



Office of Court Administration

Collection Improvement Program

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

City of Laredo

October 22, 2012

CONTENTS

Transmittal Letter

Executive Summary	1
Detailed Procedures and Findings	2
Appendix A – Objective, Scope, and Methodology	8
Appendix B – Report Distribution.....	9

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 Laredo (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 out of compliance with one component and only in partial compliance with another component. All other components were found to be in compliance. 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 Laredo'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 *Government Auditing Standards* issued by the Comptroller General of the United States and 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 February 1, 2012 through March 31, 2012, 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 Laredo provided a list of defendants who accepted payment plans for their court costs, fees, and fines during the period of February 1, 2012 through March 31, 2012. The City of Laredo was unable to eliminate non-payment plan cases that were in a 'cleared' status; therefore, we had a population of 6,378.

Management Response: In agreement.

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

The 6,378 cases were divided into two separate populations and a randomly-generated, statistically-valid sample was taken from each. The categories and number of samples tested are listed below:

- Cases where no warrant was issued (5,047 total cases) – 64 cases were tested for Procedures 8-11 listed below and 45 cases were tested for Procedures 12-13 listed below.
- Cases where a warrant was issued (1,331 total cases) – 60 cases were tested for Procedure 14 listed below.

Management Response: In agreement.

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

A completed survey was obtained and reviewed for information pertinent to the engagement. Responses were evaluated, verified during fieldwork, and used to determine compliance with Procedures 4-6 below.

Management Response: In agreement.

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.*

Per the survey, the City has one (1) staff member whose duties include collection activities as a priority job function. In addition, there is one (1) assistant court clerk assigned to perform the past due notices and automated phone calls, and other assistant court clerks are assigned to the application screening and review processes.

Management Response: In agreement.

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.*

Per the survey, the payment plans are monitored using an electronic system. The assistant clerk runs a missed payment report and prepares a list of cases scheduled for automated phone calls. If payment is not received within 30 days, a delinquent letter is mailed to the defendant.

Management Response: In agreement as per the procedure, however, due to the deficiency revealed by our audit, our time line for the mailing of the delinquent letters has been adjusted and delinquent payment letters will be mailed on the fifteenth day of delinquency.

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.*

Per the survey, the City uses the Omnibase FTA program, contracts with an attorney collection agency, and issues capias pro fine warrants as authorized by the judge. It was noted on-site that capias pro fine warrants were rarely used; of the warrants issued, two included defendants with a total of four citations within the audit periods.

Management Response: In agreement.

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 Regional Specialist was contacted and he confirmed that the City has submitted reports of collection activity as required.

Management Response: In agreement.

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 64 cases that were tested, seven (7) cases were found with errors. In all seven cases, applications were obtained; however, there was no financial information included in the application as required.

Taking into consideration the inherent sampling error, we are 99% confident that the error rate is between 0.95% and 20.92%. The City is complaint with this component.

Management Response: While we are compliant with this component, additional training has been completed and procedures have been implemented to ensure that all financial information is documented and applications are on file as required.

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 that were tested, 24 cases were found with errors. Clerks are asked to initial the last page of the application once they have completed their verification process. In the 24 cases noted as errors, there were no initials included on the application.

Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 27.61% and 47.39%. The City is partially compliant with this component.

Management Response: Management was given the opportunity to review the data and is in agreement with the finding. Verification is completed prior to the preparation of the payment agreement and a lack of attention to detail (lack of documentation) by our personnel resulted in only partial compliance with this component. Training has been completed and additional procedures have been implemented in order to ensure total compliance with this component.

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 64 cases that were tested, no errors were noted. The City shows documentation that an interview occurs when the payment plan is set-up, and a payment plan was included in the file for each case.

Taking into consideration the inherent sampling error, we are 95% confident that the error rate is no higher than 5.57%. The City is complaint with this component.

Management Response: In agreement.

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 64 cases that were tested, no errors were noted. While most of the plans extended beyond the required four-month period, the judge works directly with the defendants in establishing the terms of the payment plan. In addition, most of the plans cover multiple citations for the defendant.

Taking into consideration the inherent sampling error, we are 95% confident that the error rate is no higher than 5.57%. The City is complaint with this component.

Management Response: In agreement.

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 45 cases that were tested, four (4) cases were found with errors. Two of the cases in error had no evidence that a phone call was made, while the other two cases showed phone calls made after the 30 day requirement.

Taking into consideration the inherent sampling error, we are 95% confident that the error rate is between 2.42% and 20.71%. The City is compliant with this component.

Management Response: In agreement.

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 45 cases that were tested, 44 errors were noted. In a majority of the cases, the written delinquency notice was sent between day 31 and 42. There was no evidence of a delinquency notice being mailed in six cases.

Taking into consideration the inherent sampling error, we are 95% confident that the error rate is over 93.49%. The City is out of compliance with this component.

Management Response: Based on the finding of this audit, our procedure for mailing a delinquent notice has been revised and we are now mailing the delinquent notice at fifteen days after the case has become delinquent.

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.*

After reviewing 60 cases selected for testing, it was noted that none of the cases had capias Pro Fine warrants issued. The City does not have a jail in which to house prisoners and must rely on the County to house prisoners. The City does issue capias pro fine warrants for some cases involving defendants with many citations that habitually fail to meet the terms of their payment plan. In testing a report of all capias warrants issued since February 1, 2012, there were only two defendants with a total of four (4) cases in our population. As a result, this component was not tested.

The City issues Omnibase warrants on defendants that fail to maintain the terms of their payment plan, and does not remove the warrant until the plan is paid in full. In addition, cases in excess of 60-days overdue are sent to a collection agency.

Management Response: In agreement.

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 Laredo (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 February 1, 2012 through March 31, 2012, 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

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