

# Travis County Auditor's Office Review of Contract with Hamer Enterprises, Inc.

# 17-21

**TRAVIS COUNTY AUDITOR'S OFFICE**  
Risk Evaluation & Consulting Division

May 11, 2018

Contains Confidential and Proprietary Information

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AUDITOR'S OFFICE

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From: Nicki Riley, CPA  
Travis County Auditor

Date: May 11, 2018

Subject: Travis County Contract with Hamer Enterprises, Inc. Review # 17-21

The Risk Evaluation and Consulting Division (REC) of the Travis County Auditor's Office has completed a review of Travis County's contract with Hamer Enterprises, Inc. (Hamer or HE). This contract covers a number of products and services provided by Hamer, but primarily relates to internet and credit card payment processing services. 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.

### **SCOPE OF REVIEW**

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The overall objectives of this review were 1) to determine the status of Payment Card Industry Data Security Standard (PCI DSS) compliance related to the services provided by Hamer, 2) to assist Travis County in identifying potential risks or exposures associated with Hamer's business processes, and 3) to provide actionable recommendations to implement or adjust internal controls and/or processes as needed.

This review included those processes, protocols, and internal controls in place related to the County's relationship with Hamer for the period October 1, 2015 to October 31, 2017. At the request of the Travis County Judge, we reviewed the following specific areas of this contract, as well as other areas we deemed appropriate during the course of our review:

1. PCI DSS Compliance.

2. Credit Card Payment Processing Services.
3. Collateralization of Funds.
4. Electronic Checks.
5. Internal controls over the systems and processes.

In this review, we assessed and identified controls and risk exposures as they related to contracted services, verified compliance with applicable PCI DSS and industry best practices, assessed the controls in place for EZ-NetPay, and performed limited tests of controls and transactions.

### **AREAS OF CONCERN**

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In the course of performing our review, we noted the following areas of concern:

1. There were a number of concerns related to the contract with Hamer, including the lack of competitive biddings, contract management, contract structure, and oversight by Travis County Information Technology Services (ITS).
2. Travis County funds collected by Hamer but not yet transferred/deposited into a Travis County bank account are not properly collateralized as required by statute.
3. E-checks valued at over \$100,000 are physically printed by Hamer personnel and are hand-deposited into a Travis County bank account at a local bank. This creates a manual, high-risk process that is more susceptible to loss or misappropriation.

### **EXAMINATION METHODOLOGY**

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To determine the level of assurance and reliance that can be placed on the infrastructure and the control environment associated with these areas, a broad understanding of current controls and processes was obtained. Our work was also based on applying sampling procedures and other information systems testing. The use of these techniques would not necessarily disclose all areas of concern related to this function. In regards to the written and verbal representations made by the various County offices and departments, as well as Hamer Enterprises, Inc., unless otherwise noted in this report, all assertions we relied upon in this review were correct to the best of their knowledge.

### **ENGAGEMENT TEAM**

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Enrique Barroso, CIA, CISA, Senior Auditor  
Joshua Kubiak, CPA, CFE

## CLOSING

This report is intended solely for the information and use of Travis County, and it is confidential pursuant to Government Code 551.076 Deliberation Regarding Security Devices or Security Audits; Government Code 418.183 Disclosure of Certain Confidential Information; and Government Code 418.181 Confidentiality of Certain Information Related to Critical Infrastructure, as well as confidentiality provisions under the Texas Public Information Act, chapter 552 Government Code. Due to the confidential nature of this information, any release of this report and information must first be reviewed by the Travis County Attorney's Office.

We greatly appreciate the cooperation and assistance received from management and staff throughout Travis County and Hamer Enterprises, Inc. during this review. Please contact our office if you have any questions or concerns regarding this report.



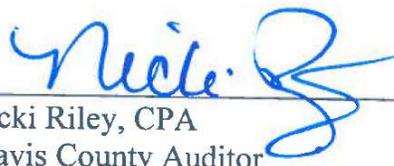
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## REPORT DISTRIBUTION

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Bonnie Floyd, Travis County Purchasing Agent  
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Managers, Travis County Auditor's Office  
Examination File

# BACKGROUND

In the mid-1990's, Travis County ("the County") entered into a contract with Easy Access (EAI), Inc., also known as Hamer Enterprises, Inc., ("Hamer") for a Tax Office Computer System for the Travis County Tax Assessor-Collector's Office. The original contract (4400000562-MA960322) included the installation of hardware, software, maintenance and training. The contract was signed by William C. Hamer, Chief Executive Officer of Easy Access, Inc. on December 9, 1994 and Bill Aleshire, former Travis County Judge on December 13, 1994.

The majority of the services provided by Hamer involve providing citizens with the ability to pay various fees and taxes on county web sites. As citizens initiate transactions on these websites, they are redirected to the Hamer payment page to securely enter payment information. Cardholder data is entered into Hamer Enterprises web application where it is held in memory and sent to Hamer's processor (PayPal's PayFlow Pro) for authorization and settlement. Once authorization is obtained, the transaction ID and approval code along with details about payment are stored in the Hamer Database for reporting and tracking purposes for the government entities.

All credit card data is collected and entered by the applicable citizens through Hamer Enterprises secure.epayonline.net web site. There are currently no point of sale or card swipe products in use with the Hamer environment. Hamer Enterprises internal datacenter is located at the McAllen, Texas corporate office.

## Contract

Over the years, Hamer Enterprises has provided Travis County with various services, products and hardware that are not mentioned in the original contract or its amendments. This contract is exempt from the County Purchasing Act as the language in Section 18 Exemption From County Purchasing Act states, "Commissioners Court hereby orders that the portion of this contract that relates to custom computer programming services and training is exempt from the requirements of the County Purchasing Act because it is a contract for the purchase of personal or professional services."

