



COMMISSIONERS COURT  
COMMUNICATION

REFERENCE NUMBER 0

PAGE 1 OF 12

DATE: 3/20/2012

SUBJECT: **RECEIVE AND FILE THE AUDITOR'S REPORT OF THE DISTRICT CLERK'S DELINQUENT TAX SECTION**

**COMMISSIONERS COURT ACTION REQUESTED:**

It is requested that the Commissioners Court receive and file the Auditor's Report of the District Clerk's Delinquent Tax Section.

**BACKGROUND:**

In accordance with Local Government Code Subchapter A, 115.001, Examination of Records, and 115.002, Examination of Books and Reports, the Auditor's Office reviewed procedures and transactions related to the District Clerk's Delinquent Tax Section. The objective of the review was to determine whether controls were adequate to reasonably ensure that delinquent tax transactions were processed accurately.

Attached to this report is a written response from the District Clerk's Office.

**FISCAL IMPACT:**

There is no direct fiscal impact associated with this item.

SUBMITTED BY: Auditor

PREPARED BY: S. Renee Tidwell  
APPROVED BY:



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February 8, 2012

The Honorable Thomas Wilder, District Clerk  
The Honorable District Judges  
The Honorable Commissioner's Court  
Tarrant County, Texas

Re: Auditor's Report – Review of Delinquent Tax Section Procedures and Transactions

**SUMMARY**

In accordance with Local Government Code, Subchapter A, §115.001, *Examination of Records*, and §115.002, *Examination of Books and Reports*, we reviewed procedures and transactions related to the District Clerk's Delinquent Tax Section as of September 30, 2011. The objective of our review was to determine whether controls were adequate to reasonably ensure that delinquent tax transactions were processed accurately. It should be noted that the Auditor's Office has never performed a thorough audit of the Delinquent Tax Section. Most of the issues identified during the audit result from practices and procedures that have been in place for many years. The District Clerk's Office has already implemented many procedural changes to address some of the issues identified during our audit. Specifically, we identified the following issues that require management's attention:

- Observation 1 The Auditor's Office could not verify accounts receivable balances reported by the Delinquent Tax Section.
- Observation 2 The District Clerk's Office could not provide a summary of the different types of transactions recorded in the Paid Direct account.
- Observation 3 Procedures were not adequate related to the distribution of partial payments collected for delinquent tax suits.
- Observation 4 Since 2005, Tarrant County paid over \$92,000 for publication costs owed by the City of Fort Worth. (*Note: The County was reimbursed by the City on December 9, 2011.*)

We discussed the observations and recommendations included in this report with appropriate management and staff on November 30, 2011 and January 18, 2012. Attached to this report is a written response from the District Clerk's Office.

**BACKGROUND**

The District Clerk Tax Section is responsible for managing the court and financial records related to tax suits. The District Clerk's Office uses the Judicial Information Management System (JIMS) to record case information and financial transactions. JIMS was implemented over 20 years ago and was initially designed as a case management system. Although modifications have been made to assist with recording financial transactions, JIMS remains very limited with regard to the financial functionality. The District Clerk's Office assesses filing fees and other associated fees and costs as "court costs" into JIMS.

Taxing units, such as Tarrant County or a city, file a tax suit when a taxpayer has failed to pay their property taxes. If the delinquent taxes are not collected, the property is offered at the tax sale conducted by Constable, Precinct 3. The minimum bid is the lesser of the adjudged value or total costs, including delinquent taxes (Texas Property Tax Code, Section 34.01). The Tax Code governs the distribution of the sale proceeds. Upon sale of the property, tax sale proceeds typically cover the outstanding court costs owed to the County. The Constable remits payment of these court costs to the District Clerk's Office.

At times, buyers are not willing to pay the minimum bid to purchase the property. In these cases, a taxing unit may assume title of the property in order to protect the interests of all taxing units. This property is referred to as a "strike-off." According to the Texas Property Tax Code, a taxing unit assuming title of the property is not liable for the court costs until the property is sold. Therefore, costs owed to the County may remain outstanding for a number of years.

