

**REPORT OF THE AUDIT OF THE
FORMER OWSLEY COUNTY
CLERK**

**For The Year Ended
December 31, 2012**



**ADAM H. EDELEN
AUDITOR OF PUBLIC ACCOUNTS
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EXECUTIVE SUMMARY

AUDIT EXAMINATION OF THE FORMER OWSLEY COUNTY CLERK

**For The Year Ended
December 31, 2012**

The Auditor of Public Accounts was engaged to audit the fee account activities of the former Owsley County Clerk's office for the year ended December 31, 2012. Based upon the audit work performed, we have issued a disclaimer of opinion on the financial statement.

Based upon our assessment of audit risk, we determined the risk of fraud to be too high to issue an opinion and we were unable to apply other audit procedures to overcome this risk. In addition, the former County Clerk's office had serious weaknesses in the design and operation of its internal control structure and accounting functions.

Report Comment:

- 2012-01 The Former County Clerk Did Not Manage The Financial Activities Of His Office
- 2012-02 The Former County Clerk Did Not Comply With The Uniform System Of Accounts
- 2012-03 The Former County Clerk's Office Lacks Adequate Segregation Of Duties
- 2012-04 The Former County Clerk Has A Known Deficit Of \$139,449 In His 2012 Fee Account
- 2012-05 The Former County Clerk Had \$1,082 In Disallowed Expenditures
- 2012-06 The Former County Clerk Deposited \$8,500 Of Unidentified Cash After Year End
- 2012-07 The Former County Clerk Has Not Closed Out His 2012 Fee Account
- 2012-08 The Former County Clerk Has Not Closed Out His 2011 Fee Account
- 2012-09 The Former County Clerk Did Not Remit Payroll Withholding And Matching Funds To Proper Agencies
- 2012-10 The Former County Clerk Did Not Account For Delinquent Taxes Completely And Accurately
- 2012-11 The Former County Clerk Did Not Remit Deed Transfer Tax To The County
- 2012-12 The Former County Clerk Has Not Closed Out His 2010 Fee Account
- 2012-13 The Former County Clerk Did Not Settle Prior Period Liabilities
- 2012-14 The Former County Clerk Did Not Issue Receipts In Accordance With KRS 64.840
- 2012-15 The Former County Clerk Did Not Record Payments From The Commonwealth Of Kentucky And The Fiscal Court In Accordance With KRS 43.075
- 2012-16 The Former County Clerk Did Not Maintain Leave Balance Documentation
- 2012-17 Form 1099 Was Not Prepared For All Applicable Contract Labor
- 2012-18 The Former County Clerk Did Not Remit Ad Valorem Taxes To Taxing Districts Timely
- 2012-19 The Former County Clerk Did Not Prepare And Submit Title Applications Timely
- 2012-20 The Former County Clerk Cashed \$2,987 Of Checks Received From Taxpayers For Fee Collections

Deposits:

The former County Clerk's deposits were insured and collateralized by FDIC.

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ADAM H. EDELEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Ronnie Debord, Owsley County Judge/Executive
The Honorable Sid Gabbard, Former Owsley County Clerk
The Honorable Shanna Oliver, Owsley County Clerk
Members of the Owsley County Fiscal Court

Independent Auditor's Report

Report on the Financial Statement

We were engaged to audit the statement of revenues, expenditures, and excess fees - regulatory basis of the former County Clerk of Owsley County, Kentucky, for the year ended December 31, 2012, and the related notes to the financial statement.

Management's Responsibility for the Financial Statement

Management is responsible for the preparation and fair presentation of the financial statement in accordance with accounting practices prescribed or permitted by the laws of Kentucky to demonstrate compliance with the Commonwealth of Kentucky's regulatory basis of accounting as described in Note 1. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the financial statement that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on this financial statement based on conducting the audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Because of the matters described in the Basis for Disclaimer of Opinion paragraph, however, we were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.



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 The Honorable Sid Gabbard, Former Owsley County Clerk
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Basis for Disclaimer of Opinion

The former County Clerk did not provide us with a management representation letter and did not maintain adequate accounting records of fee account revenues and expenditures to allow us to apply other auditing procedures to satisfy ourselves as to the validity of fee account revenues and expenditures. However, based on available accounting records, material financial statement misstatements were identified along with other significant deficiencies in the county clerk's records and a lack of internal controls. The former County Clerk did not accept the related audit adjustments to correct these misstatements. The combination of these items resulted in a high level of audit risk. Due to the apparent lack of internal controls and the above noted issues, we were unable to reduce the audit risk to an acceptable level.

Disclaimer of Opinion

Because of the significance of the matters described in the Basis for Disclaimer of Opinion paragraph, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, we do not express an opinion on the financial statement.

Other Reporting Required by Government Auditing Standards

In accordance with Government Auditing Standards, we have also issued our report dated December 4, 2013 on our consideration of the former Owsley County Clerk's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the former Owsley County Clerk's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards in considering the entity's internal control over financial reporting and compliance.

