

# GALVESTON COUNTY



## Office of County Auditor

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April 5, 2021

Honorable Mark A. Henry, County Judge, and  
Members of the Commissioners Court

Honorable Mark A. Henry and Members of the Court:

Attached for your consideration is the internal audit report of the District Clerk's Registry and Trust Audit that covered the period January 1, 2020 through December 31, 2020. Also attached is the response letter from Honorable John D. Kinard, dated March 22, 2021.

Sincerely,

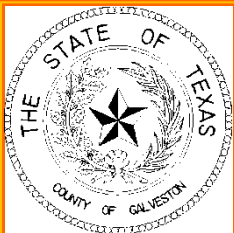
*Randall Rice CPA*

Digitally signed by Randall Rice  
CPA  
Date: 2021.03.29 12:55:42 -05'00'

Randall Rice CPA  
County Auditor

cc: Honorable John D. Kinard

Attachment: District Clerk's Registry & Trust Audit Report  
Response Letter, Honorable John D. Kinard



# District Clerk's Registry and Trust Audit

March 1, 2021

Galveston  
County  
Internal Audit Division

Randall Rice CPA  
CITP CISA CIO CBM DABFA CGMA  
County Auditor

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# Executive Summary

## Reliability and Integrity of Information (page 3)

- Internal controls for daily operations are sufficient to ensure proper separation of duties.
- CD investment account balances were confirmed.

## Safeguarding of Assets (page 4)

- Physical security over assets (collections) is adequate.
- The District Clerk's Office should review the outstanding adjustments to determine the cause of the discrepancies. Corrective action should be taken to resolve the issues.

## Compliance with Statutes, Policies and Procedures (page 5-6)

- Court orders were followed regarding invested and un-invested funds in the registry.
- All disbursements tested for interest bearing accounts were in compliance with LGC §117.054 County Expense Paid From Interest.
- All disbursements tested for administrative fees were in compliance with LGC §117.055 County Expenses Paid From Fees.
- Excess proceeds cases tested were in compliance with TC §34.03 Distribution of Excess Proceeds.
- No material discrepancies were noted when escheating funds in accordance with LGC §117.002 Transfer of Unclaimed Funds to Comptroller.

# Introduction

The Internal Audit Division conducted an internal audit of the District Clerk's Registry and Trust Accounts, in accordance with Local Government Code (LGC) §115. The internal audit covered the period January 1, 2020 through December 31, 2020. The audit was performed from February 3, 2021 through February 26, 2021.

The primary objectives of the internal audit are to provide reasonable assurance concerning:

- Reliability and integrity of the information
- Safeguarding of assets
- Compliance with laws, regulations, contracts, policies, plans and procedures

The scope of the internal audit encompassed the financial records and administrative procedures related to the District Clerk. The internal audit included, but was not limited to, the books, accounts, reports, dockets and records of the District Clerk.

The internal audit included examining transactions on a test basis, and required exercising judgment in the selection of such tests. As the internal audit was not a detailed examination of all transactions, there is a risk that errors or fraud were not detected during the internal audit. The official therefore retains the responsibility for the accuracy and completeness of the financial information.

Because of certain statutory duties required of the County Auditor, we are not independent with regard to the Galveston County District Clerk, as defined by the AICPA professional standards. However, our internal audit was performed with objectivity and due professional care.

Jessica Gaul, Internal Auditor, performed the audit.

# Reliability and Integrity of Information

Reliable information is accurate, timely, complete and useful. In order to achieve this, controls over record keeping and reporting must be adequate and effective.

## Separation of Duties

One of the most important internal controls is to have proper separation of duties. No one person should be able to authorize, record and void transactions and have custody of the assets.

The office has procedures in place to separate custody of assets from recording and authorization functions. Check writing procedures ensure check preparers do not retain custody of checks after being signed by management. A non-check writing employee distributes signed checks to recipients instead of employees who prepared checks.

Check writing and approval authority within Odyssey is governed by access rights controlled by the District Clerk. Checks are printed by a laser printer and signed by administrative supervisors.

The office has effective separation of duties.

## Certificate of Deposits (CDs)

The District Clerk is responsible for maintaining and managing the trust accounts in accordance with orders from District Courts. The court management system the office uses is Odyssey.

Odyssey does not have the capability to calculate accrued interest for the investment accounts. The office's policy is to record interest in Odyssey according to bank statements sent to the office each period. Each trust account's period is dependent on the CD contract with the bank: monthly, quarterly or at maturity date.

Of the sample tested, all funds invested in CD's on the behalf of minors were in agreement with the amounts on the court orders. The CD's are valued correctly according to the terms of the CD contract. The interest earned on the CD's is being entered into Odyssey timely and accurately.

# Safeguarding of Assets

Safeguarding of assets has three basic components: 1) physical security of assets, 2) minimal exposure to loss and 3) proper management of the assets.

## Physical Security

Physical security encompasses all methods used to physically secure the assets from loss. Assets not being used should be kept in a locked drawer or safe until they are needed.

Controls are in place to ensure staff uses lockable cabinet drawers and a safe to secure the financial assets in the office.

## Management of Assets

Properly prepared and adequately supported bank reconciliations are one of the best methods of cash management available to any official. The reconciliation process identifies any discrepancies in the registry and trust accounts and assists in preventing the misuse of funds. The District Clerk's Office submits bank reconciliations to the Auditor's Office each month for the Registry Interest, Civil Non-Interest and Child Support Accounts. As part of the internal audit testing, the auditor performed proper four-column bank reconciliations for each bank account.

