



Office of Court Administration

Collection Improvement Program

Independent Auditor's Report on Court Collections

City of Brownsville

October 11, 2016

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EXECUTIVE SUMMARY

Audit Results

The Collection Improvement Program (CIP) Audit Department of the Office of Court Administration (OCA) has performed the procedures enumerated below, which were agreed to by the CIP Technical Support Department of the OCA and the City of Brownsville (City). The procedures were performed to assist you in evaluating whether the collection program of the City has complied with Article 103.0033 of the Code of Criminal Procedure and Title 1, §175.3 of the Texas Administrative Code (TAC).

Our testing indicates the collection program for the City is not compliant with the requirements of Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3. In testing the required components, the City was found to be out of compliance with one (1) component. According to Section 133.058(e) of the Local Government Code, the City has 180 days to re-establish compliance in order to continue retaining a service fee for the collection.

We were not engaged to, and did not, conduct an examination of the City, the objective of which would be the expression of an opinion on the City's financial records. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters may have come to our attention that would have been reported to you.

The City of Brownsville's management is responsible for operating the collection program in compliance with the requirements of Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3.

The sufficiency of these procedures is solely the responsibility of the CIP Technical Support Department of the OCA, and we make no representation regarding the sufficiency of the procedures for the purpose for which this report has been requested or for any other purpose.

The compliance engagement was conducted in accordance with standards for an agreed-upon procedures attestation engagement as defined in the attestation standards established by the American Institute of Certified Public Accountants.

Objective

The objective of the engagement was to determine if the City complied with Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3.

Summary of Scope and Methodology

This compliance engagement covers cases for which court costs, fees, and fines were assessed during the period of July 1, 2015 through August 31, 2015, but were not paid at the time of assessment. Cases were tested beyond the audit period to determine compliance with all components of the collection program. The procedures performed are enumerated in the Detailed Procedures and Findings section of this report.

Reporting of Sampling Risk

In performing the procedures, the auditor did not include a detailed inspection of every transaction. A random sample of cases was tested as required by 1 TAC §175.5(b). In consideration of the sampling error inherent in testing a sample of a population, a specific error rate cannot be reported; however, we can report the range within which we have calculated the error rate to fall.

DETAILED PROCEDURES AND FINDINGS

1. *Obtain a population of all adjudicated cases in which the defendant does not pay in full within one (1) month of the date court costs, fees, and fines are assessed.*

The City of Brownsville provided a list of defendants who accepted a payment plan as means to pay their court costs, fees, and fines assessed for the period of July 1, 2015 through August 31, 2015. The City of Brownsville provided a population of cases for testing compliance.

2. *Select a randomly-generated, statistically-valid sample of cases to be tested.*

In order to ensure the population of cases tested fell within the scope of the engagement, the following procedures were performed. The cases provided by the City were reviewed and all ineligible cases were removed. There were two samples of potentially eligible cases. The first population contained 1,888 cases. Of the 1,888 cases 30 cases were tested on-site for scope eligibility; it was determined through the review of cases the majority of the cases in the sample did not meet the scope criteria. The second sample of 520 cases were tested on-site; it was determined, through testing, the cases in the sample met the scope criteria. Of the 520 eligible cases, 164 cases were identified with a Capias Pro Fine warrant issued. A proportionate sample population was used in procedure steps 9, 10, 12, 13 and 14.

Testing for procedures 8 through 14 below were as follows:

Procedure 8 included a sample of 76 cases;
Procedure 9 included a sample of 64 cases;
Procedure 10 included a sample of 39 cases;
Procedure 11 included a sample of 40 cases;
Procedure 12 included a sample of 34 cases;
Procedure 13 included a sample of 35 cases;
Procedure 14 included a sample of 34 cases.

3. *Obtain a completed survey, in a form prescribed by CIP Audit, from the jurisdiction.*

A completed survey was obtained from each collection program, and reviewed for information pertinent to the engagement. Survey responses were used to determine compliance in procedures 4 through 6 below.

4. *Evaluate the survey to determine if each local collection program has designated at least one (1) employee whose job description contains an essential job function of collection activities. Answers received will be verified during field work.*

The City of Brownsville does have dedicated personnel in which collection duties are essential job functions in their job descriptions. While on-site, the auditor met, observed, and discussed the dedicated staff's collection program responsibilities.

The City is compliant with this component.

5. *Evaluate the survey to determine if program staff members are monitoring defendants' compliance with the terms of their payment plans or extensions. Answers will be verified through testing of Defendant Communication components.*

The City collection program uses an in-house software collection system, RevQ, to monitor defendants' compliance with the terms of their payment plans or extensions. They run a delinquency report and monitor plans using this system. This was confirmed to be the process while on-site during the engagement.

The City is compliant with this component.

