



Office of Court Administration

Collection Improvement Program

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

City of Irving

April 11, 2013

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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 Irving (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 compliant with the requirements of Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3. In testing the required components, three (3) issues were noted involving the length of time the payment plans were extended.

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 Irving'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 August 1, 2012 through September 30, 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 Irving provided a list of defendants who accepted payment plans for their court costs, fees, and fines assessed during the period of August 1, 2012 through September 30, 2012. After the auditors removed defendants that should not have been in the population, 848 cases remained.

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

A randomly-generated, statistically-valid sample was taken from the population of 848 cases identified in Procedure 1. The compliance components and number of samples tested are listed below:

- Application and Contact Information - 39 cases tested
- Verification - 39 cases tested
- Interview Conducted - 39 cases tested
- Payment Terms - 39 cases tested
- Phone Contact for Missed Payment - 36 cases tested
- Mail Contact for Missed Payment - 36 cases tested
- Capias Pro Fine Notification - 36 cases tested

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

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

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 City has one (1) staff member who performs collections as an essential job function, and ten (10) staff members working part-time to establish payment plans and verify information. The collective staff time devoted to the program exceeds the single full-time equivalent (FTE) requirement. 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 terms of a payment plan are tracked by City staff utilizing the electronic system Incode. The following activities are performed to promote compliance with the payment plan:

- When a payment is missed, an automated dialer makes a call seven (7) days after a defendant becomes delinquent.
- If no payment is received during the subsequent seven (7) days, a letter is mailed to the defendant and an additional phone call is made.

While on-site, auditors verified that the process was described correctly. The City is compliant with this component.

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.*

If no response is received after performing the steps noted in procedure #5 (above), cases are moved to an active warrant status and receive a weekly automated call. During this phase, Marshals are dispatched to visit the defendant in person with the option to arrest, collect funds, or grant an extended due date. After a visit is conducted, collection clerks make a post-warrant call within 5 to 10 days.

If the steps noted above fail to elicit a response, the defendant is added to a regional warrant database. One additional call is made beyond this step, and the case is subsequently referred to a third-party collector.

While on-site, auditors verified that the process was described correctly. 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.*

Auditors accessed OCA's Court Collections Reporting System to determine if the City was current with reporting requirements. At the time of review, the City had submitted the required reports and was current with the reporting of collection activity. The City is compliant with this component.

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 39 cases tested, no cases were found with errors. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 6.98%. 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 39 cases tested, no cases were found with errors. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 6.98%. The City is compliant 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 39 cases tested, no cases were found with errors. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 6.98%. 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 39 cases tested, three (3) cases were found with errors. The City has a standard policy dictating a minimum monthly payment of \$100.00. In most instances this was sufficient to limit the number of payments to a four month period. However three (3) instances were noted in which defendants owed more than \$400.00. In these instances, the four month requirement was not met.

Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 2.01% and 17.64%. The City is compliant with this component.

Management Response:

City staff believes the four (4) month requirement (listed above) does not apply since payment plans set by the Municipal Judge are excluded from this provision. In Irving, all payment plans are set by judicial directive and clerks do not have discretion to change

the terms. The OCA indicated the three (3) cases in question were documented as errors because the judge's payment plan policy included the words 'minimum payment,' implying clerks had discretion to set a higher monthly payment. We do not believe this provides any discretion to the clerks, it simply allows a defendant to pay more than the minimum required. In fact, the word minimum was added to the judge's payment plan policy at the request of OCA.

After discussing this issue with the auditor and his manager (via phone) we agreed to a solution that satisfied both parties on this issue. The judge's payment plan policy will be slightly modified to specify his directive applies to cases exceeding \$400, and clerks have no discretion related to these cases.

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 36 cases that were tested, no cases were found with errors. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 7.27%. 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 36 cases that were tested, no cases were found with errors. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 7.27%. 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 36 cases that were tested, no cases were found with errors. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is less than 7.47%. 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 is compliant with Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3. The City was compliant with all four (4) of the Operational Components, and maintained a compliance rate greater than 80% for each of the seven (7) Defendant Communication Components.

Management Response:

The Irving Municipal Court is very pleased with the exceptionally high scores received during this audit. Staff would like to thank OCA auditor Ian Boles for his professionalism and attention to detail during the compliance engagement, and recognize the support provided by our regional OCA representative during the past few years.

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 Irving (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 August 1, 2102 through September 30, 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

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 compliance 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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REPORT DISTRIBUTION

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