

COUNTY AUDITOR'S INSTITUTE

AUDITING REGISTRY FUNDS MAY 4, 2016



Presented By:

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REGISTRY FUNDS

- Definition of *Registry Funds*
 - ▣ Funds tendered to the clerk for deposit into the registry of the court.
- *Registry Funds* consist of:

<ul style="list-style-type: none"> ▣ Funds of Minors or Incapacitated Persons ▣ Funds for Interpleader Actions ▣ Judgment's Awarded on Civil Cases ▣ Cash Bonds 	<ul style="list-style-type: none"> ▣ Cash Bail Bonds ▣ Child Support ▣ Pending Divorce Settlements ▣ Eminent Domain Proceeds ▣ Any Other Funds Deposited in the Court Registry
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LGC Chapter 117.001

REGISTRY PROPERTY

- The court may also order property to be held in the registry.
- Property should be safely secured with limited access and held in an iron safe or bank vault.
 - ▣ Stock Certificates
 - ▣ Bonds
 - ▣ Passports
 - ▣ Letters of Credit
 - ▣ Titles to Property
 - ▣ Other

RESPONSIBILITIES OF THE CLERK

- District and County clerks act only as the custodian of the funds held in the registry.
- Deposit funds in Commissioner's Court approved FDIC depository if held for more than three days.
 - ▣ Two or Four year contract
 - ▣ Depository qualifications
 - ▣ Liable for safekeeping of funds until deposited
- Maintaining and accounting for registry funds

LGC Chapter 116, 117.0521, 117.021, 117.052, Chapter 117 Subchapter E

MAINTENANCE AND ACCOUNTING

- Invest Funds in Interest-Bearing Accounts per Court Order
 - ▣ Money Market Accounts
 - ▣ Certificate of Deposit
 - ▣ Local Government Investment Pool
- Other Investments
 - ▣ Educational Savings or Prepaid Tuition
 - ▣ Treasury Bills
- Issue Form 1099-INT
- Disbursement and Escheatment of *Registry Funds*

LGC Chapter 117.053, 117.003, 117.002
 Property Code Chapter 142.004
 Education Code Chapter 54

LOCAL GOVERNMENT INVESTMENT POOL

- Investment pool means an entity created under this code to invest public funds jointly on behalf of the entities that participate in the pool and whose investment objectives in order of priority are:
 - ▣ Preservation and Safety of Principal
 - ▣ Liquidity
 - ▣ Yield
- Entities Include:

<ul style="list-style-type: none"> ▣ County ▣ Municipality ▣ State ▣ Public Corporations 	<ul style="list-style-type: none"> ▣ Nonprofit Corporations ▣ Hospital District ▣ School District ▣ Other Districts
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TEXPOOL

Government Code Chapter 2256.002

LOCAL GOVERNMENT INVESTMENT POOL

- Departments opening Government Investment Pool accounts should obtain:
 - ▣ Participation Agreement
 - Enforceable after signed by:
 - Participant – County Judge
 - Representative of Texas Comptroller of Public Accounts
 - Elected Official
 - ▣ Authorization agreement
 - Designate representatives' roles
 - Inquiry
 - Initiate Transactions
- Department should maintain proper segregation of duties

INVESTMENT PROTECTION

- If registry funds held by a county clerk or a district clerk and deposited by the county with a depository selected under Subchapter B are lost for any reason, including a loss due to the insolvency of the depository, the county is liable to the rightful owner of the funds for the full amount of the funds due the owner.
- FDIC standard insurance amount is \$250,000 per depositor, per insured bank, for each account ownership category.
 - ▣ A single account is a deposit owned by one person. This ownership category includes:
 - An account established for one person by an agent, nominee, guardian, custodian, or conservator, including Uniform Transfers to Minors Act accounts, escrow accounts and brokered deposit accounts
 - An account established for or representing a deceased person's funds—commonly known as a decedent's estate account

LGC Chapter 117.083
www.fdic.gov

REGISTRY FUND DISBURSEMENTS

- Disburse to depositories to invest
- Disburse to individuals
 - ▣ Minors reaching age of majority
 - Verify identification
 - Release per court order
 - ▣ Awarded Judgments
- Disburse to other governmental entities
 - ▣ Attorney General
 - ▣ State Comptroller *Tax Code 111.021, LGC 117.002*
 - ▣ Internal Revenue Service *26 USC § 6331(a), 6332 (e), 6334, LGC 117.003(b)*
 - Judgments for support of minor children exempt from levy
- Disbursement process differs based on county population