According to Constable's Office (Precinct 3) monthly tax sales reports, 147 properties were sold, 307 properties were withdrawn, and 103 properties were struck off to another taxing entity during fiscal year 2011.

**OBSERVATIONS AND RECOMMENDATIONS**

*Observation 1 – The Auditor's Office could not verify accounts receivable balances reported by the Delinquent Tax Section.*

**Background**

Currently, almost 45,000 delinquent tax cases have an accounts receivable balance. Almost half of these cases were initiated prior to 1996. The following table includes the accounts receivable balances as of September 30, 2011 as reported by the District Clerk's Office for the Delinquent Tax Section.

**Accounts Receivable Balances  
September 30, 2011**

	<b>Pre 1996</b>	<b>1996-2000</b>	<b>2001-2005</b>	<b>2006-2011</b>	<b>Total</b>
Owed to Tarrant County	1,736,887	599,197	844,032	2,206,964	5,387,080
Paid Direct Account (Note 1)	1,562,038	568,710	693,784	1,520,220	4,344,752
Owed to Other Entities	574,841	183,522	224,442	1,068,523	2,051,328
<b>Total A/R</b>	<b>\$3,873,766</b>	<b>\$1,351,429</b>	<b>\$1,762,258</b>	<b>\$4,795,707</b>	<b>\$11,783,160</b>
Less: Pending Adjustments for DWOP and Non-Suit Cases (Note 2)	1,896,141	781,365	579,813	524,034	3,781,353
<b>Total A/R - After Adjustments</b>	<b>\$1,977,625</b>	<b>\$570,064</b>	<b>\$1,182,445</b>	<b>\$4,271,673</b>	<b>\$8,001,807</b>

Note 1: Paid Direct Account includes County revenues, such as constable fees resulting from tax sales, citation by publication costs, and amounts owed to third parties. See Observation 2, below.

Note 2: See the Observation, below, related to DWOP and Non-Suit cases.

The accounts receivable balance also include assessed costs related to *pending* cases that are not owed to the County until final disposition of the case.

### **Observation**

Accounts receivable balances reported by Delinquent Tax Section include open, closed, pending, non-suit, and dismissals without prosecution (DWOP) cases. Working with staff from the District Clerk and District Attorney offices, we concluded that the non-suit and DWOP cases, totaling approximately \$3.8 million, should not be recorded as accounts receivable since these amounts are not owed by either the defendant or the entity (Texas Tax Code §33.49).

Using the transaction reports developed with the assistance of the District Clerk's Information Technology staff, we identified almost \$725,000, related to more than 10,000 cases, where recording inconsistencies affected accounts receivable balances. Of this amount, over 9,700 cases totaling about \$628,000 were initiated prior to 1996. Specifically:

- We identified 2,080 transactions where the payments recorded to the case exceeded the amount of fees assessed to the same case. Accounts receivable balances are *understated* for these cases.
- Staff did not always assess fees related to properties withdrawn and struck off from the tax sale. Accounts receivables balances are *understated* for these cases.
- The "payout flag" was implemented in 2009 to indicate that a disbursement was made to a third party from the Paid Direct account. When the payout flag was not used, the disbursement transaction was recorded as a refund from the case and showed an unpaid (outstanding) accounts receivable balance. Accounts receivable balances are *overstated* for these cases.

Furthermore, management had not utilized ad hoc reports to monitor accounts receivable balances and transactions. Monitoring transactions on a case-by-case basis is not possible. As a result, errors and fraud may not be detected in a timely manner.

