



**Travis County Constable, Precinct 2
Forfeited Property Examination
#13-28**

**Report Date: October 25, 2013
Issue Date: December 13, 2013**

TRAVIS COUNTY
AUDITOR'S OFFICE

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October 25, 2013

The Honorable Adan Ballesteros
Travis County Constable, Precinct 2

RE: Examination of the Forfeited Property Account

Scheduled as part of our statutory requirements, particularly those in Section 115 of the Local Government Code and Article 59 of the Texas Code of Criminal Procedure, the (REC) Risk Evaluation and Consulting Division of the Travis County Auditor's Office has completed an examination of the Forfeited Property Account (FPA) maintained by the Travis County Constable, Precinct 2 Office. We conducted our examination in accordance with the applicable statutes governing the County Auditor's Office and those relating to County financial and accounting protocols. As a result of our examination, we are providing this report on our findings and recommendations.

BACKGROUND

The Constable's Office maintains accounts to record the proceeds of confiscated funds, which were determined in felony trials to be derived from illegal acts. Article 59.06 of the Code of Criminal Procedure delineates the Constable's authority pertaining to contraband seizure and forfeiture. If it is determined the funds were derived from a felonious act; the funds are forfeited and transferred into the forfeited property account where a constable is able to use the funds according to statute. Additionally, a constable may spend the proceeds after a budget for the expenditure of the proceeds has been submitted to Commissioners Court; however, the receipts and disbursements of forfeiture proceeds must be accounted for by this office.

SCOPE OF EXAMINATION

This examination included an assessment of the adequacy and effectiveness of the overall system of financial controls in place for the Constable, Precinct 2 Office's Forfeited Property Account during the period October 1, 2012 to September 30, 2013. While we conducted reviews of

accounting-related controls, this examination did not include operational reviews of the Forfeited Property Account.

The scope of this examination included an examination of the overall internal controls in place with respect to compliance with state guidelines, and deposits and disbursements of forfeited funds, including any accrued interest.

EXAMINATION METHODOLOGY

Our work was based on applying sampling procedures to office records and on verbal and written representations from this office. Sampling relates to examining, on a test basis, evidence supporting the amounts and disclosures in the financial records and statements. The use of sampling techniques would not necessarily disclose all matters in the Constable, Precinct 2 Office's Forfeited Property financial statements, financial records, and financial controls that might be material weaknesses or misstatements. In regards to the written and verbal representations made by this office, unless otherwise noted in this report, office management maintains that the assertions we relied upon in the examination were correct to the best of their knowledge.

SUMMARY OF FINDINGS

We noted that auction sale net proceeds were inaccurately calculated by the auctioneer. The commission was calculated using 15%; however, the contract between Travis County and the auctioneer reflects the commission percentage for the sale of "vehicles and rolling stock" as 12.5%.

OVERVIEW OF RESPONSES BY MANAGEMENT TO NOTED FINDINGS

Overall, the Constable, Precinct 2 Office agreed with the findings of this examination and has taken the necessary steps to correct these issues.

OPINION OF INTERNAL CONTROL SYSTEM

Based upon our examination, we gave the overall system of financial controls for forfeited funds a rating of "Requires Improvement," indicating that weaknesses exist that moderately impact the overall system of internal controls.

ATTACHMENTS

Attachment A: This attachment contains descriptions for each of the ratings we use to describe the effectiveness of the internal controls environment for the functional area under review.

Attachment B: Details of our findings, our recommendations, and management's responses to these issues can be found in Attachment B. Immediately after the title of each control issue listed in this attachment, we have placed our assessment of the severity of that particular issue in parenthesis. These items are assessed as having "Most Serious", "Serious" or "Less Serious" Significance.

Attachment C: Copies of this office's financial statements for September 30, 2013, are provided in Attachment C. These statements include a detailed statement of revenues, expenditures and changes in fund balance, and a balance sheet for the Forfeited Property Account. The express purpose of presenting these statements is to provide feedback to Travis County officials. These financial statements have not been audited by Travis County's external auditors.

EXAMINATION TEAM

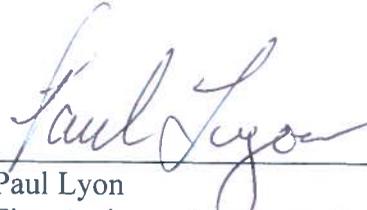
Lisa Denton, Senior Auditor
Woody Whitten, Staff Auditor
Joshua Kubiak, Staff Auditor

CLOSING

This report is intended solely for the information and use of your office and the Commissioners' Court. We greatly appreciate the cooperation and assistance received from the management and staff of the Travis County Constable, Precinct 2 Office during this examination. Please contact us if you have any questions or concerns regarding this report.