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discuss the following report comments:

- 2012-01 The Former County Clerk Did Not Manage The Financial Activities Of His Office
- 2012-02 The Former County Clerk Did Not Comply With The Uniform System Of Accounts
- 2012-03 The Former County Clerk's Office Lacks Adequate Segregation Of Duties
- 2012-04 The Former County Clerk Has A Known Deficit Of \$139,449 In His 2012 Fee Account
- 2012-05 The Former County Clerk Had \$1,082 In Disallowed Expenditures
- 2012-06 The Former County Clerk Deposited \$8,500 Of Unidentified Cash After Year End
- 2012-07 The Former County Clerk Has Not Closed Out His 2012 Fee Account
- 2012-08 The Former County Clerk Has Not Closed Out His 2011 Fee Account
- 2012-09 The Former County Clerk Did Not Remit Payroll Withholding And Matching Funds To Proper Agencies
- 2012-10 The Former County Clerk Did Not Account For Delinquent Taxes Completely And Accurately
- 2012-11 The Former County Clerk Did Not Remit Deed Transfer Tax To The County
- 2012-12 The Former County Clerk Has Not Closed Out His 2010 Fee Account
- 2012-13 The Former County Clerk Did Not Settle Prior Period Liabilities

The Honorable Ronnie DeBord, Owsley County Judge/Executive
The Honorable Sid Gabbard, Former Owsley County Clerk
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Other Reporting Required by Government Auditing Standards (Continued)

- 2012-14 The Former County Clerk Did Not Issue Receipts In Accordance With KRS 64.840
- 2012-15 The Former County Clerk Did Not Record Payments From The Commonwealth Of Kentucky And The Fiscal Court In Accordance With KRS 43.075
- 2012-16 The Former County Clerk Did Not Maintain Leave Balance Documentation
- 2012-17 Form 1099 Was Not Prepared For All Applicable Contract Labor
- 2012-18 The Former County Clerk Did Not Remit Ad Valorem Taxes To Taxing Districts Timely
- 2012-19 The Former County Clerk Did Not Prepare And Submit Title Applications Timely
- 2012-20 The Former County Clerk Cashed \$2,987 Of Checks Received From Taxpayers For Fee Collections

Respectfully submitted,



Adam H. Edelen
Auditor of Public Accounts

December 4, 2013

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OWSLEY COUNTY
FORMER COUNTY CLERK'S 4TH QUARTER REPORT

**OWSLEY COUNTY
FORMER COUNTY CLERK'S 4TH QUARTER REPORT**

Form For Budget, Cumulative Quarterly Report and Annual Settlement For Calendar Year 2012

Owsley County Clerk

Part One - Summary and Reconciliation of All Accounts

Show & Describe All Accounts	Column 1	Column 2	Column 3	Column 4	Column 5
	2012 Fee Account Budget Estimate	2012 Fee Account Cumulative Actual	ACCOUNT (NOT FEE ACCOUNT)	ACCOUNT (NOT FEE ACCOUNT)	ACCOUNT (NOT FEE ACCOUNT)
1. Receipts YTD		632,600.17			
2. Total Disbursements YTD		623,884.08			
3. Book Balance/Excess Fees		15,516.09			
4. Bank Statement Balance					
5. Plus Deposits in Transit		0			
6. Less Outstanding Checks		0			
7. Other					
8. Reconciled Bank Balance		15,516.09			
9. Accounts Receivable as of 12/31					
10. Unpaid Obligations as of 12/31					
11. Excess Fees					

Notes: This form is the required format for the budget and the quarterly report - BUDGET. After completing the budget estimate columns of Part One, Two and Three, submit to the fiscal court for approval. Part One - Summary and Reconciliation of All Accounts. QUARTERLY REPORT: The quarterly report is cumulative. Show the status of all funds in the official change during calendar year to date in Part One. Line 1. Show total receipts for each fee account as of 12/31. All amounts being reported are. Show current year fee account in COLUMN 2 as calculated in Part Two of report. Line 2. Show total disbursements on a cash basis for the year to date for all accounts. Show current year fee account in COLUMN 2 as calculated in Part Three of report. Line 3. Show difference between lines 1 and 2 for all accounts. Line 4. Show bank statement balance(s) at close of quarter. Line 5. Show total deposits made prior to close of quarter that are not reflected in bank statements. Line 6. Show total outstanding checks issued prior to quarter that are not reflected in bank statements. Line 7. Show investments. Line 8. Show line 4 adjusted for lines 5, 6, and 7. Line 8 should equal line 3 for all accounts. Line 9. Complete for quarter ending 12/31. Show calculation in Part Four of report. Line 10. Complete for quarter ending 12/31. Show calculation in Part Four of report. Line 11. Complete for quarter ending 12/31. Show calculation in Part Four of report. Report due to: State Local Finance Officer, 1024 Capital Center E 540, Frankfort, KY 40601-8204 by the 30th day following the close of each quarter. Tax # 502-873-3712 / Ph # 502-873-3710.

Approved by the fiscal court on the ____ day of _____, 2012

County Judge/Executive Date

To the best of my knowledge the information reported herein for the budget quarter ended 12-31-12 is accurate and complete

[Signature]
Signature of County Clerk Date 2-1-13

OWSLEY COUNTY
 FORMER COUNTY CLERK'S 4TH QUARTER REPORT
 (Continued)