### **Action/Recommendation**

The District Clerk's Office is in the process of adjusting accounts receivable balances for non-suit and DWOP cases. Furthermore, District Clerk staff began several related projects in 2009 to research these issues and made appropriate corrections in JIMS. This tedious process requires a large amount of staff time. Management has also re-emphasized policies and procedures, even revising some procedures, to reduce the likelihood of these errors in the future. Last, the Auditor's Office and the District Clerk's Office are collaborating to develop procedures using various ad hoc reports to monitor accounts receivable transactions, specifically to detect errors and fraud.

***Observation 2 – The District Clerk's Office could not provide a summary of the different types of transactions recorded in the Paid Direct account.***

### **Background**

As stated previously, JIMS was designed as a case management system rather than a financial system. In 1995, District Clerk management established the Paid Direct account as a method to record amounts received and later paid to other parties. According to the District Clerk management, this method was a collaborative decision between the District Clerk and District Attorney's offices, the tax attorneys, and the tax courts.

The Paid Direct account includes:

- Citation by publication
- Constable fees from tax sales
- Ad litem attorney fees
- Attorney fees from tax sales (including publication costs)
- Abstractor fees
- Private processor service fees
- Out-of-county/state processor service fees
- Secretary of State service fees
- Witness tax

Citation by publication and constable fees are County revenues. Typically, other transactions recorded in Paid Direct are owed to non-County entities.

As of September 30, 2011, the Paid Direct account balance was approximately \$4.3 million. Of the \$4.3 million, approximately \$2.1 million, or 48.8%, consists of transactions prior to 2001.

### **Observation**

Although JIMS provides detailed activity of the Paid Direct account at the case level, JIMS does not provide District Clerk management adequate reports to monitor and review Paid Direct transactions. Due to the sheer volume of these transactions and the cases, monitoring on a case-by-case basis is not possible.

Specifically, we observed the following during our review:

- The Paid Direct account does not summarize to whom fees are owed or the type of fees owed. District Clerk staff must research individual electronic case files to determine payee and the type of fees.
- County revenues, such as constable fees resulting from tax sales, and citation by publication costs, were incorrectly assessed in the Paid Direct account. These unpaid County fees were not reported in the District Clerk's accounts receivable balances. As of December 2009, the District Clerk's Office ceased recording these fees into the Paid Direct account. Instead, staff began recording the constable fees and publication fees into separate fee categories (see Observation 3). District Clerk staff began making corrections to transactions recorded prior to December 2009 during our audit.

We could not determine the financial impact to the accounts receivable balance since each transaction recorded in the Paid Direct account would require analysis on a case-by-case basis.

### **Action/Recommendation**

The Auditor's Office and the District Clerk's Office are working collaboratively to determine the best possible solution to resolve issues related to the Paid Direct account. Ideally, the District Clerk's Office should eliminate the use of the Paid Direct account and use the specific fee categories established for each type of fee. If eliminating the Paid Direct account is not a viable option, the District Clerk should implement procedures whereby staff records the different types of fees by individual fee code *within* the Paid Direct account.

***Observation 3 - Procedures were not adequate related to the distribution of partial payments collected for delinquent tax suits.***

**Background**

Oftentimes, the defendant makes a partial payment in an effort to prevent the property from being sold at the public tax sale auction. Since statutes do not describe the order of priority for partial payments, the District Clerk's staff uses an *Order Setting Priority of Partial Payments of Fines, Fees and Costs* issued by the Council of District Judges on September 2, 1997. JIMS allows for programming to allocate both full and partial payments.

**Observation**

We found that partial payments were not always allocated in accordance with the *Order Setting Priority of Partial Payments of Fines, Fees and Costs* (Order). We also observed that the court order had not been amended to reflect legislative changes or new fees. JIMS was programmed to allocate the Paid Direct account last for distribution of fees and costs received. The Paid Direct account (see Observation 2, above) includes fees and costs related to tax sales that should be distributed in accordance with the *Order Setting Priority of Partial Payments of Fines, Fees and Costs*. For example, District Clerk staff created a fee category called "Auditor-Publication" to separate citation by publication costs from the Paid Direct account. However, JIMS was programmed to allocate the receipt of Auditor-Publication payments at the bottom in the priority schedule when it should have been at a higher priority according to the Order. Therefore, the County did not always receive its appropriate share of revenue.