The contract has 35 modifications, as well as associated ancillary contracts for various services with the District Clerk, County Clerk, Domestic Relations Office, Fire Marshall, Transportation and Natural Resources, Justice of the Peace, Precincts 1 - 5 and Constables, Precincts 1 - 5. Hamer, Inc. had contracted previously with Travis County Counseling and Education Services and the Sheriff's Office, but these offices no longer receive services from Hamer.

## Timeline and History of Contract

**Modification 1**, approved in Commissioners Court on August 10, 1999, amended the original contract from CPU licenses to user-based licenses and amended the maintenance provision.

**Modification 2**, approved in Commissioners Court on September 4, 2001, extended the performance period from September 18, 2011 through February 27, 2003.

**Modification 3**, approved in Commissioners Court on February 4, 2003, was for the maintenance renewal, an increase in user licenses and the addition of maintenance for the ITP software product.

**Modification 4**, approved in Commissioners Court on March 30, 2004, was for the sole source renewal of the maintenance agreement; the purchase of the EZ-Vip software and related IBM software and incorporated the ITS security requirements.

**Modification 5**, approved in Commissioners Court on April 20, 2004, enhanced EZ-Vote to increase the number of entity identifiers for elections.

**Modification 6**, approved in Commissioners Court on August 3, 2004, enhanced EZ-Vote to pre-assign location codes to laptops alleviating code entry errors and authorized the purchase of the DB2 Express licenses.

**Modification 7**, approved in Commissioners Court on November 28, 2004, purchased additional DB2

**Modification 8**, approved in Commissioners Court on October 26, 2004, amended the contract to include Web services (Tax Office home page, Motor vehicle site, real-time property tax and Voter sites, and credit card payments) at no cost to the county. Payment would be through credit card fees if constituent choose to pay electronically.

**Modification 9**, approved in Commissioners Court on May 25, 2005, was for modifications and enhancements for contractor to bring their practices and procedures into security compliance.

**Modification 10**, approved in Commissioners Court on December 20, 2005, was for programming changes to handle the increase in ballot styles simultaneously.

**Modification 11**, approved by the Purchasing Agent on February 15, 2007, created a website for the County Clerk's Office similar in design to the one used by the Tax Office.

**Modification 12**, approved in Commissioners Court January 8, 2008, purchased additional EZ-Vip licenses and support.

**Modification 13**, approved in Commissioners Court April 29, 2008, enhanced to EZ-Vip and included an imaging component to EZ-Tax/EZ-Vote.

**Modification 14**, approved in Commissioners Court October 7, 2008, created an IVR file containing voter registration data.

**Modification 15**, approved in Commissioners Court October 28, 2008, purchased additional EZ-Vip licenses.

**Modification 16**, approved in Commissioners Court on April 21, 2009, purchased additional EZ-Vip licenses.

**Modification 17**, approved in Commissioners Court June 9, 2009, purchased additional EZ-Vip licenses.

**Modification 18**, approved in Commissioners Court September 15, 2009, modified the EZ-Vote System in order to image DPS Electronic Data to the “Voter Registration Application” form.

**Modification 19**, approved in Commissioners Court March 6, 2010, modified the contract to convert voter document images from a stand-alone server into the EZ-Vote system.

**Modification 20**, approved in Commissioners Court July 13, 2010, upgraded the EZ-Tax System to a browser based graphical interface “GUI” system.

**Modification 21**, approved in Commissioners Court September 14, 2010, modified EZ-Tax for partial pay agreements.

**Modification 22**, approved in Commissioners Court November 30, 2010, allowed for the purchase of additional EZ-Vip licenses and support.

**Modification 23**, approved in Commissioners Court September 6, 2011, consisted of two parts: 1) installation and reconfiguration of software to a server to control multiple scanners for voter registration, 2) installation and configuration of new server for early voting and election day voter database replication.

**Modification 24**, approved in Commissioners Court March 13, 2012, added EZ-Vip licenses and maintenance; enhancements to EZ-Vip for Election Day poll workers to enter the number of voters who have voted and the number of voters in line on an hourly basis, created new utility for EZ-Vote to allow for various data requests and created a street lookup utility.

**Modification 25**, approved in Commissioners Court October 2, 2012, provided Election Night Reporting enhancements and modifications to the Travis County Clerk Office Website.

**Modification 26**, approved in Commissioners Court October 2, 2012, enhanced EZ-Tax to allow for citizens to electronically request a current tax bill through the website and purchase interface device with software programming for credit card swipes.

**Modification 27**, approved in Commissioners Court June 25, 2013, enhanced website payment module to allow users to choose and pay for multiple accounts at one time.

**Modification 28**, approved in Commissioners Court August 20, 2013, expanded the on-line partial pay agreement (OPA) to identify accounts qualifying for the over 65/disabled homestead for quarterly pay installment (QTR) program and gives the qualified property owner the choice to enter into either the QTR program or the OPA program; add Frequently Asked Questions to the beginning of the process and have customer acknowledge they have read; and b) highlight the P & I that a customer would be paying each month by showing the customer the proportion of their payment to base and P & I; expand the eStatement allowing for multiple accounts to be chosen at

one time; and to develop a sub-module to EZ-Vote to provide for the transmission of an on-line ballot to a Uniformed and overseas Citizen Absentee Voting Act (UOCAVA) voter.

**Modification 29**, approved in Commissioners Court June 6, 2013, enhanced EZ-Vote for DPSI Full Automation and to remove the 30 day trigger from the Name Change field so name changes are effective when created and the name history will still record each transaction and date.