David Jungerman
Manager – Risk Evaluation and Consulting
Division



Paul Lyon
First Assistant County Auditor



Nicki Riley
Travis County Auditor

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Kathryn Madden, County Auditor's Office
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Examination File

ATTACHMENT A – INTERNAL CONTROLS RATING KEY

A good internal control system reduces the risk of errors, defalcations, and misappropriations of funds. Weak internal control systems provide an environment in which errors, defalcations, and misappropriations of funds can go undetected. The following details the various grades we assign to internal control systems:

RATING	RATING DESCRIPTION
Good	Well-established internal controls with few, if any, minor weaknesses noted
Adequate	The overall solid system of internal controls is sufficient to outweigh noted weaknesses
Requires Improvement	Internal control weaknesses exist that moderately impact the overall system of internal controls
Requires Significant Improvement	Significant internal control weaknesses exist that negatively impact the overall system of internal controls
Inadequate	The existing system of internal controls is materially ineffective

ATTACHMENT B - DETAILED EXAMINATION RESULTS

Finding #1: Seized/Forfeited items inventory (Serious)

At September 30, 2013, there were two items of seized property in the possession of Constable, Precinct 2: a 2003 Ford pickup and a 2003 horse trailer. Per discussions with the Constable, Precinct 2 staff, these items were awarded to the Constable's Office in December of 2012 and approved for auction in September of 2013. Based on our review, we noted the following:

- The horse trailer sold for \$2,900 on October 12, 2013, and the Constable's Office received a check from Gaston & Sheehan Auctioneers for proceeds in the amount of \$2,465 (\$2,900 less a 15% commission of \$435). The contract between Travis County and the auctioneer reflects the commission percentage for the sale of "vehicles and rolling stock" as 12.5%, not the 15% retained by the auctioneer in this instance. This resulted in an additional \$72.50 commission for the auctioneer. This issue was brought to the attention of the Constable, Precinct 2 staff and was resolved with Gaston & Sheehan.
- The initial FY 13 Chapter 59 Asset Forfeiture Report did not list these two forfeited property items under Section III Other Property. This issue was brought to the attention of Constable 2 accounting staff, who were unaware that Constable, Precinct 2 was in the possession of these seized items. The accounting staff updated the state report to include these items prior to issuing it to the State.

Significance/Recommendations:

Based on the noted significance, we recommend the following:

- In order to ensure net proceeds received from the auctioneer in the future are accurate, the Constable 2 office should familiarize itself with the current contract between Travis County and Gaston & Sheehan Auctioneers, Inc. and verify that all auction proceeds received conform to the contract.
- In order to ensure compliance with the reporting requirements of Chapter 59 of the Code of Criminal Procedure, the Constable, Precinct 2 staff should properly update their seized and forfeited asset inventory list and regularly provide this list to the Constable's accounting staff. This inventory list will help ensure that seizures and forfeitures are properly tracked and safeguarded from loss.

Management Response:

The Constable, Precinct 2 Office concurs with the examiner's assessment of the seized/forfeited property inventory and we immediately implemented the following steps to correct these issues:

- Any additions and disposals of seized property will be communicated immediately to the personnel responsible for maintaining the inventory list.
- All auction proceeds received will be reviewed by office accounting staff to ensure the funds received were correct per the terms of the contract.

ATTACHMENT C - FINANCIAL STATEMENTS

**Constable, Precinct 2 Forfeited Property Account
Special Revenue Fund
Detailed Statement of Revenues, Expenditures, and Changes in Fund Balance
For the 12 Months Ended September 30, 2013**

Revenues:

Fines and forfeits	\$	-
Investment income		1
Total revenues		<u>1</u>

Expenditures:

Current		650
Capital outlay		-
Debt service		-
Total expenditures		<u>650</u>

Excess (deficiency) of revenues over expenditures (649)

Other financing sources (uses):

Transfers in		-
Transfers out		-
Total other financing sources (uses)		<u>-</u>

Net change in fund balance (649)

Fund balance - beginning of year 1,895

Fund balance - end of year \$ 1,246

NOTE: The express purpose of presenting this financial statement and the appropriate findings is to comply with applicable local government code statutes and to provide internal control feedback to Travis County officials. This financial statement has not been audited by Travis County's external auditors.

**Constable, Precinct 2 Forfeited Property Account
Special Revenue Fund
Balance Sheet
September 30, 2013**

Assets

Cash		\$	1,246
			1,246
Total assets		\$	1,246

Liabilities and Fund Balance

Liabilities:

Accounts payable		\$	-
			-
Total liabilities			-

Fund balance:

Reserved for encumbrances			-
Unreserved - undesignated			1,246
			1,246
Total fund balance			1,246
Total liabilities and fund balance		\$	1,246

NOTE: The express purpose of presenting this financial statement and the appropriate findings is to comply with applicable local government code statutes and to provide internal control feedback to Travis County officials. This financial statement has not been audited by Travis County's external auditors.