to limit the use of records management and preservation fees to identifiable purposes only.

Relative to the Records Archive fee, Local Government Code Chapter 118.025(e) states, “*The funds generated from the collection of a fee under this section may be expended only for the preservation and restoration of the county clerk's records archive. The county clerk shall designate the public documents that are part of the records archive for purposes of this section...*” The statute also states that the funds may not be used to purchase, lease, or develop software.

Observation

During our review, we observed that documented policies and procedures do not exist that describe allowable expenditures to be paid from the Records Management and Preservation Fund 211 and the Records Archive Fund 213. Statutes allow significant latitude for the use Funds 211 and 213. Relative to Fund 211, the District Attorney’s Office, stated “*...legislature has attempted to minimize the restrictions on this particular fee to enable wide expenditure of this fee on records related purposes AFTER initial filing and recording of documents...*” The District Attorney’s Office also stated that educational and informational exchanges, such as employee training, legislative discussions related to clerk business and policies, and public dissemination of information generally comply with the definition of “Records Management” as described in the Local Government Code.

Recommendation

To ensure compliance with statutes and the Attorney General’s opinion, we recommend that the County Clerk clearly document allowable expenditures using Funds 211 and 213 in a written policy. At a minimum, the policy should specifically state the following:

- The fee is to be expended on records management and preservation services or purposes.
- The records management and preservation service or purposes must be specific, distinguishable, and identifiable.
- Expending the fee for a general office expense such as an employee salary must be proportionate to the extent that the expense furthers specific records management and preservation purposes.
- The fee may not be used for expenses related to initial filing and recording of a document.

Observation 2 *The FY2015 budget and the annual plan relative to the Records Archive Fund 213 do not provide sufficient detail.*

Background

Local Government Code 118.025(g) states, “...the county clerk shall prepare an annual written plan for funding the preservation and restoration of the county clerk's records archive....**Funds from the records archive account may be expended only as provided by the plan.** (Emphasis added.)

Observation

We observed that the FY2015 budget and the annual plan relative to the Records Archive Fund 213 do not provide sufficient detail. Specifically, the annual plan did not include a description of the types of expenditures and an estimated budget relative to each project. Therefore, we could not determine whether expenditures made from the fund were relevant to a specific project described in the plan.

Recommendation

To ensure compliance with statute, we recommend that the County Clerk include a detailed expenditures budget for each project included in the annual plan. Documentation supporting any expenditure made from Fund 213 should also reference a specific project included in the annual plan.

CLOSING REMARKS

We appreciate the assistance and the cooperation of the County Clerk's staff during this audit. If you have any questions, please do not hesitate to call.

Sincerely,


S. Renee Tidwell, CPA
County Auditor

Attachment: Management's response

Distribution: Jeff Nicholson, Chief Deputy
James Knowles, Accounting Manager

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



Mary Louise Garcia
County Clerk

TARRANT COUNTY COURTHOUSE

100 W. WEATHERFORD
Fort Worth Texas 76196-0401

Date: July 21, 2016

From: Mary Louise Garcia, Tarrant County Clerk [REDACTED]

To: Renee Tidwell, County Auditor

Reference: County Clerk Records Preservation Fund Audit Response

I would like to thank the Auditor's Office for their approach and professionalism in this audit. We take our responsibility for expending public money very seriously, and appreciate the Auditor's Office partnership to ensure we do so in compliance with all applicable statutes.

Observation 1 - Policies and procedures do not exist that describe allowable expenditures to be paid from the Records Management and Preservation Fund 211 and the Records Archive Fund 213.

A policy is currently being drafted to include the language recommended by the Tarrant County CDA, and subsequently recommended by the Auditor's Office.

Observation 2 - The FY2015 budget and the annual plan relative to the Records Archive Fund 213 do not provide sufficient detail.

Local Government Code 118.025(g) requires the clerk's annual plan to designate those documents that are considered part of the records archive and subject to preservation and restoration. Expenditures from the fund are then made only on those documents identified in the annual plan. Consequently, the Tarrant County Clerk Office believes they fully comply with the statute- "*Funds from the records archive account may be expended only as provided by the plan*". There is no requirement to identify specific projects or their budget. Limiting preservation and restoration efforts to only those items identified and budgeted in an annual plan eliminates the agility and fluidity necessary to effectively perform the duties of the office. However, in recognition of the auditor's recommendation, the clerk's office will attempt to provide greater detail in the annual plan as to what will be the areas of focus in the coming year.