

A Report to the
Chambers
County
Commissioners
Court

County Judge:

Jimmy Sylvia

Commissioners:

Jimmy Gore

Mark Tice

Tommy Hammond

Billy Combs



Constable Tax Sales

FY 2020

Brooke Jacobson

Haley Moreno, SHRM-CP

June 21, 2021

Chambers County
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IA.2021.03

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CHAMBERS COUNTY AUDITOR

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Nature of the Engagement

The Auditor's Office completed a requested internal audit of the financial records and administrative procedures of the Constables Office tax sales for FY 2020.

The overall objective was:

Evaluate the procedures and accuracy of the reports and case files of the Constables Office tax sales and ensure compliance with laws, regulations, contracts, policies and procedures.

Tax sales are conducted quarterly by the Constable of the precinct where the property is located. The Texas Rules of Civil Procedure requires sales to be held on the first Tuesday of the month, between the hours of 10:00 a.m. and 4:00 p.m. at a place designated by the Commissioners Court. Eligible bidders must be registered as a bidder and have a written statement from the county Tax Assessor-Collector of no delinquent taxes due.

Audit Procedures

The following procedures were used to accomplish the audit:

- Review the original documents and, if applicable, input relevant information into a master spreadsheet
- Reconcile distribution sheets provided by tax attorney to county records
- Verify compliance of Tax Sale Statutes
- Verify advertising cost/ publication fees
- Ensure proper separation of duties and safeguarding of assets

Observations and Findings with Related Recommendations

1. Timeliness of Deposits

Local Government Code (LGC) 113.022 Time For Making Deposits states "a county officer or other person who receives money shall deposit the money with the county treasurer on or before the next regular business day after the date on which the money is received. If this deadline cannot be met, the officer or person must deposit the money,

without exception, on or before the fifth business day after the day on which the money is received.”

- **Finding:** During the audit period, 8 checks were deposited 18 days after collection.

Recommendation: The Constables Office should ensure compliance with (LGC) 113.022 Time For Making Deposits.

2. Compliance

Tax Code 34.02 Distribution of Proceeds states (a) the proceeds of a tax sale shall be applied in the order prescribed by Subsection (b). The amount included under each subdivision of subsection (b) must be fully paid before any of the proceeds may be applied to the amount included under a subsequent subdivision.

(b) The proceeds shall be applied to:

- 1) Cost of advertising the tax sale
- 2) Attorney Ad Litem Fees, ordered by the judgement
- 3) Original court costs payable to the District Clerk
- 4) Fees and commissions payable to the officer (Constable) conducting the sale
- 5) Expenses incurred in procuring legal descriptions of property, ordered by the judgment
- 6) Taxes, penalties, interest and attorney’s fees due under the judgement
- 7) Any other amount awarded to a taxing unit under the judgement

(c) If the proceeds are not sufficient to pay the total amount included under any subdivision of a Subsection (b), each participant in the amount included under that subdivision is entitled to a share of the proceeds in an amount equal to the proportion its entitlement bears to the total amount included under that subdivision.

(d) The officer conducting the sale shall pay an excess proceeds after the payment of all amounts due all participants in the sale as specified by Subsection (b) to the clerk of the court (District Clerk) issuing the warrant or order of sale.

- **Finding:** Internal audit reviewed the distribution of proceeds from the tax sales for the audit period. The Constables Office is in compliance with Tax Code 34.02.

Tax sale funds are dispersed in accordance to distribution sheets that are created after the tax sale by the tax attorney. The funds are then distributed by Chambers County.

- **Finding:** Funds were distributed in accordance to fee schedules approved in Commissioners Court for Chambers County District Clerk, County Clerk and

Constables office. The tax attorney charges a research fee based upon the number of accounts listed per case. During the internal audit, Commissioners Court minutes were researched and we were unable to obtain an approved fee schedule for the tax attorney.

Recommendation: A fee schedule from the tax attorney should be approved in Commissioners Court.

3. Reconciliation

The Constables Office does not currently perform any type of reconciliation process. Completing a reconciliation process is necessary and should be enforced immediately.

- **Finding:** A manual receipt is not issued to buyers upon receipt of payment and funds are not receipted into Odyssey the day of the sale. Therefore, creating a discrepancy in the date of the sale and the date of collecting sale proceeds.

Recommendation: A manual receipt book should be issued to the Constables Office by the Purchasing Department. The original receipt is to be given to the buyer and a copy should be retained in the receipt book. The receipt should reflect the payment of property and should also be scanned into the property case file in Odyssey.

- **Finding:** During the January tax sale, a specific case sold for \$3,886.13 but \$3,886.16 was distributed, leaving a \$0.03 difference.

Recommendation: Reconcile revenue and expenses to ensure proper distribution of funds.