**Modification 30**, approved in Commissioners Court June 24, 2014, enhanced EZ-Vip to include a new field on the Voter Qualification Screen to display Former Name; a column on Search results Screen to display the Former Name; creation of a configurable number of labels to print (1 or 2) on Initial Record Vote Button; creation of a reprint button that always prints 1 label regardless of item 1 setting; creation of a new button for Convention List for Republicans; and ability to print all Voter Precinct History records associated to a Polling Place regardless of how or where they vote.

**Modification 31**, approved in Commissioners Court November 7, 2014, changed the fee schedule for on-line check payments to \$1.00, and instituted a charge to Travis County Tax Office (TCTO) for each on-line check payment received.

**Modification 32**, approved in Commissioners Court December 30, 2014, was for Election Night Reporting (ENR) and Voter Express enhancements to include more functionality for each module.

**Modification 33**, approved in Commissioners Court March 10, 2015, modified Calendar function for Penalty and Interest and Effective Date Security on Mass Post Module: create ability to setup a calendar to dictate the effective date to the posting module (Mass, Refund Disbursement, Reversal) and enable security in the effective date control on Mass Posting.

**Modification 34**, approved in Commissioners Court September 27, 2016, enhanced the Delinquent Workflow processing, the Refund Base Software Product, VIT Processing, eFees – TABC Billing and Collection System, and eBill process.

**Modification 35**, approved in Commissioners Court August 1, 2017, created an application for Tablets to capture the Provision application information for both County Clerk and Voter Registration.

#### Credit Card Processing

Across all of its clients, Hamer uses multiple credit card payment processors, and Hamer transmits cardholder data through their public web application to PayPal's PayFlowPro, TSYS, BrainTree and FirstData for processing. However, Hamer only uses PayPal for Travis County transactions.

#### Payment by Credit Card and Electronic Check

Payment by credit card or electronic check is made available as part of the web services provided by Hamer. These web services provide for connectivity to the EZ-NetPay electronic payment gateway. The EZ-NetPay gateway allows for the use of credit cards for collection of property taxes, fees, penalties and interest, and other balances due. Hamer also provides these payment processing services through the use of an electronic check service.

All electronic payment services are provided via the Internet, requiring connectivity to the Internet either for in-office use for public payments or for payments received through the Travis County website. All payments received through the website are first approved for payment by the payor's credit card company and then processed through the existing EZ-Tax System, which provides batch receipting and reporting.

Availability of website

The website allows payments to be made or information to be received twenty four hours a day, seven days a week, with an average of 30 minutes of downtime in a 24 hour period, provided that the applicable County networks are also operational.

Services Provided by Hamer, Inc. by Office

The following is a list of County offices and departments and the services Hamer Enterprises, Inc. provides to those entities as of March 8, 2018:

<b>Services Provided by Hamer, Inc.</b>		
<b>Dept. #</b>	<b>Office/Department</b>	<b>Description of Service</b>
		<b>EZ-NetPay is an internet-based electronic payment system enabling credit card payment processing using browser-based technology.</b>
120	County Clerk	<p>Card not present transactions are taken either by office staff or via ecommerce methods. Cardholder data are received by the following methods:</p> <ul style="list-style-type: none"> <li>• Phone to a single person with the ability to process payments through EZ-NetPay online payment page;</li> <li>• Customer makes a payment on the Travis County website which is redirected to the EZ-NetPay website.</li> </ul> <p>Card present transactions are taken by office staff using the following method:</p> <ul style="list-style-type: none"> <li>• Customer visits the respective office in person and the clerk makes the payment on behalf of the customer on the Travis County website, which is redirected to the EZ-NetPay website.</li> </ul>
121	District Clerk	
126	JP 1	
127	JP 2	
128	JP 3	
129	JP 4	
130	JP 5	
131	Constable, Precinct 1	
132	Constable, Precinct 2	
133	Constable, Precinct 3	
134	Constable, Precinct 4	
135	Constable, Precinct 5	
145	DRO	
147	Fire Marshall	
149	TNR	
108	Travis County Central Collections	
108	Tax Assessor-Collector	
108	Tax Assessor-Collector	<b>EZ-Tax is the Property Tax and Collection Application which maintains property tax records and enables local taxing entities to collect property taxes via the internet and provide information online.</b>
108	Tax Assessor-Collector	<b>EZ-Vote is the Voter Registration Application which maintains voter information and voter databases.</b>

<b>Services Provided by Hamer, Inc. (Con't)</b>		
<b>Dept. #</b>	<b>Office/Department</b>	<b>Description of Service</b>
108	Tax Assessor-Collector	<b>Vote Travis is the web-based application which allows a registered voter to retrieve various information including election sites, maps and voter's specific ballot style.</b>
108	Tax Assessor-Collector	<b>eCheck is the electronic payment process that functions like a paper check used to make online payments.</b>
108	Tax Assessor-Collector	<b>Annual Application of Software Maintenance/Support Agreement.</b>
108	Tax Assessor-Collector	<b>Stand Alone Kiosk and Custom Software built and designed for the convenience of taxpayers and installed at the Tax Office.</b>
108	Tax Assessor-Collector	<b>Return of eCheck Items and Credit Card Chargebacks.</b>
108	Tax Assessor-Collector	<b>eScofflaw is an application that enables jurisdictions to collect and recover past due and delinquent fines, fees and taxes by allowing the Tax Assessor-Collector to reject vehicle registrations for customers with past due obligations.</b>
149	TNR	<b>eReservation System is the web-based application which is used by the Parks Department for Hamilton Pool reservations.</b>
121	District Clerk	<b>eJustice is an application that was modified and re-tasked in order to improve on-line services and collections for the District Clerk's Office.</b>

Other Provided Services

Hamer-provided web services include the creation of the Travis County Tax Office (TCTO) home web page. The TCTO website is not considered an enhancement to the EZ-Tax System or the EZ-Vote System, but it is referenced in the amendment as it is a required data source for the information and processes to link with these payment processes. The TCTO website is the property of the Contractor, and services are being provided to the constituents of the Travis County Tax Office in exchange for specific transaction fees.

