



# **Office of Court Administration**

## **Collection Improvement Program**

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

**Maverick County**

**February 3, 2016**

# CONTENTS

Transmittal Letter	
Executive Summary .....	1
Detailed Procedures and Findings .....	2
Appendix A – Objective, Scope, and Methodology .....	10
Appendix B – Management Response.....	11
Appendix C – Report Distribution.....	12

# 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 Maverick County (County). The procedures were performed to assist you in evaluating whether the collection program of the County 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 three (3) of the four (4) Operational Components, and out of compliance with four (4) of the seven (7) Components for Defendant Communication. 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, as well as the County's share of the Time Payment Fee.

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.

Maverick 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 September 1, 2014 through October 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 complete list of cases which met the scope criteria listed above. However, the County did provide a modified list of defendants who were assessed court costs, fees, and fines from September 1, 2014 through October 31, 2014 and did not pay in full within one (1) month of the assessment date. An initial review of the data indicated that most of the cases listed in the report did not meet the criteria listed above.

A preliminary visit was performed to review the case management processes to determine if there was a way to identify the cases adjudicated. It was determined the Justice Courts capture a Plea Date when defendants report to the office and submit a plea. District and County Courts-at-Law capture Judgement and Sentencing dates when a case is adjudicated in those courts. As a result, reports were built to identify the cases adjudicated within the Audit Period.

***Management Response:***

See Appendix B

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

From the modified reports provided by the County, a randomly-generated, statistically-valid sample of cases was obtained from the cases that were provided by the District and Justice of the Peace Courts. Preliminary review of the cases adjudicated in the County Courts-at-Law showed no cases that met the scope criteria.

***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 response was used to determine compliance with Procedures four (4) through six (6), listed below.

***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 one (1) staff member whose primary job function is 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. While it was evident that one (1) full-time employee was not enough to perform all of the required tasks of the CIP, the County did meet the minimum standards of the program.

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 does not properly monitor all payment plans and extensions granted to defendants who do not pay court costs, fees, and fines in full at the time of assessment. As reported in Procedure 1, the County was not able to identify all defendants adjudicated within the audit period and were granted payment plans or extensions.

There are inadequate controls in the collection process that inhibit the County's ability to effectively monitor defendants' compliance with the terms of their payment plans or extensions.

- a) When a defendant is unable to pay all costs in full at the time of assessment, and requests a payment plan or extension, Justice of the Peace Courts (Justice Courts) require defendants to complete and execute a plea form. After the plea has been entered into the case management system, the case remains in the system for a minimum of 60 days before the Collection Department is procedurally allowed to begin collection activities. The Collection Department must request a report from the County Auditor's department that lists cases that are over 60 days old and require collection efforts.
- b) Justice Court staff do not monitor defendants granted an extension to pay court costs, fees, and fines. (Note: Only one (1) of the Justice Courts' clerks had a system by which they could track these extensions/payment plans granted in the Justice Courts.) Neither the names of defendants granted an extension, nor the dates defendants are required to return with payment, are documented. Additionally, the Justice Courts are not holding accountable defendants who request an extension to pay, but fail to comply with the terms of the extension.

- c) There are no controls in place to ensure defendants who request a payment plan and are referred to the central collection program actually report to establish a payment plan. As it will be 60 days before the central collections program is aware of these defendants (see a) above), required procedures cannot be performed to maintain compliance with the timeframes established by the CIP.
- d) The Collection Department is monitoring the defendant's compliance with payment terms for some of the cases that were set-up in their office. However, the manual system developed by the collection staff is not adequate to monitor the limited number of payment plans currently being established. As issues reported here are addressed, the number of payment plans established will increase which will require an even better system to monitor those payment plans.
- e) Additionally, the Collection Department is comprised of one (1) staff member. This is inadequate staffing to maintain a central collection program for a county the size of Maverick County. While on-site, the auditor observed the many disruptions for the staff member as defendants (1) called to inquire about their payment plan, (2) came to the office to establish a payment plan, or (3) stopped in to make a payment. In addition, this person is asked to attend court proceedings in the County Courts-at-Law in order to document the amount the defendants owe for court costs, fees, and fines. During this time, nobody is in the office to establish payment plans, take payments, answer phone call inquiries, nor monitor defendant compliance with established payment terms.

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.*

While on-site, the Auditor discussed the process used by County staff to improve the collection of seriously delinquent cases. In some cases, the Collection Department makes telephone calls and sends notices to defendants for several months after a missed payment. In other cases, notices are provided to the Sherriff's department to be delivered to the defendant's residence. Previously, a third-party collection agency was used to address seriously delinquent cases, but that option is no longer utilized. The Auditor was not able to confirm if any of the collection activities described above were consistently utilized by the County during the audit timeframe for all defendants who are seriously delinquent.

The County is not 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 has never reported collection activity to the CIP Court Collection Report (CCCR) software since becoming a mandatory program in 2011. In addition, OCA Financial Analysts have not been contacted to assist the County in working through any issues that may be precluding the County from reporting as required.

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.*

Of the 36 cases that were tested, 33 errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is higher than 84.15%.

The County is not compliant with this component.

***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.*

Due to the low number of cases where an application was obtained, only four (4) cases could be tested for verification requirements. Of the four (4) cases that were tested, two (2) errors were noted. As four (4) cases are not enough to statistically validate a component, no error rate can be calculated for compliance purposes. However, as 50% of cases tested had an issue, this is a component the County should address in future collection efforts.

***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.*

Due to the low number of cases where an application was obtained, only four (4) cases could be tested for interview requirements. Of the four (4) cases that were tested, one (1) error was noted. As four (4) cases are not enough to statistically validate a component, no error rate can be calculated for compliance purposes. However, as 25% of cases tested had an issue, this is a component the County should address in future collection efforts.

***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).*

Of the 35 cases that were tested, 27 errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 66.93% and 87.36%.

The County is not compliant with this component.

***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.*

Of the 11 cases that were tested, ten (10) errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is greater than 75.20%.

The County is not compliant with this component.

***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.*

Of the 11 cases that were tested, ten (10) errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is greater than 75.20%.

The County is not compliant with this component.

***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.*

In reviewing cases in the preliminary visit, as well as during the compliance testing phase of the audit, no cases were identified where a *Capias Pro Fine* was issued.

This component was not tested.

***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).*

Maverick County is not compliant with Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3. The County is out of compliance with three (3) of the four (4) Operational Components and out of compliance with four (4) of the seven (7) Defendant Communication Components.

To be in overall compliance, the County must be in compliance with all four (4) Operational Components. In addition, the error rates for the Defendant Communication components must be no higher than 20%.

***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 Maverick 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 September 1, 2014 – October 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

*Maverick County  
Collections Department*

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January 29, 2016

Mr. Greg Magness,

We have read the Independents Auditors Report on Court Collections and acknowledge the issues addressed and we are working to resolve them. We look forward to working with you and your staff on this project. Thank you.

*Respectfully,*

A handwritten signature in black ink, appearing to be "Linda Schmerber", written over a horizontal line.

*Linda Schmerber  
Collections Officer*

## APPENDIX C

### REPORT DISTRIBUTION

Ms. Sara Montemayor  
County Clerk  
Maverick County  
500 Quarry Street, Ste. 2  
Eagle Pass, Texas 78852

Ms. Sandra Watkins  
County Auditor  
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