



Office of Court Administration

Collection Improvement Program

**Independent Auditor's Report
on Court Collections**

Webb County

June 15, 2015

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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 Webb County (County). The procedures were performed to assist you in evaluating whether the collection program of the County has not 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 County 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 County was found to be out of compliance with two Local Program Operations Components and the Defendant Communication Components could not be tested. According to Section 133.058(e) of the Local Government Code, the County has 180 days to re-establish compliance in order to continue retaining a service fee for the county's collection efforts.

We were not engaged to, and did not, conduct an examination of the County, the objective of which would be the expression of an opinion on the County'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 Webb County'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 County 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 December 1, 2013 through January 31, 2014, 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.

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 County was not able to provide a list of defendants that were assessed court costs, fees and fines from December 1, 2013 – January 31, 2014; nor could the County identify the defendants in that population of cases who did not pay in full at the time of assessment. Limitation in the case management processes, as well as issues with the case management software, prevent the county from identifying the cases adjudicated during the audit period. Issues within the process that contributed to this include:

- Staff of the Justice Courts are not consistently capturing important court-related dates manually or in the case management system, including the date the defendant enters a plea, the date a judgment is rendered, and the date a sentence is announced in open court.
- Staff of the County and District Courts appear to be capturing the important court-related dates; however, these dates are entered in a ‘notes’ field of the case management system. The ‘notes’ field cannot be queried for information; therefore, a manual review of case files or the case management system ‘notes’ field is required to identify the cases described in this procedure. These courts were not asked to go through that process for this review as we could not get the same information for the justice courts, so testing could not be completed; however, these courts may be able to identify the cases adjudicated during the audit period.
- Court staff enter cases into the case management system but are required to return to the record to add the court costs, fees, and fines at a later time. Entering the case creates a File Date in the system; entering the amounts due for the offense creates an Assessment Date in the system. The date created does not represent a true Assessment Date as defined by the date court costs, fees, and fines become due from the defendant. Therefore, Assessment Date cannot be relied on to identify cases where court costs, fees, and fines were assessed during a specific time period.
- In the office of Justice of the Peace, Precinct 2, Place 1 (JP 2-1), cases were coded with ‘dismissal’ codes to allow staff to close the case. These codes were used because more accurate, descriptive codes were not available. This creates discrepancies in the case management system from the actual disposition that requires manual research of cases to discover the true disposition of cases. This was apparent when analysis showed court costs, fees, and fines were collected on cases that were coded as ‘dismissed’.

Management Response:

See Appendix B

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

Not all of the courts in the County were able to provide a list of defendants that were assessed court costs, fees and fines from December 1, 2013 – January 31, 2014; nor could those courts identify the defendants in that population of cases who did not pay in full at the time of assessment. As a result, a randomly-generated, statistically-valid, sufficient sample of cases could not be generated.

Management Response:

See Appendix B

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

A completed survey was obtained and reviewed for the central collection program for information pertinent to the engagement. Survey responses were used to determine compliance with Procedures four (4) through six (6), listed below.

JP 2-1, a court that does not participate in the central collection program, did not submit the compliance survey.

Management Response:

See Appendix B

4. *Evaluate the survey to determine if the 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 central collection program has at least one staff member whose job functions included collection activities for the county. During the field audit process the auditor met, observed, and discussed the County's collection activities with the collection staff member.

During the preliminary on-site visits, Auditors discussed the collection activities with the Court Administrator and a staff member at JP 2-1. The Court Administrator indicated there was a staff member responsible for collection activities, and the auditor was able to verify that certain components of the CIP were being completed. It appears there is a staff member who dedicates at least part of her time to collection efforts.

The County is compliant with this component.

Management Response:

See Appendix B

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 County cannot properly monitor all payment plans and extensions granted to defendants who do not pay court costs, fees, and fines at the time of assessment. As reported in Procedure one (1), the County was not able to identify a list of defendants that were assessed court costs, fees and fines from December 1, 2013 – January 31, 2014; nor could the County identify the defendants in that population of cases who did not pay in full at the time of assessment. Several factors are listed that contribute to these limitations.

In addition there are control weaknesses in the collection process that do not allow all payment plans and extensions to be properly monitored.

- Without the proper dates being captured, justice court staff cannot distinguish between a case that was adjudicated and referred to the central collection program, a case that was adjudicated and given an extension to pay, and a case where the defendant failed to appear at the court. The true disposition of the case could not definitively and consistently be determined as the case information is not always captured on the case file nor in the case management system.
- There is no reconciliation of defendants referred to the central collection department from the Justice Courts to the defendants that arrived at the central collection department and created a payment plan. As such, monitoring the defendants for compliance with the judge's order to pay court costs, fees, and fines is a difficult and inconsistent process. Compliance requirements cannot be performed as there is no way for the central collection program to know which defendants did not make it to the office to initiate a payment plan.

Although testing could not be performed, the County appears to monitor defendant compliance with the terms of their payment plans, if and when defendants create a payment plan with the central collection department. The central collection department monitors the plans for all courts except JP 2-1. The collection staff member tracks defendants on a spreadsheet. The spreadsheet is reviewed monthly and updated when collection activities occur. Notices are mailed and phone calls are made when defendants become delinquent.

JP 2-1 described a manual system in place to monitor defendants' compliance with payment plans and extensions. The manual file system is reviewed monthly and updated when collection activities occur.

The County is not compliant with this component.

Management Response:
See Appendix B

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

The County has designed a program for the collection of outstanding balances more than 60 days past due. Collection staff monitor the tracking spreadsheet to identify defendants that have become seriously delinquent. A notice is sent to the appropriate court or the Probation Office Supervisor.