POPULATIONS LESS THAN 190,000

- *Registry Fund* disbursement process
 - ▣ In a county with a population of less than 190,000, the county auditor may adopt and enforce regulations, not inconsistent with law or with a rule adopted under Section 112.003, that the auditor considers necessary for the speedy and proper collecting, checking, and accounting of the revenues and other funds and fees that belong to the county.
 - Clerks determine accounting procedure
 - Auditor has oversight of accounting

LGC Chapter 112.001, LGC 114.041

- ▣ The comptroller of public accounts shall prescribe and prepare the forms to be used by county officials in the collection of county revenue, funds, fees, and other money and in the disbursement of funds. The comptroller shall prescribe the manner of keeping and stating the accounts of the officials.

LGC Chapter 112.003

COUNTY AUDITOR DISBURSEMENT PROCEDURES

- In a county with a population of 190,000 or more, the county auditor shall prescribe the system of accounting for the county.
 - ▣ The county auditor may adopt and enforce regulations, not inconsistent with law or with a rule adopted under Section 112.003, that the auditor considers necessary for the speedy and proper collecting, checking, and accounting of the revenues and other funds and fees that belong to the county or to a person for whom a district clerk, district attorney, county officer, or precinct officer has made a collection or for whose use or benefit the officer holds or has received funds.

LGC Chapter 112.002

POPULATIONS BETWEEN 190,000 AND 1.3 MILLION

- *Registry Fund* report to County Auditor
 - ▣ Receipts and disbursements
 - ▣ Report under oath
 - ▣ Form and frequency determined by County Auditor
- *Registry Fund* disbursements
 - ▣ Issued in accordance with *Registry Fund* depository laws
 - ▣ Court Order required except:
 - Payment of an appeal bond
 - Withdrawal of bond by custodian
 - ▣ Signed according to procedure prescribed by County Auditor
 - County and District Clerks sign checks

LGC Chapter 117.053, 117.058, Estate Code 1355.103

POPULATIONS OF 1.3 MILLION OR GREATER

- *Registry Fund* disbursements
 - ▣ Court Order required
 - Except court cost deducted from appeal bonds
- County Auditor countersignature required:
 - ▣ Prior to delivery or payment
 - ▣ After review of court order authorizing disbursement
- Requirements for Electronic Funds Transfer
 - ▣ Recipient's written request
 - ▣ Clerks written approval
 - May charge reasonable fee
 - ▣ County Auditor countersigns approval

LGC Chapter 117.121

ELECTRONIC COUNTERSIGNATURES

- Elected and Appointed Officials
 - ▣ Signature form
 - ▣ Sent to County Treasurer and IT departments
- IT Department
 - ▣ Digitize and encrypt
 - ▣ Assign fund coding to signature
- Approved disbursements print with electronic signatures

EXAMPLE DISBURSEMENT PROCESS

- Departments submit check request lists and court orders to Auditor's Office:
 - ▣ Verify check requests agree to court orders
 - ▣ Verify documentation for Minor Cases reaching age of majority
 - ▣ Verify correct amount of administrative fee is collected
 - Invested
 - 10% of interest retained by Clerk's office
 - 90% disbursed to individual
 - Un-Invested (does not apply to populations of 1.3 million or more except for criminal cash bail bonds)
 - 5% of withdrawal amount not to exceed \$50
 - ▣ Sign approval giving authorization for countersignature to be applied
 - ▣ Process request after approval
- Treasurer's Office prints and mails disbursements
 - ▣ Approved check register sent to departments

LGC Chapter 117.054, 117.055, 117.122, Code of Criminal Procedure Chapter 17.02

RESPONSIBILITY FOR ANNUAL AUDIT

- Populations less than 190,000
 - ▣ County Auditor
 - ▣ Commissioner's Court when no County Auditor
- Populations between 190,000 and 1.3 million
 - ▣ County Auditor
- Populations greater than 1.3 million
 - ▣ County Auditor, or
 - ▣ Independent Certified Public Accountant, or
 - ▣ Firm of Independent Certified Public Accountants

LGC Chapter 114.041, 114.043, 115.001, 115.004, 117.123

ANNUAL AUDIT FOR POPULATIONS GREATER THAN 1.3 MILLION

- The registry funds shall be audited at the end of each county fiscal year by the county auditor or by an independent certified public accountant or a firm of independent certified public accountants of recognized integrity and ability selected by the commissioners court.
- A written report of the audit shall be delivered to the county judge, each county commissioner, and a clerk not later than the 180th day after the last day of the fiscal year. A copy of the audit shall be kept at the clerk's office and shall be open to inspection by any interested person during normal office hours. The cost of the audit shall be paid by the county.