**Action/Recommendation**

The District Clerk consulted with the District Attorney's Office to determine the appropriate allocation of partial payments collected for fees related to delinquent tax suits. On January 18, 2012, the District Clerk obtained a revised Order from the District Court. District Clerk staff also indicated that programming changes were completed in February 2012. No further action or recommendation is required.

***Observation 4 – Since 2005, Tarrant County paid over \$92,000 for publication costs owed by the City of Fort Worth.***

**Background**

Citations are served to notify property owners when a lawsuit is filed for delinquent property taxes. The representing tax attorney files an affidavit to request a citation by publication and provides the affidavit to the District Clerk's Office. Until May 2010, the District Clerk's Office prepared the citations to publish in the newspapers and assessed the appropriate costs into JIMS. Linebarger, Goggan, Blair & Sampson (Linebarger), the County's tax attorney, requests publications on behalf of Tarrant County. The publication vendor invoiced the law firm that requested the newspaper publication. Until April 2011, Linebarger forwarded the publication invoices to the District Clerk's Office.

**Observation**

Since late 2005, Tarrant County paid \$92,168 for publication costs owed by the City of Fort Worth. The publication vendor billed Linebarger for publication costs. However, Linebarger staff did not open envelopes that contained publication invoices for Tarrant County *and* the City of Fort Worth. Linebarger staff sent the unopened invoices to the District Clerk's Office. District Clerk staff approved the invoices and forwarded the invoices to the Auditor's Office for payment.

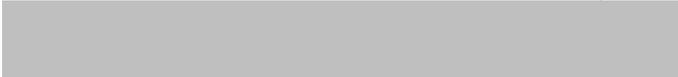
The Auditor's Office discussed this issue with staff from Linebarger, the District Clerk's Office, and the City of Fort Worth. In April 2011, Linebarger agreed to pay the publication invoices directly rather than reimbursing the County to reduce the risk of the County paying publications costs owed by another entity. In the event that the District Clerk's Office receives a publication invoice, we recommended that the staff exercise due diligence to determine whether the County should pay the invoice before approving the invoice for payment.

On December 9, 2011, the County received \$92,168 from the City of Fort Worth. No further action or recommendation is required.

**CLOSING**

We appreciate the responsiveness and cooperation of the District Clerk's Office during our review. Please call me if you have any questions regarding the contents of this report.

Sincerely,



S. Renee Tidwell, CPA  
County Auditor

*Attachment:*  
Management's Response from the District Clerk

*Team:*  
Ron Bertel, First Assistant County Auditor  
Kim Trussell, Audit Manager  
Maki Ogata, Senior Internal Auditor

*Distribution:*  
Doug Gowin, District Clerk Operations Manager  
Lisa Arnesen, Civil-Family Law Manager



## TARRANT COUNTY

THOMAS A. WILDER  
DISTRICT CLERK

March 6, 2012

Reneé Tidwell  
County Auditor  
100 E. Weatherford St  
Fort Worth TX 76196

Re: Auditor's Report – Review of Delinquent Tax Section Procedures and Transactions

Dear Ms. Tidwell:

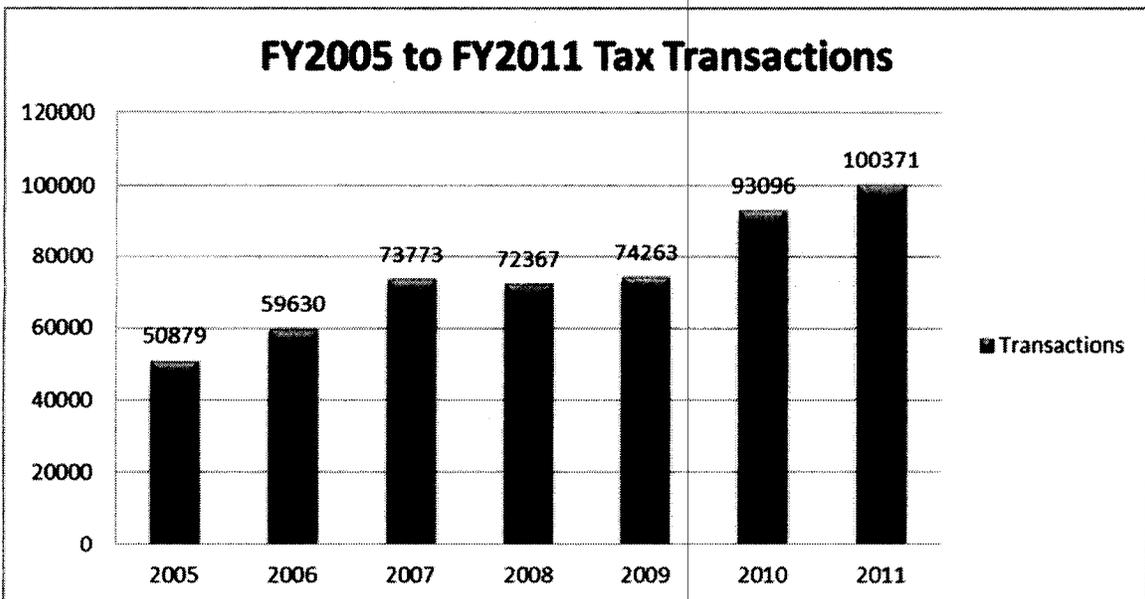
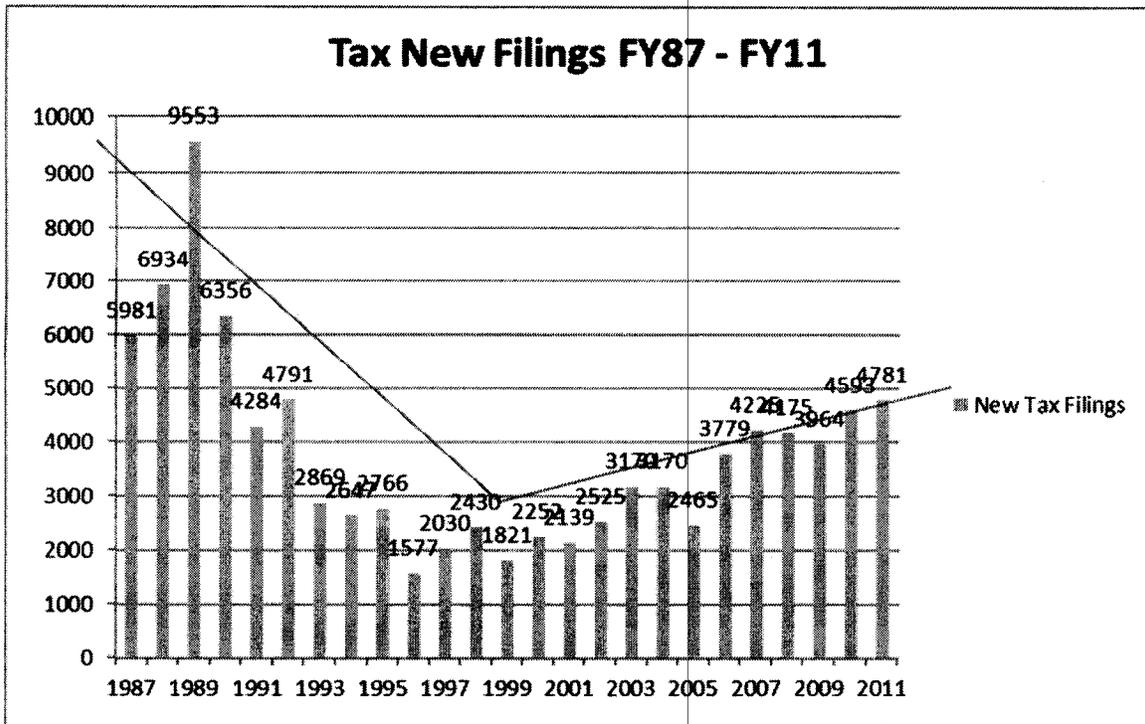
I wanted to express my appreciation for the cooperative spirit in which your staff conducted the recent audit of my Delinquent Tax Court operations. While we have some work to do, as the report's findings indicate, I am satisfied with the audit results but request consideration of our response by any and all interested parties.