Part Two Receipts	Budget Estimate	1/1 thru 3/31	4/1 thru 6/30	7/1 thru 9/30	10/1 thru 12/31	Total YTD	Accounts Receivable	Settlement Total
1. Federal Grants/Reimbursements								
2. State Grants CO		46,249.97	46,249.97	46,249.97	46,249.97			184,499.92
3. State Fees For Services			6,800.00		6,800.00	13,600.00		13,600.00
4. Fiscal Court ELECTION								
5. Revenue Supplement (< 20,000 pop)								
6. Licenses and Taxes								
7. Motor Vehicle:		48,276.31	39,412.97	30,662.52	27,726.27	146,056.12		146,056.12
8. Licenses and Transfers								
9. Usage Tax		24,588.88	28,568.23	28,143.36	21,004.56	102,305.03		102,305.03
10. Tangible Personal Property Tax		71,443.02	52,668.83	55,333.21	52,697.07	232,142.13		232,142.13
11. Notary Fees								
12. STATE		60,000.00				60,000.00		60,000.00
13. Licenses (continued)								
14. Fish and Game								
15. Marriage		352.00	241.50	310.50	276.00	1,380.00		1,380.00
16. Occupational								
17. Beer & Liquor								
18.								
19.								
20. Deed Transfer Tax		978.00	1,133.00	1,115.50	527.00	3,753.50		3,753.50
21. Delinquent Taxes		3,052.82		27,822.60		30,875.42		30,875.42
22. Fees Collected for Services								
23. Recordings:								
24. Deeds, Easements, and Contracts		670.00	510.00	472.00	601.00	2,253.00		2,253.00
25. Real Estate Mortgages		232.00	188.00	303.00	187.00	910.00		910.00
26. Chattel Mortgages & Financing Stmt's		197.00	226.00	231.00	197.00	851.00		851.00
27. Powers of Attorney		50.00	50.00	20.00	60.00	180.00		180.00
28. All Other Recordings		231.00	320.00	329.00	586.00	1,466.00		1,466.00
29. Charges for Other Services:								
30. Copywork MISC		972.00	764.00	1,097.00	2,012.00	4,845.00		4,845.00
31. Postage HOUSING		109.00	1,220.00	1,155.00	1,275.00	4,659.00		4,659.00

OWSLEY COUNTY
 FORMER COUNTY CLERK'S 4TH QUARTER REPORT
 (Continued)

Part Three (continued) Disbursements	Budget Estimate	1/1 thru 3/31	4/1 thru 6/30	7/1 thru 9/30	10/1 thru 12/31	Total YTD	12-01 Unpaid Obligations	Settlement Total
46. <u>ELECTION</u>			5460.00		5430.00	10890.00		10890.00
47. <u>ADVERTISING</u>								
48. Supplies & Materials (describe)								
49. Office Supplies		1	1731.24	214.65		1945.89		1950.89
50. <u>PHONE</u>		424.45	552.37	1485.7	742.31	1865.25		1865.25
51. Other Charges (describe)								
52. Conventions & Travel								
53. Dues <u>HOUSING</u>								
54. Postage		1413.54	2544.94	2658.20	1421.08	10477.42		10477.42
55. Misc								
56. <u>CONTRACT LABOR</u>								
57. Debt Service (showed money interest rate/purchase)								
58. Principal on Note								
59. Interest								
60. Computer Lease								
61. Capital Outlay (weight purchases or tangible items lasting in nature)								
62. Office Equipment								
63. Vehicle								
64.								
65.								
66.								
67. Total Official Expenses								
68. Payments to County Treasurer								
69. Payments to State Treasurer								
70. Total Disbursements								

Enter total of lines 28, 67, 68 and 69 on line 70
 Copy the figure shown on line 70 in the Budget Estimate column to the Summary on page 1, column 1, line 2. Copy the figure shown on line 70 in the Total column to page 1, column 2, line 2. Copy the figure shown on line 70 in the Unpaid Obligations column to page 1, column 3, line 2. Copy the figure shown on line 70 in the Settlement Total column to page 1, line 10.

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REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



ADAM H. EDELEN
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**Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards**

Independent Auditor's Report

We were engaged to audit the statement of revenues, expenditures, and excess fees – regulatory basis of the former Owsley County Clerk for the year ended December 31, 2012, and have issued our report thereon dated December 4, 2013 wherein we disclaimed an opinion on the financial statement because the former County Clerk failed to maintain adequate accounting records and lacked adequate internal controls resulting in high audit and fraud risk.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statement, we considered the former Owsley County Clerk's internal control over financial reporting to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the former Owsley County Clerk's internal control. Accordingly, we do not express an opinion on the effectiveness of the former Owsley County Clerk's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying comments and recommendations, we identified certain deficiencies in internal control that we consider to be material weaknesses.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statement will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies described in the accompanying comments and recommendations as items 2012-01, 2012-02, 2012-03, 2012-04, 2012-06, 2012-10, 2012-14, and 2012-19 to be material weaknesses.



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the former Owsley County Clerk's financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under Government Auditing Standards and which are described in the accompanying comments and recommendations as items 2012-02, 2012-04, 2012-05, 2012-07, 2012-08, 2012-09, 2012-10, 2012-11, 2012-12, 2012-13, 2012-14, 2012-15, 2012-16, 2012-17, 2012-18, 2012-19, and 2012-20.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with Government Auditing Standards in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Respectfully submitted,



Adam H. Edelen
Auditor of Public Accounts

December 4, 2013

COMMENTS AND RECOMMENDATIONS

OWSLEY COUNTY
SID GABBARD, FORMER COUNTY CLERK
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2012

FINANCIAL STATEMENT FINDINGS:

2012-01 The Former County Clerk Did Not Manage The Financial Activities Of His Office

The former County Clerk did not account for the financial activities of his office by maintaining complete and accurate financial records, as further discussed in Comment 2012-02. The 4th Quarterly Report given to auditors was not supported by the receipts and disbursements ledgers and did not agree to bank activity for the period. Due to numerous errors noted in the following comments and recommendations, auditors cannot verify the accuracy of the financial statement. Inaccurate and incomplete financial reports can lead to improper financial decision making as well as increase the risk that errors and/or fraud will occur and go undetected.

Auditors have not been able to express an opinion on the former County Clerk's financial statements for the past eleven years including the current engagement. Recommendations have been made for at least the last twelve years by three different auditing firms in an attempt to help the former County Clerk understand how he could easily correct his poor financial practices and internal controls. The former County Clerk has made some improvements, however until all deposits are made intact daily and all receipts are posted to the receipts ledgers, fraud risk will continue to be high.