Payment Card Industry (PCI) Compliance

The Payment Card Industry Data Security Standard (PCI DSS) is the main tool the PCI Security Standards Council uses to regulate credit card data security and compliance. Specifically, the PCI DSS applies to all entities that store, process or transmit cardholder data. Entities who have subcontracted card processing activities to third-party service providers are responsible for

ensuring that the contracted parties are compliant with PCI DSS. The following are the 12 main components of the PCI DSS:

<b>PCI Data Security Standard – High Level Overview</b>	
<b>Build and Maintain a Secure Network and Systems</b>	<ol style="list-style-type: none"> <li>1. Install and maintain a firewall configuration to protect cardholder data.</li> <li>2. Do not use vendor-supplied defaults for system passwords and other security parameters.</li> </ol>
<b>Protect Cardholder Data</b>	<ol style="list-style-type: none"> <li>3. Protect stored cardholder data.</li> <li>4. Encrypt transmission of cardholder data across open, public networks.</li> </ol>
<b>Maintain a Vulnerability Management Program</b>	<ol style="list-style-type: none"> <li>5. Protect all systems against malware and regularly update anti-virus software or programs.</li> <li>6. Develop and maintain secure systems and applications.</li> </ol>
<b>Implement Strong Access Control Measures</b>	<ol style="list-style-type: none"> <li>7. Restrict access to cardholder data appropriately.</li> <li>8. Identify and authenticate access to system components.</li> <li>9. Restrict physical access to cardholder data.</li> </ol>
<b>Regularly Monitor and Test Networks</b>	<ol style="list-style-type: none"> <li>10. Track and monitor all access to network resources and cardholder data.</li> <li>11. Regularly test security systems and processes.</li> </ol>
<b>Maintain an Information Security Policy</b>	<ol style="list-style-type: none"> <li>12. Maintain a policy that addresses information security for all personnel.</li> </ol>

We performed an on-site visit with Hamer Enterprises in McAllen, Texas April 11-13 of 2017. Our review included interviews with Hamer personnel, reviews of applicable documentation such as policies and procedures and observation of the physical location and set-up of the provider’s hardware and infrastructure. We also reviewed data center and network operation controls, access and physical security, change management, system development and maintenance, and PCI DSS compliance. During this review, we found that Hamer is compliant with requirements 1-12 in the table above.

There are four levels of PCI DSS compliance, each backed on the number of credit card transactions processed by an entity and its security history. Hamer Enterprises is a Level 1 Service Provider; the required compliance criteria for Level 1’s are detailed below:

<b>Hamer Level of Merchant Compliance and Verification</b>		
<b>Level</b>	<b>Criteria</b>	<b>Merchant Validation Requirement</b>
1	<p>&gt;6,000,000 credit card transactions per year.</p> <p>Any enterprise that has lost data due to a security breach within the last year.</p>	<ol style="list-style-type: none"> <li>1. Annual formal assessment by a Qualified Security Assessor generating a Report of Compliance and an Attestation of Compliance, signed by the Qualified Security Assessor and an executive of the entity being assessed.</li> <li>2. Quarterly scan by an Approved Scanning Vendor.</li> </ol>

Hamer utilizes the Qualified Security Assessor (QSA) Security Metrics for assessments and scans related to Hamer’s Level 1 requirements. During the on-site visit, our office reviewed the most

recent Report of Compliance and the Attestation of Compliance as provided by Security Metrics, which appeared reasonable. In addition, we verified that quarterly scans are being performed.

Our assessment of Hamer's PCI compliance is only applicable to credit card information that has been transmitted to Hamer. Travis County has PCI responsibilities related to credit card data transmitted on County networks which were not assessed in this review.

# AREAS OF CONCERN

During the course of documenting processes and performing the review, several items and issues came to our attention that increase the likelihood that potential vulnerabilities and risks could be realized. These issues are detailed below:

## 1. CONTRACT, CONTRACT MANAGEMENT AND INFORMATION TECHNOLOGY SERVICES OVERSIGHT

### Contract Design

There are several amendments to the original contract delineating services provided by Hamer to the various offices and departments of Travis County. Given that the services provided to each of these County appointed and elected officials differ materially from the services provided to the Tax Office under the original contract, we recommend composing separate contracts between Hamer and each of these offices/departments.

We also noted that in many cases, the contract language is ambiguous and unclear for both the original contract and the subsequent modifications. The contract language should ensure that vulnerabilities or issues are described in such a manner that employees in specific areas or management understand the risks. Descriptions in the contract should be: recognizable (use common terms such as “criminal violations” or “against the law”), sufficiently descriptive (easy to visualize the event happening within the organization), actionable (have realistic steps, processes and actions for all to perform), and have consequences (explain the impact of what happens). Finally, contract actions and remediation processes should be allotted to management and employees in the best position to effect required changes.

### Contract Management

Contract management includes ensuring compliance with the contract’s terms and conditions, as well as documenting and agreeing on any changes or amendments that may arise during implementation or execution. This process can be summarized as systematically and efficiently managing contract creation, execution, and analysis for the purposes of maximizing financial and operational performance and minimizing risk.

Sound contract management practices yield an organized, useful contract. In this case, a current working copy of the contract that reflects all modifications and adjustments cannot be located, and certain technical aspects that outline standards required to be maintained are out of date. Lack of a current master contract makes it extremely difficult to follow what services Hamer is to provide under what standards. Compounding this issue, several earlier contract modifications replaced, added, and/or deleted certain sections of the original contract, and the original contract has been modified at least 35 times. Failing to maintain an original master copy of the contract in its entirety has also allowed for original commitments to go without review/update, as evidenced by references to obsolete security requirements and technologies in the contract.

