



Office of Court Administration

Collection Improvement Program

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

El Paso County

November 20, 2014

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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 El Paso 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 one component and in partial compliance with two other components. 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 effort.

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.

El Paso 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 November 1, 2013 through December 31, 2013, 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.*

El Paso County provided a population of 8,676 cases with pleas from November 1, 2013 through December 31, 2013. In addition, they provided three (3) populations of cases where a Capias Pro Fine was issued in County Clerk cases.

Management Response: *The aforementioned statement is correct.*

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

In order to determine how many of the 8,676 cases involved payment plans, we used the El Paso County Case Records Search page to compare the plea dates and case dispositions. All cases where the plea date was outside the scope, the case was dismissed, the case ended in an acquittal, the case was deferred, the defendant was a juvenile, the defendant paid within 30 days, the defendant is incarcerated by the Texas Department of Criminal Justice, and duplicate cases were removed from the population. After removing all of these cases we were left with a population of 2,186 cases for testing. Cases that went to warrant were identified, and the population was sorted. One of the two sets of cases were used to test Capias notices, and the other set was used to test the other required components.

For Procedure 8 below, we tested a total of 82 cases. For Procedures 9 and 10 below, we tested a total of 41 cases. For Procedure 11 below, we tested a total of 42 cases. For Procedures 12 and 13 below, we tested a total of 77 cases. For Procedure 14 below, we tested all 35 eligible cases.

Management Response: *The aforementioned statement is correct.*

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

A completed survey was obtained and reviewed for information pertinent to the engagement. Survey responses and on-site discussions and observations were used to determine compliance with Procedures 4 through 6 listed below.

Management Response: *City should be County.*

Auditor's Comment: Corrected.

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 County has 13 full-time staff members dedicated to the collection program. This was confirmed while on-site during the engagement.

Management Response: *The aforementioned statement is correct.*

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 has implemented an electronic system for the monitoring of payment plan compliance. When a defendant misses a payment, a past due list is generated. From the list, notices are mailed and telephone calls are made to defendants to remind them of the requirement to pay. This was confirmed to be the process while on-site during the engagement.

Management Response: *The aforementioned statement is correct.*

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 continues to make phone calls and issue delinquent notices for cases that are seriously delinquent. After multiple missed payments, the County issues Capias Pro Fine warrants. This was confirmed to be the process while on-site during the engagement.

Management Response: *The aforementioned statement is correct.*

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.*

Per the Regional Collection Specialist, El Paso County is compliant with the program's reporting requirements.

Management Response: *The aforementioned statement is correct.*

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 82 cases tested, 28 errors were noted. No applications were taken for 30-day extensions, and in a couple of cases the required notices were not sent when the defendant did not appear at the collection department. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 25.85% and 42.44%.

The County is in partial compliance with this component.

Management Response: *The majority of the cases tested that contained the errors noted were within the control and management of the individual Justice of the Peace Courts where these cases were given approved extensions.*

County Clerk Collections has met with each of the individual Justice of the Peace Courts that were involved in this sample error cases, and the Justice of the Peace Courts have agreed to refer their cases immediately to the County Clerk Collections Department so that these cases will be managed and controlled within the CIP requirements. This approach is applicable at this time with all Justice of the Peace Courts with the exception of one (1) Justice of the Peace Court that is working with the County Attorney's Office and the County Clerk Collections Department on a written procedure.

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 41 cases that were tested, no errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is no higher than 6.86%.

The County is in compliance with this component.

Management Response: *The aforementioned statement is correct.*

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 41 cases that were tested, no errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is no higher than 6.86%.

The County is in compliance with this component.

Management Response: *The aforementioned statement is correct.*

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 42 cases that were tested, no errors were noted. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is no higher than 6.75%.

The County is in compliance with this component.

Management Response: *The aforementioned statement is correct.*

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 77 cases tested, 42 errors were noted. No phone calls were made for 30-day extensions, and in other cases the phone call was made late. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 45.86% and 63.23%.

The County is in partial compliance with this component.

Management Response: *The cases tested and the total errors that included the “no phone calls made” were in the direct control and Management of the Justice of the Peace Courts where extensions were granted.*

Phone calls that were not timely made were cases that were under the direct control and management of the County Clerk Collections Department, and this approach will be addressed and corrected by the County Clerk Collections Department with the new ILOW Collections Software System that has an automatic Robo Call System in place.

County Clerk Collections has met with each of the individual Justice of the Peace Courts that were involved in this sample error cases, and the Justice of the Peace Courts have agreed to refer their cases immediately to the County Clerk Collections Department so that these cases will be managed and controlled within the ILOW Collection Software Robo Calling System. This approach will be applicable with all Justice of the Peace Courts with the exception of one (1) Justice of the Peace Court that is presently working on a written procedure.

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 77 cases tested, 44 errors were noted. No delinquency notices were sent for 30-day extensions, and in other cases the delinquency notice was sent late. Taking into consideration the inherent sampling error, we are 90% confident that the error rate is between 48.51% and 65.77%.

The County is in partial compliance with this component.

Management Response: *The cases tested and the total errors that included the “no delinquency notices” were in the direct control and Management of the Justice of the Peace Courts where extensions were granted.*

Delinquency Notices that were made late that involved cases that were managed by the County Clerk Collections Department will be addressed by the ILOW Collection Software System that will automatically generate Delinquency Notices as required by the State of Texas CIP.

County Clerk Collections has met with each of the individual Justice of the Peace Courts that were involved in this sample error cases, and the Justice of the Peace Courts have agreed to refer their cases immediately to the County Clerk Collections Department so that these cases will be managed and controlled within the ILOW Collection Software that will generate automatic Delinquency Notices. This approach will be applicable with all Justice of the Peace Courts with the exception of one (1) Justice of the Peace Court that is presently working on a written procedure.

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 72 cases that went to warrant only 35 were eligible to be tested. In testing all 35 cases, 22 errors were noted. No delinquency notices were sent for 30-day extensions, and in other cases the delinquency notice was sent late. The error rate is 62.86%.

The County is not in compliance with this component.

Management Response: *The majority of the cases tested that contained the errors noted were within the control and management of the individual Justice of the Peace Courts where these cases were given approved extensions.*

Collections has met with each of the individual Justice of the Peace Courts that were involved in this sample error cases, and the Justice of the Peace Courts have agreed to refer their cases immediately to the County Clerk Collections Department (with the exception of one (1) Justice of the Peace Court that is awaiting a written procedure).

*The ILOW Collection Software System will demonstrate the number of notices and efforts made by the County Clerk Collections Department prior to the referral for an issuance of a *Capias Pro Fine*.*

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).*

El Paso County is not compliant with Article 103.0033 of the Code of Criminal Procedure and 1 TAC §175.3. The County complied with all four (4) of the Operational Components; however, of the seven (7) Defendant Communication Components, the County was not in compliance with one (1) component and in partial compliance with three (3) of the remaining components.

Management Response: *The aforementioned statement is correct.*

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 El Paso 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 November 1, 2013 through December 31, 2013, 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

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