As I stated in my response to the audit of my Criminal Court and Family Court (AG) operations, I would like to address the fact that the case management system currently used, JIMS, was never designed to include accounting functions. Over the 25 year period (1987 – 2012) that JIMS has been in use, IT staff has added some accounting functions dictated by statutory changes, auditor recommendations, and business practices. Where feasible, we will do so once again. However, with an aging system, such as JIMS, it may be neither feasible nor cost effective to implement the full functionality requested. I should add that the Delinquent Tax Court was the very first court to use JIMS on a test basis starting in 1987.

Accordingly, I request your support in urging Commissioners Court to approve funding for a replacement system that increases our accounting functionality as soon as possible.

However, even a new system won't correct the discrepancies introduced through policies and procedures in place before I took office in 1995. For this, I am requesting your support in urging Commissioners Court approve funding for a tax accounting clerk in the FY 2013 budget that was denied in the FY 2012 budget. This position would address many of the accounting projects and reporting tasks outlined in this report. This issue

becomes especially critical given the increase in tax suit filings and transactions in recent years. (See charts below)



## Status of Ongoing Compliance Review Projects

Project Type	Date Assign	Report 1	Report 2	Total	Completed	Status	Percentage	Priority
Negative Balance Corrections Report	11/2/2009	103	0	103	103	Completed	100%	
Paid Direct - Order of Sale	11/12/2009	2544	3033	5577	2789	On Going	50%	2nd Priority per Auditor
Paid Direct - Partial Ad Litem Per Order	12/9/2009	173	45	218	218	On Going	Up to Date	
Neg Bal Yes/No Money Corrections Rep	12/21/2009	75	126	201	201	Completed	100%	
Paid Direct - Citation By Publication	12/22/2009	61	0	61	61	Completed	100%	
Citation By Pub Return Corrections Rep	3/4/2010	252	0	252	252	Completed	100%	
Tax Overage Balance	8/23/2010	13	0	13	13	Completed	100%	
Payout Flag	8/3/2010	6455	0	6455	2612	On Going	41%	1st Priority per Auditor
Tax Constable Fee	10/12/2010	75	0	75	75	Completed	100%	
Receivables	10/19/2010	3186	0	3186	0	Not Begun	0%	4th Priority per Auditor
Tax Fee Category Other Errors	11/8/2010	832	0	832	110	Hold	12%	3rd Priority per Auditor
Jury Fee -Negative Balance	11/8/2010	76	0	76	76	Completed	100%	
Tax Adjustment Constable DEPO	11/11/2010	45	0	45	45	Completed	100%	
Paid Direct Fee Migration	2/1/2012	3332	0	3332	0	Not Begun	0%	
<b>TOTAL</b>		<b>17222</b>	<b>3204</b>	<b>20426</b>	<b>6555</b>	<b>13871</b>	<b>32%</b>	