The contract does not require that performance measures be periodically reported by Hamer. These measures should be delineated in the contract for each applicable service and product

provided by Hamer. Actual measurements should be regularly reviewed throughout the contract term to determine if the product or service obtained is satisfactory.

#### Travis County Information Technology Services Oversight

Effective planning, implementation, management and maintenance of a payment system requires high levels of both operational and technical oversight. IT strategic planning is particularly important for these systems because of the speed of technology innovation, evolving control and security standards, and risk of potential loss to the County and taxpayers.

Travis County Information Technology Services (ITS) has a comprehensive set of technology and security policies and standards, and due to the complexity of a payment system, several of them directly apply to services provided by Hamer.

Overall, ITS does not have significant involvement in monitoring the operations, security and processes for software and hardware. This includes working with Hamer on the evolution of PCI standards and requirements. At some point, this lack of involvement may lead to a number of issues, including non-compliance with PCI, security breaches and project delays.

#### Competitive Negotiation

Sole source refers to a non-competitive procurement process accomplished through the solicitation of only one provider. Texas purchasing statutes allow for this procurement type in certain circumstances, often for technology-related products and services. This type of contract requires continuous monitoring, and the contractual relationship may be more vulnerable to fraud and other issues.

The Commissioners Court approved the contract with Hamer as a sole source contract in 1994. The contract has not been solicited for competitive bids in the 23 years it has been in place. In addition, we found no evidence that the performance obtained and costs charged under this contract were compared to other providers or industry averages. While the County may be satisfied with the services provided by Hamer, these contracts for services should be periodically reviewed and accessed to determine if the obtained services are reasonable or if a competitive bidding process should be undertaken. Policies and procedures should be in place for evaluating service providers before renewing or extending this type of contract.

#### Recommendation:

For all products and services provided by Hamer on a going-forward basis, we recommend that County personnel work with Hamer to create individual, new contracts for these items with each applicable elected and appointed official. To illustrate, all products and services provided to the Tax Office should be contained in one (or more) contracts. Hamer products and services provided to the District Clerk should be contained in a completely separate contract(s). These new contracts should be compiled using the best practices for contracts of this type, and they should include appropriate performance measures and reporting protocols.

We also recommend more active involvement by ITS in the administration of Hamer contracts, including working with Hamer to ensure that security, PCI compliance, and project development protocols are appropriate in relation to Hamer products and services.

We recommend that ITS review all Hamer contracts for compliance with ITS policies. We further recommend that the Purchasing Agent review all Hamer products and services to determine if obtaining comparative competitive bids for these products and services is appropriate.

### **Management Response – Hamer Enterprises**

Over the past 23+ years, Easy Access, Inc. and Hamer Enterprises (HE) have worked diligently to become a daily, dependable working resource to many of the essential departments of Travis County, including many of its highly engaged elected officials. Over these many years HE has cultivated a performance-oriented trust with not only these departments and elected officials, but the independently objective departments of *Purchasing* and *Legal*, in order to impartially evaluate the value and quality of HE products and services. HE continues to strive to meet or exceed each year the high expectations and standards that these two (2) barometers of excellence have set while providing a most favorable cost effective approach for Travis County.

In review of the recent County audit findings regarding the HE “Contract Review”, HE would heartily embrace the idea of any or all the following core audit recommendations: updating the Master Agreement, establish separate agreements for each of the departments/divisions that HE comprehensively serves, or a blend of either, all of which comprised the core recommendations of this recent County audit evaluation. Moreover, as it relates to the implementation of “performance standards”, HE would also highly encourage this endeavor. In point of fact, these kinds of “performance measurements” would materially help to quantify and illustrate many of the ‘value-add’ services that HE provides at no-cost to the County. For instance, in the realm of electronic commerce, HE performs the time-intensive task of recovering “Return eCheck items and Credit Card Chargebacks” that may be used by a Travis County citizen when they try to satisfy such things as their property tax bill or a court fine or fee. This non-reimbursed service for recovery of electronically submitted return items not only enhances cash-flow for the County, but more importantly, relieves critical County staff of the labor intensive collateral duty of collections so that County staff can directly focus on service to the citizens of Travis County, thereby enhancing employee job performance and taxpayer satisfaction, all of which would reflect constructively on the overall quality of product/services provided to the County from HE.

Finally, with regard to the subject of “competitive negotiations”, HE is a highly regarded and experienced resource in the realm of automated systems that are used in the service of Public Administration. Therefore, it goes without saying that HE is quite comfortable with any type of quality-product/service led competitive negotiations that the County may wish to engage in. With the previous said, it is also HE’s contention that the key to unqualified and impartial competitive negotiations lies in an all-inclusive definition of the targeted product/services that the County would need to clearly establish in order to accurately judge not only the product/service value that is deemed necessary for the County, but a fair comparison by which actual value can be established for a range of product / services. For example, in the Travis County Tax Office (TCTO), the current ‘*Annual Application Software Maintenance / Support Agreement*’ is only a small fraction of the hundreds of thousands of dollars that a comparably experienced vendor would charge for a comparable County of Travis’ size, rate of growth and dimension of service support that is necessary for the TCTO. This highly reduced software support/maintenance cost was accomplished because HE was willing to enter into a Public-Private-Partnership (PPP) with Travis

County via various eCommerce services (which were provided at no-cost to the County). In the end, this eCommerce passive revenue was used by HE to maintain a significantly lower cost to Travis County for the TCTO 'Annual Application Software Maintenance / Support Agreement' regarding the Tax Office Administration and Collection system as well as the Voter Registration system. Additionally, this qualitative comparison of services would also need to address all of the no-cost service/products that HE also provides to the County. Some noteworthy examples of these no-cost service/products that may come to mind currently used by various County departments/offices include the following:

1. The no-cost eReservation system used by TNR for Hamilton Pool Park.
2. The eJustice System that was modified and re-tasked for the District Clerk's Office in order to improve on-line services and collections.
3. The stand-alone kiosk and custom software that was built and designed for the convenience of Travis County taxpayers and installed at the Travis County Tax Office.
4. The custom designed web application to enable citizen's ability to register to vote within the Travis County Tax Office and interface into the Voter Registration Office.
5. The hosting of various web-based software applications on HE's server farm, thereby again relieving the County staff of some very costly labor-intensive collateral daily duties, one such hosted application is "Vote Travis" which allows a registered voter to retrieve various information including election sites, maps and the voter's specific ballot style.