In addition, the County uses a third-party collection firm to continue collection efforts with defendants in a seriously delinquent status. Cases are referred to the collection firm, and a 30% collection fee is added to the amount owed by the defendant.

The County is compliant with this component.

Management Response:
See Appendix B

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 County is not current with reporting requirements based on the reporting activity documented in the CIP Court Collection Report (CCCR) software. The County reported the first quarter (January, February, and March) of 2013 for District and Justice Courts. The County entered and 'saved' reports for the first two quarters of 2014 (January through June), however, the reports were not 'submitted' in the system. During the audit, the County worked with the OCA Financial Analyst to correct this issue. No collection activity for the County Courts-at-Law have ever been reported to the CCCR.

While there is information reported for the Justice Courts in the CCCR, JP 2-1 was not aware of the CIP reporting requirement. As this court does not refer cases to the central collection program, we could not determine if their information was included in the CCCR reporting for the Justice Courts.

The County is not compliant with this component.

Management Response:
See Appendix B

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

The County was not able to provide a list of defendants that were assessed court costs, fees and fines from December 1, 2013 – January 31, 2014; nor could the County identify the defendants in that population of cases who did not pay in full at the time of assessment. As a result, a randomly-generated, statistically-valid sample of cases could not be generated.

Management Response:

See Appendix B

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.*

The County was not able to provide a list of defendants that were assessed court costs, fees and fines from December 1, 2013 – January 31, 2014; nor could the County identify the defendants in that population of cases who did not pay in full at the time of assessment. As a result, a randomly-generated, statistically-valid sample of cases could not be generated.

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.*

The County was not able to provide a list of defendants that were assessed court costs, fees and fines from December 1, 2013 – January 31, 2014; nor could the County identify the defendants in that population of cases who did not pay in full at the time of assessment. As a result, a randomly-generated, statistically-valid sample of cases could not be generated.

Management Response:

See Appendix B

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).*

The County was not able to provide a list of defendants that were assessed court costs, fees and fines from December 1, 2013 – January 31, 2014; nor could the County identify the defendants in that population of cases who did not pay in full at the time of assessment. As a result, a randomly-generated, statistically-valid sample of cases could not be generated.

One office described the process of creating payment plans where some defendants of limited income are instructed to ‘pay whatever you can, when you can.’ While testing could not be performed to determine if the courts are in compliance with the Payment Terms component of the CIP, the process described may be inconsistent with Article 45.041(b-2) of the Code of Criminal Procedure, which provides that, when imposing a fine and costs, if the judge determines that the defendant is unable to immediately pay, the judge shall allow the defendant to pay the fine and costs “in specified portions at designated intervals.”

Management Response:

See Appendix B

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.*

The County was not able to provide a list of defendants that were assessed court costs, fees and fines from December 1, 2013 – January 31, 2014; nor could the County identify the defendants in that population of cases who did not pay in full at the time of assessment. As a result, a randomly-generated, statistically-valid sample of cases could not be generated.

Management Response:

See Appendix B

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.*

The County was not able to provide a list of defendants that were assessed court costs, fees and fines from December 1, 2013 – January 31, 2014; nor could the County identify the defendants in that population of cases who did not pay in full at the time of assessment. As a result, a randomly-generated, statistically-valid sample of cases could not be generated.

Management Response:

See Appendix B

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.*

The County was not able to provide a list of defendants that were assessed court costs, fees and fines from December 1, 2013 – January 31, 2014; nor could the County identify the defendants in that population of cases who did not pay in full at the time of assessment. As a result, a randomly-generated, statistically-valid sample of cases could not be generated.

Management Response:
See Appendix B

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).*

Webb County is not compliant with Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3. The County failed two (2) of the four (4) Operational Components for the collection program. To be in compliance overall, the County must be in compliance with all four (4) Operational Components.

In addition, not all of the courts in the county were able to provide a list of defendants that were assessed court costs, fees, and fines from December 1, 2013 – January 31, 2014; nor could those courts identify the defendants in that population of cases who did not pay in full at the time of assessment. As a result, a randomly-generated, statistically-valid, sufficient sample of cases could not be generated, and the seven (7) Components for Defendant Communications could not be tested. Only testing in a subsequent follow-up engagement can determine if the County is in compliance with these components.

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 Webb County (responsible party) have agreed-upon, to determine if the County'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 December 1, 2013 through January 31, 2014, 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 County 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 County 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

Greg Magness, CIA, CGAP; Audit Manager
Barbara Skinner; Auditor



Webb County Commissioners Court

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May 22, 2015

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Mr. Magness,

In response to the Independent Auditor's Draft Report on Court Collection which found Webb County in non-compliance with the requirements of Code of Criminal Procedure §103.0033 and 1 Texas Administrative Code §175.3, Webb County agrees with all the issues reported. Webb County is committed to re-establishing compliance in a joined effort of the District/County/Justice Courts, District/County Clerks, Judicial Collections department, Information Technology department, Auditor's office with the assistance of Aurora Zamora (OCA court services consultant), and the full support of the Webb County Commissioners Court.

As we had discussed in prior meetings, the County's biggest weakness is the current judicial software, New Worlds Systems (NWS), not being fully utilized. Some courts capture information in different fields, information is not captured at all and/or information is maintained manually (logs) thus, creating a limitation in obtaining the data requested for the Audit. Webb County will revise the current processes so information such as dates and activity types can properly post to the correct fields of the electronic docket. This review will assist the county in preparing for transitioning into the new judicial software, Odyssey.

Webb County takes these issues being brought forth very seriously and greatly appreciates your assistance in re-establishing compliance.

Sincerely,



Leroy R. Medford
Executive Administrator

Cc: Webb County Commissioners Court

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