The former County Clerk needs to improve his financial practices and internal controls, as discussed in Comments 2012-02 and 2012-03, to ensure that proper information is submitted in a timely manner and is not misleading to users of the information. Additionally, complete and accurate financial records can ensure expenditures are made only when sufficient funds are available. The former County Clerk's current practices create an environment for potential material misstatements to occur in the financial statements either by error or fraud and go undetected. If the former County Clerk continues his poor financial practices and does not improve the internal control structure as recommended in Comment 2012-03, taxpayer monies will continue to be at risk. In addition, various local and state agencies that rely on and monitor the financial and program activity of the former County Clerk cannot rely on nor have any confidence in the reports submitted by the former County Clerk. We recommend the former County Clerk prepare complete and accurate financial reports that are supported by the ledgers and bank activity of his office.

County Clerk's Response: None.

OWSLEY COUNTY
SID GABBARD, FORMER COUNTY CLERK
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2012
(Continued)

FINANCIAL STATEMENT FINDINGS: (CONTINUED)

2012-02 The Former County Clerk Did Not Comply With The Uniform System Of Accounts

Multiple year audit findings represent failure to comply with the Uniform System of Accounts as adopted under KRS 68.210. Among other provisions, this statute requires the official to maintain accurate recording of receipts by source and expenditures by payee, and to fulfill all other legal requirements relating to the oversight and management of public funds by his office. The former County Clerk failed to comply with the minimum requirements of the Uniform System of Accounts in the following areas:

- Three part receipt forms were not issued for all transactions (See Comment 2012-13)
- Deposits were not made intact daily
- Bank reconciliations were not prepared monthly
- Daily checkout sheets were not utilized to account for all receipts collected and were not prepared timely
- Annual financial statement was not prepared accurately
- Quarterly reports were not submitted to the Department for Local Government as required
- Complete and accurate receipt ledger was not properly maintained

Failure to complete these tasks results in inadequate oversight and accountability over financial activity as well as increases the risk that errors and/or fraud will occur and go undetected. We recommend the former County Clerk meet the minimum requirements of accountability for compliance with the Uniform System of Accounts.

Former County Clerk's Response: None.

2012-03 The Former County Clerk's Office Lacks Adequate Segregation Of Duties

The former County Clerk's office lacks adequate segregation of duties which further contributes to the inability to rely on his financial information. The former County Clerk maintains the disbursement ledger, makes the bank deposits, and mails checks for payment. Good internal controls dictate the same employee should not receive payments, make deposits, and prepare checks for payment.

If, due to a limited number of staff, it is not possible to segregate duties, strong oversight over these areas should occur and involve an employee not currently performing any of those functions. Additionally, the former County Clerk could provide the oversight. If the former County Clerk does implement compensating controls, these should be documented on the appropriate source documentation. Examples of possible compensating controls include the following:

- The former County Clerk, or his designee, could periodically compare the daily checkout sheet to the deposit slip and receipts ledger. Any discrepancies should be resolved and the review should be documented by initialing and dating the deposit ticket, the daily checkout sheet, and the receipts ledger.

OWSLEY COUNTY
 SID GABBARD, FORMER COUNTY CLERK
 COMMENTS AND RECOMMENDATIONS
 For The Year Ended December 31, 2012
 (Continued)

FINANCIAL STATEMENT FINDINGS: (CONTINUED)

2012-03 The Former County Clerk's Office Lacks Adequate Segregation Of Duties (Continued)

- The Former County Clerk, or his designee, could compare total collections per monthly and weekly reports to daily checkout sheets. Any discrepancies should be resolved and the review should be documented by initialing and dating the report.
- The Former County Clerk, or his designee, could compare cancelled checks listed on the bank statement to the amounts recorded in the disbursements ledger. Any discrepancies should be resolved and the review should be documented by initialing and dating the bank statement and the disbursements ledger.

We recommend the Former County Clerk immediately implement controls and oversight over the financial activities of his office to ensure errors are prevented or detected in a timely manner.

Former County Clerk's Response: None.

2012-04 The Former County Clerk Has A Known Deficit Of \$139,449 In His 2012 Fee Account

After all known unpaid liabilities are accounted for, the former County Clerk has a \$139,449 known deficit in his 2012 fee account. The amount reported as a known deficit is the result of undeposited and/or unrecorded receipts, disallowed expenditures, and expenditures made in excess of revenues as outlined in the schedule below. The former County Clerk deposited \$16,000 of personal funds into this account on September 6, 2013 reducing the deficit amount.

Unrecorded and/or Undeposited Receipts	\$ 125,910
Disallowed Expenditures	1,082
Expenditures In Excess Of Revenues	12,457
	<u>\$ 139,449</u>

Comparisons of the former County Clerk's records, information obtained from outside sources, and bank records revealed \$125,910 in undeposited and/or unrecorded receipts. This comparison also showed significant delays in deposits and unusual cash deposit patterns.

Due to numerous problems with the former County Clerk's financial accounting and reporting system (See Comment 2012-02) and his internal control structure (See Comment 2012-03), we cannot eliminate the possibility that the deficit is greater than the known amount.

We recommend the former County Clerk deposit an additional \$123,449 of personal funds to cover the known deficit in his 2012 fee account, and then pay all liabilities still outstanding (See Comment 2012-07). We also recommend the former County Clerk take immediate steps to ensure all funds received by his office are deposited into his official account timely and that all liabilities resulting from official operations are reported properly and paid promptly.

Former County Clerk's Response: None.