Ultimately, over these past 23+ years of service to Travis County it has been HE's abiding goal to try and *proactively* anticipate the needs of the various client department/divisions of Travis County by translating these needs into highly constructive no-additional-cost product/services. Moreover, it is important to note that these no-cost product/service were un-hesitantly developed and implemented well outside of HE's normal 'Annual Application Software Maintenance / Support Agreement' obligations.

A recent example of this type of 'proactive' product/service development for HE's County clients took shape in Hidalgo County, where HE responded to a county revenue need by designing and implementing a comprehensive delinquent fines and fees collection system which was based on the State's Scofflaw. In this instance to date, this no-cost system (eScofflaw) has been able to recover well over \$30 million of past due fines and fees, which has resulted in a reduction of Hidalgo County's current year property taxes. As it relates to Travis County, this example of resolute proactive support for its clients is an illustrative example of HE's foundational desire to always have at the forefront a profound desire to assist in maintaining the well-being of a county's citizenry. As for Travis County, HE has for countless years un-hesitantly responded to many "calls beyond the call of duty" and may be depended to do so in the months and years to come for Travis County. Moreover, at the end of the day, it is important to note that HE's core belief has been that its ultimate client is Travis County and the citizens it represents, which is a key value-trait that expressively distinguishes HE from other resources.

#### **Management Response - Tax Assessor Collector**

The Tax Office concurs with the recommendations of the Auditor's Office regarding the design and management of the Hamer Contract.

One of the difficulties in contracting for services with Travis County Tax Office is that we have a unique set of requirements that differ from other counties in Texas. We require immediate posting of payments to our taxpayer's property tax accounts and we are the only county in Texas that does not outsource delinquent property tax collections.

Although the contract with Hamer Enterprises has not been solicited for a competitive bid in 23 years, the Tax Office and staff from the Purchasing Office have been through multiple solicitations for Internet Processing Professional Services and Credit Card Payment Processing Services, and other services from various vendors with none of them being able to match the current level of service and pricing. The Tax Office believes that a competitive procurement process is in the best interest of the County as long as our unique requirements are met.

**Management Response – Purchasing**

Even though it was exempted, the modifications have been approved by Commissioners Court.

Updating the security requirements and policies are not the responsibility of the Purchasing Office. We will be more than happy to update the information when/if ITS provides the information.

The Purchasing Office does not drive the need for solicitation. We work at the direction of the end user departments. When/If end users determine a need for a new system, have their requirements ready, and submit it to the Purchasing Office we will prepare and issue a solicitation.

**Management Response – County Attorney**

No response. The County Attorney was afforded the opportunity to respond but did not.

**Management Response – ITS**

Information Technology Services (ITS) concurs that there is a great opportunity to collaborate with the Tax Office on the items enumerated in this audit. We agree that an active involvement with contract review, ITS standards, including security policies, PCI compliance, and systems monitoring will have a positive impact.

**2. COLLATERALIZATION OF FUNDS**

All County funds must be properly collateralized per Texas statute and the Travis County Investment Policy. Specifically, the Travis County Investment Policy states the following:

*“Certificate of deposits and bank deposits in financial institutions must be federally insured or collateralized. Financial institutions with which Travis County has certificates of deposit or bank deposits must provide Travis County with monthly reports that state the market values of collateral. The Investment Officers monitor the adequacy of collateral at least weekly. If the value of the collateral falls below the required level, the financial institution must pledge additional collateral no later than the end of the next business day after the value falls below the required level.”*

In addition, Government Code Sections 2257.021 and 2257.022 delineate the requirements for collateralizing public funds as follows:

*“Sec. 2257.021. COLLATERAL REQUIRED.*

*A deposit of public funds shall be secured by eligible security to the extent and in the manner required by this chapter.*

*Sec. 2257.022. AMOUNT OF COLLATERAL.*

*(a) Except as provided by Subsection (b), the total value of eligible security to secure a deposit of public funds must be in an amount not less than the amount of the deposit of public funds:*

*(1) increased by the amount of any accrued interest; and*

*(2) reduced to the extent that the United States or an instrumentality of the United States insures the deposit.*

*(b) Issuers of repurchase agreements must collateralize them with obligations of the United States or its agencies. These issuers must wire transfer the collateral to the safekeeping agent designated by Travis County through the Federal Reserve System. If the collateral matures in one year or less, the value of the collateral must be at least 100% of the par value of the repurchase agreement plus accrued interest. If the collateral matures in one to two years, the value of the collateral must be at least 102% of the par value of the repurchase agreement plus accrued interest. Collateral maturity is limited to two years.*

*(c) The value of a surety bond is its face value.*

*(d) The value of an investment security is its market value.”*

Findings:

During our onsite visit, we requested access to the Hamer bank accounts containing County funds to verify the flow of these funds. We were unable to gain access to these accounts, primarily because County funds are co-mingled with other collections. To elaborate, all funds processed by Hamer Enterprises are collected in one main bank account, with no segregation of funds being collected for the different entities the company services; therefore, we could not review County funds without viewing the records of funds belonging to other entities.