### AS OF 2/29/2012:

#### Implemented 3 new fee categories:

Auditor Publication  
Return Order of Sale CP3 Fee  
Auditor Ad Litem

#### Implemented new procedures:

No Refunds on Pending cases and Judgments that have not been dismissed, released, or property sold/struck off  
Pay Partial Ad Litem fees per Order  
No Partial Adjustments - adjusting total amount and re-assessing correct amount  
Submitting an adjustment form for every adjustment  
Re-vamped the procedures for the issuance of Citation By Publication  
Changed notations for reason of adjustment from the original assessment to the adjustment transaction  
Imaging Receipts and Copies of Checks on the Payment Transactions  
Imaging Returned Checks and Form Letter on specific case to be paid (payment already received)  
All Adjustments have an Adjustment Request Form imaged and/or on file  
Entering a Responsible Party for all monetary transactions  
Created a new transaction "Payout In Progress" for tracking of disbursements on individual cases

Our detailed response to the report observations -

**Observation #1 - The Auditor's Office could not verify receivable balances reported by the Delinquent Tax Section.**

We agree with the Auditor's Action/Recommendations for this observation and will continue with efforts initiated in 2009 to identify and correct recording discrepancies. Many of these recording differences were pre-1996 and will require substantial manual entry. Additionally, delinquent tax cases which are still pending before court are cases that have not completed the adjudicative process. As such, they should not be considered as costs owed until the court reaches a final disposition - per Ms. Tidwell in a January 18,

2012 meeting between Auditor and District Clerk staff as well as a January 19<sup>th</sup> meeting with attorney representatives from the DA.

Observation #2 – The District Clerk’s Office could not provide a summary of the different types of transactions recorded in the Paid Direct account.

It should be noted that fees were assessed according with established procedures in place prior to December 2009. Therefore, we must disagree with the statement that these fees were incorrectly assessed in this observation by Auditor. We will continue to implement Auditor recommendations regarding the Paid Direct account. As of February 1, 2012 all new fee assessments are recorded in separate accounts. The Paid Direct account implemented in 1995 upon a recommendation of the Tax Attorneys, Tax Court, District Attorney’s Office, and District Clerk staff is no longer used. We will continue manual efforts to migrate fees assessed prior to February 1, 2012 into separate fee categories where feasible. This will also require substantial manual data entry by staff.

Observation #3 – Procedures were not adequate related to the distribution of partial payments collected for delinquent tax suits.

We agree with the Auditor’s Action/Recommendations for this observation. A new order was signed by the tax judge to update fees disbursement schedule on **January 18, 2012**. We believe this action resolves the matter in question.

Observation #4 – Since 2005, Tarrant County paid over \$92,000 for publication costs owed by the City of Fort Worth.

We agree with the Auditor’s Action/Recommendations for this observation. The process for these payments was streamlined with the assistance of our tax attorney. The auditor no longer pays these fees. The tax attorney now prepays these fees. The County Auditor with the assistance of the tax attorney recovered the amount in question from the City of Fort Worth.

#### CLOSING REMARKS

Although this was an extensive audit, parts of which were begun in 2009, we wish to thank the audit team for causing as little disruption as possible to day to day court operations which must remain our top priority. This is especially important in light of the increase in case filings and transactions.

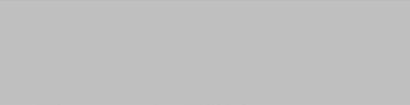
Some of our processes were put in place 15 – 20 years ago but now need to be changed due to requirements of the legislature and modern accounting practices.

A good start has been made but to fully comply with the standards set by the auditor, more resources will be needed and that will be reflected in my FY 2013 budget request.

As always, this funding is up to Commissioners Court. We have carefully used our overtime and part-time budget to reach compliance levels on the chart shown on page 3 as well as cross training other court personnel in tax court procedures which are very complicated and are unlike the usual civil court procedures.

Given the increased case filings and transaction volume in recent years, it will be a real challenge to achieve the accounting/audit goals set out by this audit. However, we will make the best effort possible with the resources we have available.

Sincerely,



Thomas A. Wilder