6. *Evaluate the survey to determine if the program has a component designed to improve collection of balances more than 60 days past due. Answers will be verified through testing of Defendant Communication components.*

The City issues Capias Pro Fine warrants to address seriously delinquent cases. Additionally, City staff continue making phone calls and sending letters on these cases after 60 days. This was observed while on-site during the engagement.

The City is compliant with this component.

7. *Verify with CIP Technical Support and/or CIP Audit Financial Analyst(s) that the program is compliant with reporting requirements described in 1 TAC §175.4.*

The City is current with reporting requirements based on the reporting activity documented in the OCA's CIP Court Collection Report software.

The City is compliant with this component.

8. *Test samples generated in Procedure 2 (above) to determine if an application or contact information was obtained within one (1) month of the assessment date, and contains both contact and ability-to-pay information for the defendant.*

Of the 76 cases tested, 14 errors were noted. Taking into consideration the inherent sampling error, we are 95% confident that the error rate is between 9.86% and 26.98%.

The City is compliant with this component.

9. *Test samples generated in Procedure 2 (above) to determine if contact information obtained within the application was verified within five (5) days of obtaining the data.*

Of the 64 cases tested, 48 errors were noted. Of the 48 errors noted seven (7) cases indicated that the contact information, references and/or employer information and telephone numbers were outside of the United States. These cases were documented as information verified. However, the City of Brownsville telephone system is not able to dial telephone numbers

outside of the United States. In the remaining 41 cases the City of Brownsville did not document the staff member conducting the verification or the date the verification was conducted. TAC §175(c)(2) states “program staff must verify both the home or contact telephone number and the employer or source of support must be documented, as applicable.” “Verification must be documented by identifying the person conducting it and the date.” The verification of the home or contact telephone number and the employer or source of support was not consistently documented by identifying the person conducting the verification process and documenting the date the verification process took place. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 62.13% and 82.48%.

The City is not compliant with this component.

Management Response:

See Appendix B

10. *Test samples generated in Procedure 2 (above) to determine if local program or court staff conducted an interview with the defendant within 14 days of receiving the application.*

Of the 39 cases tested, one (1) error was noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 7.34%.

The City is compliant with this component.

11. *Test samples generated in Procedure 2 (above) to determine if the payment plans meet the Documentation, Payment Guidelines, and Time Requirements standards defined in TAC §175.3(c)(4).*

Of the 40 cases tested, zero (0) errors were noted. Taking into consideration the inherent sampling error, we are 95% confident that the error rate is less than 4.23%.

The City is compliant with this component.

12. *Test samples generated in Procedure 2 (above) to determine if telephone contact with the defendant within one (1) month of a missed payment was documented.*

Of the 34 cases tested, three (3) errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 18.04%.

The City is compliant with this component.

13. *Test samples generated in Procedure 2 (above) to determine if a written delinquency notice was sent to the defendant within one (1) month of a missed payment.*

Of the 35 cases tested, three (3) errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 17.53%.

The City is compliant with this component.

14. *Test samples generated in Procedure 2 (above) to determine if another attempt of contact, either by phone or by mail, was made within one (1) month of the telephone contact or written delinquency notice, whichever is later, on any defendant in which a capias pro fine was sought.*

Of the 34 cases tested, six (6) errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 5.26 and 30.04%.

The City is compliant with this component.

15. *Make a determination, based on results of the testing in Procedures 5 – 14 (above), as to whether the jurisdiction is compliant with Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3 based on the criteria defined in 1 TAC §175.5(c).*

The City of Brownsville is not compliant with Article 103.00.33 of the Code of Criminal Procedure and 1 TAC §175.3 based on the criteria defined in 1 TAC §175.5(c). The City complied with all four (4) of the Operational Components; however, the City was out of compliance with one (1) of the seven (7) Defendant Communication Components. To be in compliance with Rule 175.5(c)(2), only one (1) of the components can be 50% while all others must be at least 80%. No percentage can be less than 50%.

Management Response:

See Appendix B

APPENDICES

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The CIP Audit Department of the Office of Court Administration applied procedures, which the CIP Technical Support Department (client) and the City of Brownsville (responsible party) have agreed-upon, to determine if the City's collection program is compliant with Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3.

Scope

This compliance engagement covers cases for which court costs, fees, and fines were assessed during the period of July 1, 2015 through August 31, 2015, but were not paid at the time of assessment. Cases were tested beyond the audit period to determine compliance with all components of the collection program. All cases that included court costs, fees, and fines that totaled \$10.00 or less were removed from testing.

Methodology

The CIP Audit Department performed the procedures outlined in the Detailed Procedures and Findings section of this report to test records to enable us to issue a report of findings as to whether the City has complied, in all material respects, with the criteria described in Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3.