We were able to inspect Hamer’s insurance policies. These policies provide coverage for funds held by Hamer for other entities. Hamer’s Cybersecurity policy covers \$2 million of losses per loss with a cap of \$4 million. Presumably, this insurance is intended to cover any lost or misappropriated funds for any of the entities for which Hamer collects.

Setting aside the unknown amount of funds held by Hamer for other entities, this level of insurance coverage would be insufficient to cover all Travis County funds held by Hamer at least portions of the year, particularly during property tax payment season. Based on this, Travis County funds

collected by Hamer but not yet transferred/deposited into a Travis County bank account are not properly collateralized.

Significance:

Statutes and policies regarding collateralization of funds are put in place to protect tax payers, the County, and applicable third parties in case the collateralized funds are lost or misappropriated.

Recommendation:

Hamer should work with the Travis County Investment Management Office to resolve this issue and ensure that County funds held by Hamer are properly collateralized.

**Management Response – Hamer Enterprises**

Hamer Enterprises' (HE) has continuously held a steadfast objective to always provide a safeguard setting for any public funds that are processed through any of HE's eCommerce solutions. The evidence of this attitude has been persistently illustrated over the past 15 years through HE's proactive readiness to un-hesitantly meet with various County departmental leadership and officials in order to prodigiously insure the well-being of any public funds that might be processed through an HE eCommerce solution.

An eminent demonstration of this commitment has been in HE's current endeavor to work directly with Travis County Tax Office and JP Morgan Chase bank in order to direct deposit all electronic checks. This would be affected by simply submitting a NACHA file directly to JP Morgan Chase Bank for direct processing into the Travis County Tax Office bank account. By doing the NACHA file process direct with JP Morgan Chase, it will expressly meet the requirements for collateralization for the electronic checks as set forth by statute and Travis County. Additionally, HE would continue to verify funds and work all return items, as it is currently doing, by way of "Read only" authority to the specified account. This value-added service would continue to eliminate the rigorous burden for Travis County Tax Office staff to work and verify these return items. Consequently, this read-only authority would allow HE to see the returned items and therefore could continue to provide this labor-intensive service so that County staff intervention would not be necessary, thus relieving County staff to perform more effectively their primary duties. This new process-solution, would not only address the spirit of the County Auditor's observations, but would entirely alleviate the core concern of how a vendor would provide full collateralization for any public funds which were temporarily in its trust.

In regards to the remainder of eCommerce processing which uses means other than electronic check, HE is committed to "Pre-Funding" all transactions. In a meeting with Travis County Finance, the Travis County Auditor's Office and Travis County Tax Office in 2016 this method was discussed and approved by all. As a result, HE has been "Pre-Funding" all Travis County transactions to all departments.

HE welcomes any discussions related process changes in order to insure the security of all monies for Travis County. HE over the years has worked hand in hand with the various departments to insure that HE meets or exceeds the expectations of Travis County in regards to all services provided to the County. HE and Travis County have worked well together in order to effect any

required or enhanced process-change. This allows for those process-changes to not only be transformative, but more importantly to be mutually beneficial to all.

This transformative mind-set is one of those unique qualities that distinguishes the long standing relationship between HE and Travis County.

### **Management Response – Tax Assessor-Collector**

The Tax Office recognizes the importance of safeguarding County and taxpayer funds; however, the issues of collateralization of funds not held in a Travis County depository is complicated.

The Tax Office believes that there are two issues that need to be addressed in order to monitor whether the 3<sup>rd</sup> party payment processors are adequately collateralized. When do the funds collected by companies processing payments on behalf of the Tax Office become “public funds”? If the deposits of collections become “public funds” when deposited into a 3<sup>rd</sup> party payment processors’ bank account, what collateral monitoring processes will be performed and which department will be responsible for verifying that these funds are adequately collateralized?

Government Code Sections 2257.021 and 2257.022 delineate the requirements for collateralizing public funds. If the collections are not public funds until they are deposited into a Travis County depository, then the noted statutes are not applicable and finding alternative methods of ensuring funds are safeguarded may be more appropriate.

If the collections become “public funds” when deposited into the bank account of a 3<sup>rd</sup> party payment processors prior to being remitted to Travis County, then a process to monitor collateralization will need to be developed, including which office will be responsible for the monitoring. Although Hamer Enterprises processes the largest amount of collections on behalf of the Tax Office, they are only one vendor providing collection processing services. Other vendors providing collection processing services on behalf of the Tax Office include Linebarger, Municipal Services Bureau (MSB), and Tyler Technologies. More than likely, each of these companies comingle funds collected with no segregation of funds being collected will have to be performed for each of these 3<sup>rd</sup> party payment processors. As noted by the Auditor’s Office, gaining access to the bank accounts of Hamer Enterprises or any other vendor and being able to segregate funds belonging to Travis County from other entities will be problematic at best.

To partially mitigate the risk to County funds of inadequate collateralization, the Tax Office, JPMorgan Chase and Hamer Enterprises are partnering to safeguard funds by processing E-Check collections using NACHA files. In this case the funds associated with E-Check payments are deposited directly into a Travis County bank account and would be collateralized by Travis County. These funds represent the most significant amount of collections processed by Hamer Enterprises and they will not have to be collateralized by Hamer Enterprises because the funds will never be in their bank account.

Another way that the Tax office is mitigating the collateralization issue is by requiring Hamer Enterprises to prefund credit card collections. Funds are remitted to the Tax Office the day after the transaction is processed by Hamer Enterprises, which in many cases is prior to the funds being deposited into Hamer Enterprises’ bank account.

Despite the complexities of the collateralization issue and the risk mitigation efforts currently in place or being implemented, The Tax Office is willing to work with the Travis County Investment Management Office and the Auditor's Office to resolve this issue and ensure that County funds held by Hamer Enterprises and any other 3<sup>rd</sup> party payment processor are properly safeguarded and collateralized.