OWSLEY COUNTY
SID GABBARD, FORMER COUNTY CLERK
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2012
(Continued)

FINANCIAL STATEMENT FINDINGS: (CONTINUED)

2012-05 The Former County Clerk Had \$1,082 In Disallowed Expenditures

The former County Clerk had \$1,082 in disallowed expenditures which includes \$941 in bank overdraft fees, \$9 in late fees, and \$132 in undocumented reimbursements. Items such as bank overdraft fees, late payment fees, and undocumented reimbursements are not necessary expenses of the office and are reflective of poor management practices. In Funk vs. Milliken, 317 S.W.2d 499 (KY 1958), Kentucky's highest court reaffirmed the rule that county fee officials' expenditures of public funds will be allowable only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not personal in nature. We recommend the former County Clerk only expend fee account monies for allowable purposes and have the proper supporting documentation for each payment. We have recommended the former County Clerk deposit personal funds to cover the deficit as discussed in Comment 2012-04, which includes \$1,082 in disallowed expenditures.

Former County Clerk's Response: None.

2012-06 The Former County Clerk Deposited \$8,500 Of Unidentified Cash After Year End

The former County Clerk deposited cash totaling \$8,500 after the close of calendar year 2012. The former County Clerk did not provide any financial documentation or records supporting the source of the funds, however, we have given the former County Clerk credit for these funds in determining his account deficit. If these funds had not been applied to the 2012 Fee Account, the known deficit would be significantly higher. Because the former County Clerk continues the practice of producing insufficient financial records over receipts, we cannot eliminate the possibility that these cash deposits were from 2013 cash collections as these deposits could not be directly attributed to any 2012 collections or other fees of the former County Clerk's office. Furthermore, we question the validity of any and all deposits occurring after the former County Clerk has completed his settlement as no additional funds should be deposited into the fee account after settlement is made.

All collections for each business day must be deposited intact daily. Funds received should not remain un-deposited for significant time periods as this increases the risk that the funds will be misappropriated. We recommend the former County Clerk cease unidentified and undocumented cash deposits after year end.

Former County Clerk's Response: None.

OWSLEY COUNTY
 SID GABBARD, FORMER COUNTY CLERK
 COMMENTS AND RECOMMENDATIONS
 For The Year Ended December 31, 2012
 (Continued)

FINANCIAL STATEMENT FINDINGS: (CONTINUED)

2012-07 The Former County Clerk Has Not Closed Out His 2012 Fee Account

In order to close out the 2012 fee account, the former County Clerk needs to collect the following:

Due Personally From Clerk:		
Unrecorded and/or Undeposited Receipts	\$	125,910
Disallowed Expenditures		1,082
Expenditures In Excess Of Revenues		12,457
Due from 2011 Fee Account		2,317
Due From 2010 Fee Account		2,679
Due From Usage Account		497
Total To Be Collected	\$	<u>144,942</u>

The former County Clerk deposited \$16,000 of personal funds on September 10, 2013 reducing uncollected receivables to \$128,942. The former County Clerk has an account balance of \$13,476. Once the amounts above are collected, the former County Clerk will have a total of \$142,418 available to pay the following liabilities:

Unpaid Obligations:		
Internal Revenue Service	\$	22,463
State Treasurer-		
Kentucky Retirement Service - Withholdings and Matching		33,160
Delinquent Tax		4,009
Owsley County-		
Tangible Personal Property Tax		14,315
Deed Transfer Tax		3,566
Delinquent Tax		8,894
Tangible Personal Property Tax-		
Owsley County Library		1,249
Owsley County Health		1,155
Owsley County Extension		2,087
Delinquent Tax		
Owsley County Board of Education		14,649
Owsley County Library		7,580
Owsley County Health		2,378
Owsley County Extension		6,585
Owsley County Soil Conservation		2,723
City of Booneville		6
Owsley County Attorney		7,350
Owsley County Sheriff		5,343
Ky Deferred Compensation		40
Due 2013 for Deposit Error		2,042
Other-		
Due Clerk for Net Wage Difference		574
Due Deputy Clerk for Net Wages		843
Due Deputy Clerk for Net Wages		1,407
Total Unpaid Obligations	\$	<u>142,418</u>

OWSLEY COUNTY
 SID GABBARD, FORMER COUNTY CLERK
 COMMENTS AND RECOMMENDATIONS
 For The Year Ended December 31, 2012
 (Continued)

FINANCIAL STATEMENT FINDINGS: (CONTINUED)

2012-07 The Former County Clerk Has Not Closed Out His 2012 Fee Account (Continued)

Failure to pay liabilities timely causes taxing districts and other governmental agencies to be deprived of funds for significant time periods and can be detrimental to taxpayers. After all receivables are collected and all liabilities are paid, the former County Clerk will be able to close his 2012 fee account. We recommend he take the necessary steps to ensure the amounts above are collected and paid as soon as possible.

Former County Clerk's Response: None.

2012-08 The Former County Clerk Has Not Closed Out His 2011 Fee Account

In order to close out the 2011 fee account, the former County Clerk needs to collect the following:

Due Personally From Clerk:	
Unrecorded and/or Undeposited Receipts	\$ 132,146
Disallowed Expenditures	<u>159</u>
 Total to be Collected	 132,305

The former County Clerk has an account balance of \$20. Once the amounts above are collected, the former County Clerk will have a total of \$132,325 available to pay the following liabilities:

Unpaid Obligations:	
Internal Revenue Service - Withholdings and Matching	\$ 25,007
State Treasurer-	
Kentucky Retirement System - Withholdings and Matching	23,094
Delinquent Tax	5,647
Owsley County-	
Delinquent Tax	7,982
Deed Transfer Tax	1,804
Excess Fees Due	1,161
Delinquent Taxes Due-	
Owsley County School	19,804
Owsley County Library	6,956
Owsley County Health	2,208
Owsley County Extension	5,598
Owsley County Soil Conservation	2,558
Owsley County Attorney	8,784
Owsley County Sheriff	7,121
Other Liabilities-	
Due 2010 Fee Account for Usage Paid and overpayments	5,609
Due 2012 Fee Account for deposit errors	2,316
Due Usage Tax Account	489
Due Clerk for Net Wage Difference	1,896
Due County Clerk for Expense Allowance Payable	3,004
Due Deputy Clerk for Net Wages Difference	643
Due Deputy Clerk for Net Wages Difference	<u>644</u>
 Total Unpaid Obligations	 <u>\$ 132,325</u>

OWSLEY COUNTY
SID GABBARD, FORMER COUNTY CLERK
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2012
(Continued)

FINANCIAL STATEMENT FINDINGS: (CONTINUED)

2012-08 The Former County Clerk Has Not Closed Out His 2011 Fee Account (Continued)

After all receivables are collected and all liabilities are paid, the former County Clerk will be able to close his 2011 fee account. We recommend he take the necessary steps to ensure the amounts above are collected and paid as soon as possible.

Former County Clerk's Response: None.

2012-09 The Former County Clerk Did Not Remit Payroll Withholding And Matching Funds To Proper Agencies

The former County Clerk withheld payments from employee payroll checks for FICA, Retirement, Federal, and State withholdings as required. However, the former County Clerk did not remit these employee withholdings to the appropriate agencies. In addition, the former County Clerk did not provide the required employer matching funds for FICA and retirement withholdings. As of December 31, 2012, the former County Clerk owes the Internal Revenue Service \$22,463 for FICA withholdings, matching funds, and federal withholdings. The former County Clerk owes the County Employees Retirement System \$33,160 for retirement withholdings and matching funds.

Title 26 of the *United States Code* outlines requirements for FICA withholding and matching requirements in addition to federal withholding requirements. The former County Clerk withheld FICA improperly from wages for calendar year 2012. Social Security withholdings were reduced to 4.2% for the calendar year; however the former County Clerk did not reduce the amount withheld. Employees are due additional funds for wages earned based on the improper calculation for social security. (See Comment 2012-07) Had withholding reports been completed the Clerk would have been aware of the change in the social security rate and proper payments would have been made to the employees.

The former County Clerk was required to match 7.65% of gross payroll (less retirement) for FICA. KRS 78.625 requires employers to submit retirement withholding and matching funds in accordance with KRS 78.610 and 61.565. The former County Clerk was required to match 18.96% of gross payroll for the first half of the calendar year and 19.55% of gross payroll for the second half of the calendar year for retirement. 103 KAR 18:010 requires all employers to deduct, withhold, and pay to the state taxes required to be withheld.

Failure to remit these payments can result in significant financial penalties to the former County Clerk as well as reduce the employees' years of service credit and financial contributions used to calculate retirement benefits. After the former County Clerk collects additional receivables of \$128,942 as noted in Comment 2012-07, we recommend the former County Clerk make these payments immediately and also contact each agency for assistance in calculating penalties and interest accrued on the late payments. These penalties and interest will ultimately increase the deficit and will increase the amount of personal funds due from the former County Clerk. We will refer this issue to the Internal Revenue Service, the County Employees Retirement System, the Kentucky Department of Revenue, and the Attorney General.

Former County Clerk's Response: None.

OWSLEY COUNTY
 SID GABBARD, FORMER COUNTY CLERK
 COMMENTS AND RECOMMENDATIONS
 For The Year Ended December 31, 2012
 (Continued)

FINANCIAL STATEMENT FINDINGS: (CONTINUED)

2012-10 The Former County Clerk Did Not Account For Delinquent Taxes Completely And Accurately

The former County Clerk did not properly report the amount of delinquent tax payments received for calendar year 2012. Auditors confirmed delinquent tax revenues from outside sources and discovered \$37,037 in delinquent tax payments that were received by the former County Clerk but were not reported and paid to the appropriate taxing districts. In addition, \$19,602 of delinquent tax bills were missing from the former County Clerk’s office indicating payments for these bills were collected, but not recorded, or these bills were not properly secured within the former Clerk’s office. Due to inadequate recordkeeping as noted in Comments 2012-01 and 2012-02, we cannot eliminate the possibility that there could have been payments received for prior year delinquent tax bills that have not be accounted for.

By not reporting all collections, taxing districts, the County Attorney, and the County Sheriff were not paid their share of delinquent taxes. Additionally, understated delinquent taxes contribute to incomplete and inaccurate financial reporting and to the known deficit in the former County Clerk’s 2012 fee account. The following known payments are due the taxing districts for delinquent taxes:

Delinquent Tax	
Kentucky State Treasurer	\$ 4,009
Owsley County	8,894
Owsley County Board of Education	14,649
Owsley County Library	7,580
Owsley County Health	2,378
Owsley County Extension	6,585
Owsley County Soil Conservation	2,723
City of Booneville	6
Owsley County Attorney	7,350
Owsley County Sheriff	5,343
	<u>\$ 59,517</u>

Furthermore, the former County Clerk is not collecting the proper amount from taxpayers due to inaccurate and incomplete delinquent tax calculations. The former County Clerk does not always charge the appropriate amount for penalty, interest, county attorney fees and clerk commission. By not calculating the correct amount for delinquent taxes, the taxpayers are not paying appropriately and the districts are not receiving accurate payments. The County Clerk’s Manual gives examples of how to calculate tax bills correctly based on the month of collection.