**Finding:** The District Clerk's Office has outstanding adjustments that need to be addressed regarding the non-interest bearing civil account.

**Recommendation DCR&T-21-01:** The District Clerk's Office should review the outstanding adjustments to determine the cause of the discrepancies. Corrective action should be taken to resolve the issues.

# Compliance with Statutes, Policies and Procedures

As part of the audit, the auditor evaluated the adequacy and effectiveness of internal controls in responding to risks within the District Clerk's operations and governance regarding compliance with laws, regulations and contracts.

## Compliance with Court Orders

All funds placed into the district court registry (invested and un-invested) are court order driven. The auditor tested a sample of invested and un-invested funds to verify the deposits into the registry were made in accordance with the court orders. No exceptions were noted.

## LGC §117.054 County Expenses Paid From Interest

LGC §117.054 states: "(a) If a special or separate account earns interest, the clerk, at the time of withdrawal, shall pay in a manner directed by a court with proper jurisdiction the original amount deposited into the registry of the court and any interest credited to the account in the manner calculated in Subsection (b). (b) The interest earned on a special account or a separate account shall be paid in the following amounts: (1) 10% of the interest shall be paid to the general fund of the county to compensate the county for the accounting and administrative expenses of maintaining the account; and (2) 90% of the interest shall be credited to the special or separate account." Attorney General Letter Opinion No. 98-106 further reiterates the state's position that 10% of interest accrued belongs to the county upon withdrawal.

All disbursements tested for interest bearing accounts had corresponding court orders signed by the judge authorizing both a release of the account owner's money and an administrative fee made payable to the county for rendering services.

## LGC §117.055 County Expenses Paid From Fees

LGC §117.055 states: "(a) To compensate the county for the accounting and administrative expenses incurred in handling the registry funds that have not earned interest, including funds in a special or separate account, the clerk shall, at the time of withdrawal, deduct from the amount of the withdrawal a fee in an amount equal to five percent of the withdrawal but that may not exceed \$50. Withdrawal of funds generated from a case arising under the Family Code is exempt from the fee deduction provided by this section."

All disbursements tested for non-interest bearing accounts had corresponding court orders signed by the judge authorizing a release of funds and had a five percent deduction (not to exceed \$50) made payable to the county for rendering services when applicable.

## **Compliance with Statutes, Policies and Procedures (continued)**

### **Tax Code (TC) §34.03 Distribution of Excess Proceeds**

TC §34.03 states: “(a) The clerk of the court shall: (1) if the amount of excess proceeds is more than \$25, before the 31st day after the date the excess proceeds are received by the clerk, send by certified mail, return receipt requested, a written notice to the former owner of the property, at the former owner's last known address according to the records of the court or any other source reasonably available to the court, that: (A) states the amount of the excess proceeds; (B) informs the former owner of that owner's rights to claim the excess proceeds under Section 34.04; and (C) includes a copy or the complete text of this section and Section 34.04; and (2) regardless of the amount, keep the excess proceeds paid into court as provided by Section 34.02(d) for a period of two years after the date of the sale unless otherwise ordered by the court. (b) If no claimant establishes entitlement to the proceeds within the period provided by Subsection (a), the clerk shall distribute the excess proceeds to each taxing unit participating in the sale in an amount equal to the proportion its taxes, penalties, and interests bear to the total amount of taxes, penalties, and interest due all participants in the sale. (c) The clerk shall note on the execution docket in each case the amount of the excess proceeds, the date they were received, and the date they were transmitted to the taxing units participating in the sale. Any local government record data may be stored electronically in addition to or instead of source documents in paper or other media.”

All excess proceeds cases tested were in compliance with TC §34.03.

### **LGC §117.002 Transfer of Unclaimed Funds to Comptroller**

LGC §117.002 states: “Any funds deposited under this chapter, except cash bail bonds, that are presumed abandoned under Chapter 72, 73, or 75, Property Code, shall be reported and delivered by the county or district clerk to the comptroller without further action by any court. The dormancy period for funds deposited under this chapter begins on the later of:

(1) the date of entry of final judgment or order of dismissal in the action in which the funds were deposited; (2) the 18th birthday of the minor for whom the funds were deposited; or (3) a reasonable date established by rule by the comptroller to promote the public interest in disposing of unclaimed funds.”

No material exceptions were found in reviewing escheated funds.





**COUNTY of GALVESTON**  
District Clerk  
**JOHN D. KINARD**

March 22, 2021

Mr. Randall Rice  
Galveston County Auditor  
722 Moody  
Galveston, TX 77550

*RE: District Clerk Response to Draft Internal Fee & Registry and Trust Audit FY 2020*

Dear Mr. Rice:

Our office has received and reviewed the Drafts Internal Audits Reported dated January 1, 2020 through December 31, 2020. We concur with the findings listed in the Reports, and would offer the following as our response to the same:

District Clerk Registry and Trust:

1. DCR&T-21-01: Management of Assets - Agree. Working with Auditors Office to correct the non-interest bearing Civil account outstanding adjustments.

Thank you in advance for your attention to this matter. Please do not hesitate to contact me if you have any questions, or if you are in need of any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Kinard".

John D. Kinard

District Clerk Galveston County