In performing the procedures, the 'tests' the auditor performed included tracing source documentation provided by the City to ensure the collection process met the terms of the criteria listed. Source documents include, but are not limited to, court dockets, applications for a payment plan, communication records, capias pro fine records, and payment records.

Criteria Used

Code of Criminal Procedure, Article 103.0033
Texas Administrative Code, Title 1, §175.3

Team Members

David Cueva CFE; Interim Audit Manager
Barbara Skinner; Auditor

Hon. Ben R. Neece
Presiding Judge



To: Mr. David Cueva
City of Brownsville, TX
Interim Audit Manager

From: Ben R. Neece
Municipal Presiding Judge
City of Brownsville – Municipal Court

Re: Response of Municipal Court of the City of Brownsville
to Draft Report submitted by OCA.

Dear Mr. Cueva,

The City of Brownsville Municipal Court (COBMC) acknowledges receipt of the report. However, the COBMC is not in agreement with the findings regarding component number 9. We believe that our program is in compliance. Furthermore, we feel that the methodology involved in the audit was flawed, since it was developed during the period which was audited and, more importantly, differentiate border courts from non-border courts, by not taking into consideration, special circumstances we have, e.g. having a large number defendants, who reside across the border from us, in Matamoros, Tamaulipas, Mexico. These and other shortcomings of the methodology of the audit were discussed with Mr. Castillo and Mr. Lehman, in person, and with Ms. Skinner via phone conversations.

Due to the inconsistencies in your audit methodology, we have been adversely affected by such inconsistencies, since we know, our program is one of the best programs in our region and the collected amounts can prove that. Also, our program does not have support from a private Collection Agency. We do everything in house, and yet, we are competing with courts of same size, which have Collection Agencies in place. Therefore, the audit gives the impression that we are, somehow, deficient in our operations.

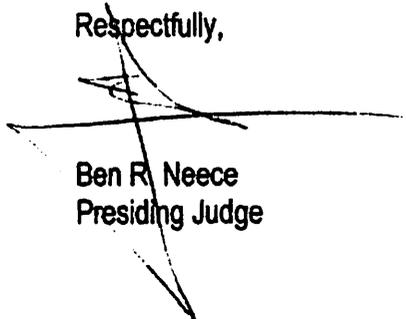
Therefore, this Court will address the issue raised in component 9 of the Audit Report, as a Final Report, but please let it be noted that we are doing so under protest, and pending a request for an appeal of the Report findings and conclusions. Unfortunately, it appears that your audit procedure does not offer due process to Courts to defend themselves or raise concerns with the process, which is another deficiency in the development of your auditing process.

At this point, we are declaring ourselves **In Compliance** with component number nine (9) "Test samples generated in Procedure 2 (above) to determine if contact information obtained within the application was verified within five (5) days of obtaining the data."

Subject to the above, we are requesting you accept our **declaration of compliance** and proceed with the next step. As per our previous conversation, the next step is a second audit to our Court to review the failing component. We are also requesting that the process be expedited and we're hoping to finalize the entire Audit process by no later November of the present year.

Please let me know if you have any questions or need additional information.

Respectfully,



Ben R. Neece
Presiding Judge

City of Brownsville, Texas

1034 E. Levee Street, Brownsville, Texas 78520 Telephone: 956-574-6637

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Auditor's Notes

This engagement measures the City of Brownville's compliance with the rules governing the Collection Improvement Program. As such, the collection program within the jurisdiction was tested for compliance with the requirements of Article 103.0033 of the Code of Criminal Procedure and 1 TAC § 175.3.

1 TAC § 175.3(c)(2) requires verification of defendant's home or contact telephone number and the employer or source of support. Verification must be documented by identifying the person conducting it and the date. The verification of the home or contact telephone number and the employer or source of support was not consistently documented by identifying the person conducting the verification process and documenting the date the verification process took place. The auditor verified this process while on-site.

While the jurisdiction stated they should receive special consideration for having a larger number of defendants that reside across the border, this is not unique to the City of Brownsville. Of the 64 cases tested, 48 errors were noted. Of the 48 errors noted only seven (7) cases indicated that the contact information, references and/or employer information and telephone numbers were outside of the United States.

In the remaining 41 cases the City of Brownsville did not document the staff member conducting the verification or the date the verification was conducted. TAC §175(c)(2) states "program staff must verify both the home or contact telephone number and the employer or source of support must be documented, as applicable." "Verification must be documented by identifying the person conducting it and the date." The verification of the home or contact telephone number and the employer or source of support was not consistently documented by identifying the person conducting the verification process and documenting the date the verification process took place. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 62.13% and 82.48%.

Based on the audit findings noted above and within this report, the City of Brownsville is not compliant with Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3 based on the criteria defined in 1 TAC §175.5(c).

REPORT DISTRIBUTION

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