KRS 134.126 outlines the former County Clerk’s responsibilities for reporting and remitting delinquent taxes. The former County Clerk is required to report and pay all delinquent taxes collected by the 10th of each month to each district. After the former County Clerk collects additional receivables of \$128,942 as noted in Comment 2012-07, we recommend the former County Clerk pay the taxing districts amounts owed for delinquent taxes and comply with the requirements of KRS 134.126 for all future collections. We will refer this matter to the Attorney General and the County Attorney.

Former County Clerk’s Response: None.

OWSLEY COUNTY
 SID GABBARD, FORMER COUNTY CLERK
 COMMENTS AND RECOMMENDATIONS
 For The Year Ended December 31, 2012
 (Continued)

FINANCIAL STATEMENT FINDINGS: (CONTINUED)

2012-11 The Former County Clerk Did Not Remit Deed Transfer Tax To The County

The former County Clerk collected deed transfer tax in accordance with KRS 142.050, however, he did not remit the total due to the county. The county is owed \$3,566 for deed transfer tax for calendar year 2012. KRS 142.050(4) states, “[t]he County Clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The Former County Clerk shall retain five percent (5%) as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund.” Failure to make these payments keeps the county from utilizing the funds. After the former County Clerk collects additional receivables of \$128,942 as noted in Comment 2012-07, we recommend the former County Clerk pay \$3,566 to the county. We also recommend quarterly deed transfer tax payments be made as required in the future.

Former County Clerk’s Response: None.

2012-12 The Former County Clerk Has Not Closed Out His 2010 Fee Account

The bank closed the 2010 fee account on July 26, 2013. At that time the bank account had a balance of (\$2,679). Funds of \$2,679 were subsequently deducted from the 2012 fee bank account increasing liabilities of the 2010 fee account. In order to close out the 2010 fee account, the former County Clerk needs to collect the following:

Due Personally from Clerk for Deficit:	
Undeposited Receipts	\$ 18,675
Due From 2011 Account	<u>5,609</u>
 Total To Be Collected	 <u><u>\$ 24,284</u></u>

Once the amounts above are collected, the former County Clerk will have a total of \$24,284 available to pay the following liabilities:

Unpaid Obligations:	
Internal Revenue Service - Withholdings and Match	\$ 4,711
State Treasurer-	
Withholdings	766
County Attorney - Delinquent Tax	2,942
Due to 2009 Fee Account for Prior Period Unpaid Obligations	13,186
Due to 2012 Fee Account for Account Chage Off Made By Bank	<u>2,679</u>
 Total Unpaid Obligations	 <u><u>\$ 24,284</u></u>

OWSLEY COUNTY
 SID GABBARD, FORMER COUNTY CLERK
 COMMENTS AND RECOMMENDATIONS
 For The Year Ended December 31, 2012
 (Continued)

FINANCIAL STATEMENT FINDINGS: (CONTINUED)

2012-12 The Former County Clerk Has Not Closed Out His 2010 Fee Account (Continued)

After all receivables are collected and all liabilities are paid, the former County Clerk will be able to close his 2010 fee account. We recommend he take the necessary steps to ensure the amounts above are collected and paid as soon as possible.

Former County Clerk's Response: None.

2012-13 The Former County Clerk Did Not Settle Prior Period Liabilities

During our audit of the 2010 Fee account we became aware of additional liabilities that were owed from the 2009 Fee account that were not identified in the 2009 audit. As was found in the 2010 audit, the former County Clerk did not remit all payroll withholdings and matching funds for FICA and retirement for 2009. The former County Clerk owes \$15,137 for FICA and \$2,236 for retirement. Also, deed transfer tax totaling \$2,429 due the county for 2009 was not remitted.

Once these additional liabilities are accounted for, the 2009 Fee Account is in a deficit. Furthermore, the former Clerk did not close out 2006, 2007, 2008, and 2009 Fee Accounts by collecting and paying the amounts due as determined in prior year audits. We have netted the amounts due in each of these prior years into a single schedule. The 2010 Fee Account owes the 2009 Fee Account \$13,186 as noted in Comment 2010-11, which can be used to partially fund the additional liabilities identified. The former County Clerk is personally responsible for the remainder necessary for all prior period liabilities to be satisfied.

Amounts Due From:

2010 Fee Account (See Comment 2010-11)	\$ 13,186
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Amounts Due To:

Extension	\$ 380	
County Attorney	102	
City of Booneville	105	
Soil Conservation	410	
Internal Revenue Service - FICA	15,137	
County Employees Retirement System - Retirement	2,236	
County - Deed Transfer Tax	2,429	20,799

Amount Personally Due From Clerk	<u>\$ (7,613)</u>
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We recommend the former County Clerk deposit \$7,613 of personal funds to cover the known cumulative deficit for prior periods, collect \$13,186 from the 2010 Fee Account, and then pay all liabilities as reflected in the schedule above.

Former County Clerk's Response: None.

OWSLEY COUNTY
SID GABBARD, FORMER COUNTY CLERK
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2012
(Continued)

FINANCIAL STATEMENT FINDINGS: (CONTINUED)

2012-14 The Former County Clerk Did Not Issue Receipts In Accordance With KRS 64.840

The former County Clerk did not prepare receipts for all funds collected. Auditors reviewed one month of collections and noted the total listing of receipts does not agree to the daily checkout sheet. In addition, receipts were not issued in triplicate as required. According to KRS 64.840(1), the County Clerk “shall, upon the receipt of any fine, forfeiture, tax, or fee, prepare a receipt that meets the specifications of the state local finance officer...” The preparation of receipts for all funds received begins the revenue process and will ensure all receipts are included on the daily checkout sheet and receipts ledger. We recommend the former County Clerk prepare receipts for all monies received by his office either in the office or by mail. Furthermore, we recommend that receipts be issued in triplicate, with one copy given to customer, one copy filed with daily checkout sheet, and one copy filed in the book of original entry.