### **3. E-CHECK PROCESSING**

E-checks are inherently prone to submission errors because, unlike credit cards, there is no pre-check or advanced certification process. To address this issue, Hamer performs the following steps depending on the E-check amount:

- E-Checks under \$100,000 are collected in Hamer accounts. The total submitted is transferred to Travis County on the following business day, less any non-sufficient funds for returned transactions. This transfer occurs before Hamer actually has possession of these funds.
- For E-Checks over \$50,000 but under \$100,000, Hamer calls the payor on the following day to verify the amount, funds availability, and conditions to help ensure that these items are not subsequently returned for insufficient funds.
- E-Checks over \$100,000 are segregated from the other transactions, printed and deposited directly into a Travis County account, in person, at a JPMorgan Chase branch in McAllen, Texas.

When our review began, the Tax Office was unaware of Hamer's E-Check processing procedures. The Tax Office is now reviewing E-Check procedures and is considering adopting an electronic solution that involves processing E-Check payments with a NACHA-formatted file. NACHA manages the development, administration and governance of the Automated Clearing House (ACH) Network, which is the infrastructure for the electronic movement of money and data in the United States. A NACHA file is a file of electronic payments that has been compiled and formatted according to standards to help facilitate processing.

If adopted, E-Check payment information would be collected and formatted into the NACHA file by Hamer, sent to a Travis County Server and then sent from Travis County to JPMorgan for deposit. Hamer is ready to facilitate NACHA processing and is waiting on the Tax Office to decide on adoption.

Depositing E-Check payments directly into a Travis County bank account has the benefit of minimizing collateralization concerns related to these transactions; however, processing payments with a NACHA file introduces the following risks:

- 1) Securing the NACHA file might require Travis County to acquire and maintain dedicated equipment and software to comply with PCI DSS standards that Travis County avoids by having payments processed by Hamer.

- 2) NACHA files have been stolen, and if stolen, they would allow an outside party to have possession of a correctly formatted file for Federal Reserve processing, resulting in loss of funds.
- 3) Directly depositing payments with high dollar amounts would be a potential liability to Travis County if the transaction is denied. The current process has Hamer covering fees for returned transactions sent to Travis County accounts. It is unclear and undecided how or why Hamer would refund or compensate Travis County for return fees charged directly to Travis County accounts in a NACHA processing workflow.
- 4) The Tax Office is considering granting Hamer read-only access to Travis County bank accounts so that Hamer can continue to provide collection services. Shifting collection efforts from Hamer to the Tax Office is one of the Tax Office's major concerns due to resource constraints.
- 5) During our onsite visit, Hamer recommended providing access to JPMorgan in order obtain the NACHA file directly from the Travis County server, post-adoption, as opposed to having Travis County send the file to JPMorgan, due to vulnerabilities involved with the sending or transport of an electronic NACHA file. This was communicated to the Tax Office by REC, and this issue highlights the complexity of the processes and procedures that adoption of NACHA file processing would require.

The Tax Office is interested in NACHA processing in order to lower collateralization concerns, but this form of collection would increase the time it takes for the Tax Office to receive E-Check payments, as Hamer would not be providing next-day transfers. This change also may complicate the collection handling arrangement that Hamer currently manages.

**Recommendation:**

We recommend that all stakeholders be involved with planning for changes to the payment collection process. Any changes made should be in compliance with all applicable Texas statutes and best practices and should properly secure taxpayer and County assets and data.

**Management Response – Hamer Enterprises**

As stated above in our response to the County Auditor's Comment #2, "E-Check Processing", Hamer Enterprises has been an active partner with the County in affecting a transformative process-change that will entirely remediate the Auditor's observation. Therefore, Hamer Enterprises is in full endorsement of the proposed process-change that is anticipated to be effective on December 15, 2017 as outlined by the Travis County Tax Office in their response to Comment #1 above, "Contract and Contract Management".

**Management Response – Tax Assessor-Collector**

The Tax Office is moving forward with processing the E-Check payments using NACHA files. We are in discussions with the Implementation Team from JPMorgan Chase and representatives from Hamer Enterprises with a goal of complete implementation prior to our peak collection period beginning December 15<sup>th</sup>. This has been implemented as of December 15, 2017.

We believe that processing E-Check collections using NACHA files is the most secure and efficient method to process E-Check payments as the money would be deposited directly into a Travis County bank account and would be collateralized by Travis County. In addition, the liability to the County for returned items using NACHA file processing is no greater than the risk of returned items for paper checks processed through our Remittance Process Device (RPD) and Image Direct Deposit (IDD).

The proposed E-Check processing is as follows:

- The E-Check collections will be deposited directly into a Travis County Property Tax account using a secure NACHA File.
- E-Check payments will be deposited into Tax Office bank accounts within 2 business days. The NACHA file containing payment information for Monday will be pulled by JPMorgan Chase Tuesday morning and funds will be deposited into the Tax Office bank account on Wednesday.
- All E-Checks would be processed the same – no more printing checks and taking them to the bank.
- JPMorgan Chase will pull the secure FTP File from Hamer Enterprises' secure FTP server. By doing this, the responsibility for the data will reside with Hamer while on their secure server, which should satisfy any concerns over stolen files since the files will be transmitted using JPMorgan Chase secure file transfer protocols. Hamer Enterprises has been using this process with another one of their clients for more than two years and have had no security issues.
- Hamer Enterprises will be restricted to read only (Inquiry) access for the separate E-Check bank account in order to perform all of the follow up on any returned items.
- The Tax Office believes that the E-Check processing described above is in compliance with applicable Texas statutes and best practices and will properly secure taxpayer and County assets and data.