The Constables Office tax sales are advertised in The Progress, an Anahuac newspaper. The Constables Office pays advertising costs for properties that sell and the tax attorney pays for properties that are pulled, struck-off or considered “no-bids.”

- **Finding:** The total amount invoiced by The Progress to Chambers County for the August 2020 tax sale was \$4,448.28, which was divided by the number of properties that were advertised. The combined amount paid by Chambers County and the tax attorney was \$4,448.26. Due to rounding, there was a \$0.02 difference resulting in an underpayment.

Recommendation: Invoices should be broken out by property to avoid rounding errors in the future.

- **Finding:** Multiple Chambers County advertisement invoices are being paid 50 days or more after originally being invoiced.

Recommendation: Develop a procedure to ensure invoices are paid in an efficient and timely manner.

- **Finding:** The Constables Office does not receive proof of payment for all of the cases that the tax attorney pays the advertisement fee on.

Recommendation: Since advertisement invoices are issued to Chambers County, it is necessary to confirm all county invoices are paid in full and in a timely manner. Proof of payment is needed from the tax attorney on all cases.

4. Separation of Duties

One of the most important internal controls is to have proper separation of duties. No one person should authorize a transaction, record a transaction and have custody of the assets.

- **Finding:** The Constables Office has proper separation of duties.

5. Safeguarding of Assets

Safeguarding of assets has three basic components: 1) physical security of the collections, 2) minimal exposure to loss, and 3) proper management of the collections.

- **Finding:** On the day of the tax sale, the Constables Administrative Assistant/ Chief Clerk collects the money from the tax sales, then takes the payments to the Treasures office to hold until distribution sheets are received from the tax attorney. Odyssey reports or manual receipts are not included with the initial transfer of funds to the Treasurer's Office. It isn't until the Constables Office receives distribution sheets, that the tax sale amounts are receipted in Odyssey. Once receipted, the Constables Office will then send the Treasures Office a report so that checks can be deposited.

Recommendation: Due to recent relocations within the county, the proper physical securities of collections should be taken. Monies collected should be kept in a locked drawer or safe until they are deposited with the Treasurer's Office. All deposits should be reconciled to appropriate documentation.

Conclusion

The Constables Office should create and implement policies and procedures that cover the tax sale process from the beginning of the sale to the final distribution of funds. The stated recommendations should be taken into consideration to improve the process of each tax sale.

This includes implementing a reconciliation process, procedure for paying invoices timely and correctly, and verifying distribution amounts.

Proper safeguarding of assets should be the responsibility of the Constables Office. To improve safeguarding of assets and mitigate potential risk, proper documentation and a secure holding location are needed.

The Constables Office should begin to follow the (LCG) 113.022 Time For Making Deposits. Holding funds for longer than 5 business days is in violation of the deposit timeframe.

The Constables Office is in compliance with the Tax Code 34.02, Distribution of Proceeds, and has proper separation of duties in place to mitigate any potential risks.

As the audit was not a detailed examination of all transactions, there is a risk that errors or fraud were not detected. Thus, the Constables Office retains the responsibility for the accuracy and completeness of the financial information.



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June 28, 2021

In response to the Constable Tax Sales Audit of 2020, the audit was requested on August 20, 2020 due the retirement of Patty Clark. Due to her departure, the Constables Office has been striving to change several office operational duties. We started working with Tammy Jenkins on how to use the Tyler Odyssey program more efficiently, focusing on the receipting procedures.

1. Timeliness of Deposits

The Constables Office will ensure compliance with (LGC) 113.022 Time for Making Deposits. This office will contact the attorney to request distribution sheets within the 5 days to ensure deposits are made within the time frame. One of the things we are working at improving, is reducing the number of checks that are being issued within the County. Once the sale is complete, the attorney's office issues the distribution sheets to show where the money is to be dispersed, which usually takes up to a week to receive. Deposits are then made when those documents are received. The number of properties being sold, also, plays a factor in this time frame of getting this money deposited.

3. Reconciliation

The Constables Office has been using a manual receipt since January 2021 for the purpose of Tax Sales. Again, this was all started with the new receipting procedures that we began as of January, 2021.

In reference to the \$0.03 discrepancy during the 2020 Jan Tax Sale and the \$0.02 underpayment to The Progress, all documents are sent to the auditor's office to ensure accuracy before checks are issued.

In regards to The Progress invoices being paid 50 days or longer, The Constables Office suggests to have the Progress send the invoices directly to PBFCM instead of Chambers County.

5. Safeguarding of Assets

The Constables Office does have a locked safe where all monies will be kept until deposited.

Thank you for performing this audit as requested. Have a great day.

Missy Parham, Administrative Asst. to Constables 1, 3, 4 & 6

Susanna Delacruz, Administrative Asst. to Constables 2 & 5