Former County Clerk’s Response: None.

2012-15 The Former County Clerk Did Not Record Payments From The Commonwealth Of Kentucky And The Fiscal Court In Accordance With KRS 43.075

The former County Clerk did not record all payments received from the Commonwealth of Kentucky and the Owsley County Fiscal Court in accordance with KRS 43.075. Auditors performed test procedures on these payments and noted these payments were not recorded on the daily checkout sheets or in the receipts ledger; however, we did note that these payments were deposited into the bank account. The only recording of these payments was made on the Quarterly Report, and those amounts did not agree to third party confirmations of state and county payments. We recommend the former County Clerk record payments from the Commonwealth of Kentucky and the Fiscal Court on the daily checkout sheets and the receipts ledgers in accordance with KRS 43.075.

Former County Clerk’s Response: None.

2012-16 The Former County Clerk Did Not Maintain Leave Balance Documentation

During our audit, we noted that leave balances were not maintained. Records should be kept that document the amount of leave earned each month, the amount used and all leave balances available for use. Had these balances been maintained, employees would be aware of the amount of sick and vacation leave available to them on any given day. Furthermore, this would document any payment of leave balances when jobs are vacated. We recommend employees’ leave balances are maintained and supported by timesheets.

Former County Clerk’s Response: None.

OWSLEY COUNTY
 SID GABBARD, FORMER COUNTY CLERK
 COMMENTS AND RECOMMENDATIONS
 For The Year Ended December 31, 2012
 (Continued)

FINANCIAL STATEMENT FINDINGS: (CONTINUED)

2012-17 Form 1099 Was Not Prepared For All Applicable Contract Labor

As a trustee/agent, the former County Clerk is responsible for reporting contract labor payments to the appropriate agencies in a timely manner. The former County Clerk paid a total of \$2,000 to an individual for contract labor that should be reported as taxable income by the individual. The Internal Revenue Service requires Form 1099 be issued to individual contractors for services resulting in income of \$600 or more. We recommend the former County Clerk immediately take the appropriate steps necessary to ensure Form 1099 is prepared and submitted for all contract labor payments. We will refer this matter to the Internal Revenue Service and the Department of Revenue for review.

Former County Clerk's Response: None

2012-18 The Former County Clerk Did Not Remit Ad Valorem Taxes To Taxing Districts Timely

During the test of ad valorem taxes, we noted that checks to some taxing districts did not clear the bank in a timely manner. State and School taxing districts' checks cleared the bank promptly, but disbursements to the county and other districts did not clear the bank until months after the taxes were collected. Several checks for October, November, and December ad valorem collections did not clear the bank until March 2012 and additional funds are due districts as follows:

Tangible Personal Property Tax-	
Owsley County	\$ 14,315
Owsley County Library	1,249
Owsley County Health	1,155
Owsley County Extension	2,087
	<u>\$ 18,806</u>

Checks not clearing the bank in a timely manner indicates the former County Clerk's failure to send the payments according to the guidelines of KRS 134.815. KRS 134.815(1) states, in part, "[t]he County Clerk shall, by the tenth of each month, report under oath and pay to the state, county, city, urban-county government, school, and special taxing districts all ad valorem taxes on motor vehicles collected by him for the preceding month, less the collection fee of the County Clerk, which shall be deducted before payment to the depository." We recommend the former County Clerk comply with KRS 134.815(1) and remit ad valorem payments to all districts in a timely manner.

Former County Clerk's Response: None.

OWSLEY COUNTY
SID GABBARD, FORMER COUNTY CLERK
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2012
(Continued)

FINANCIAL STATEMENT FINDINGS: (CONTINUED)

2012-19 The Former County Clerk Did Not Prepare And Submit Title Applications Timely

The Transportation Cabinet notified the Auditor's Office that title applications for Owsley County were not being prepared and submitted in a timely manner. The former County Clerk was significantly behind in submitting title applications to the state. KRS 186A.165 states, in part, "[n]ot later than 3 p.m. on the next business day after an application for a first certificate of registration or title for a vehicle is received by him, the County Clerk shall prepare...an application transmittal record." We recommend the former County Clerk comply with the requirements of KRS 186A.165 and submit registration and title applications to the state no later than the next business day after they are received.

Former County Clerk's Response: None.

2012-20 The Former County Clerk Cashed \$2,987 Of Checks Received From Taxpayers For Fee Collections

During audit procedures for delinquent taxes, we reviewed all manual receipts prepared by the former County Clerk's office and reviewed the deposit detail provided by the bank to determine when they were deposited. We noted 4 manual receipts issued to customer that did not trace to a deposit made into the former County Clerk's fee account. Inquiry of the bank determined these checks were cashed by the former County Clerk. In total, we documented \$2,987 of fee collections for calendar year 2012 were cashed at the bank. In order to be in compliance with the uniform system of accounts, receipts should be issued for all fee collections, batched daily, recorded on a daily checkout sheet, deposited intact, and properly posted to the receipt ledger. Circumventing this process contributes to inaccurate and incomplete financial reporting and creates an opportunity for funds to be misappropriated.

Further testing revealed fee collection checks of \$719 were cashed for calendar year 2013. These instances support the audit finding that delinquent tax collections are not accounted for completely and accurately. In addition to cashing fee collection checks, we also identified instances in which the Clerk's office cashed checks unrelated to the operations of the former Clerk's office.

We recommend the former County Clerk cease the practice of cashing checks received from fee collections and deposit all collections into the appropriate fee account.

Former County Clerk's Response: None.