LGC Chapter 117.123

INTERNAL CONTROL WALKTHROUGH

- Schedule an entrance conference with Clerk's Office
- Submit Internal Control Questionnaire to Clerks
 - ▣ Review responses and follow-up as necessary
- Observe & document cash handling processes & procedures
 - ▣ Receiving payments
 - ▣ Receipting payments
 - ▣ Preparing deposits
- Gain understanding of *Registry* disbursement & investment processes & procedures documenting control points & risks
- Prepare internal control management walkthrough report
 - ▣ Processes and procedures observed & documented
 - ▣ Internal control points
 - ▣ Identified internal control risks
 - ▣ Recommendations
- Complete Risk Assessment
- Update Audit Program

REGISTRY FUND AUDITS

- ☐ District and County Clerks retain investment records in court case management system (may vary by county) by case number, beneficiary, bank, and bank account number.
- ☐ Departments should timely update investment records:
 - ☐ Opening Accounts (add audit steps to review registry activities)
 - Submit application to financial institution
 - Name and taxpayer identification number
 - Issue disbursement to financial institution
 - Create investment record in case management system
 - Post disbursement to court case management system
 - ☐ Closing Accounts (add audit steps to review to review registry activities)
 - Withdraw funds from financial institution and post withdrawal to court case management system beneficiary investment record
 - Issue disbursement to court ordered entity/individual and post to court case management system
 - ☐ Update Interest annually (add audit steps to review registry activities)

INVESTMENT SAMPLE

- ☐ Request investment report from departments
- ☐ Request financial institution contact list
- ☐ Select sample from investment report
 - ☐ Financial institution accounts
 - ☐ Government Investment Pool accounts
 - ☐ Other investment accounts
 - ☐ Sample size
 - Use professional judgment to determine sample size
- ☐ Prepare confirmations

CONFIRMATIONS

- Confirmation must include:
 - ▣ Beneficiary Name
 - ▣ Account Number
 - ▣ Elected Official and County Auditor signature
- Confirmation may include:
 - ▣ Current Balance
 - ▣ Case Number

Confirmation Example

RETURNED CONFIRMATIONS

- Compare department investment report balance to financial institution verified balance
- Track confirmations received & send second request as necessary
- Document responses and follow-up as necessary
- Determine reasons for variance:
 - ▣ Interest not recorded by department
 - ▣ Accounts closed by financial institution and not reflected on court case management system
 - Funds escheated/sent directly to Texas Comptroller's Office
 - ▣ Department posting error

NOTIFY DEPARTMENT

- Communicate discrepancies between investment report and verified balances provided by financial institution
- Request correction of identified errors
 - Posting errors
 - Updating interest
 - Investments, disbursements, cancellations, or withdrawals not reflected on the court case management system

FINANCIAL ACCOUNTING SYSTEM REPORTS

- System reports generated by auditor (Subject to Auditor's system inquiry access & ad hoc report creation roles/rights within the system. May require reports to be requested from Clerks subject to audit observation of report creation):
 - Invested funds
 - Un-invested funds
 - *Registry Fund* disbursement report
 - Financial Institution
 - Government Investment Pool
 - Beneficiary
- Reconcile disbursement report to:
 - General Ledger
 - Court Case Management System
 - Verify Disbursements:
 - Properly posted to court case management system
 - Cleared the special account
 - Cancelled in court case management system (when necessary)

SAMPLE DISBURSEMENT REVIEW

Review court case management system and applicable court order for disbursements to ensure:

- ☐ Sufficiency of funds
- ☐ Issued to correct party
- ☐ Posted to correct case
- ☐ Posted with correct check number
- ☐ Proper collection of administrative fees
- ☐ Interest posted annually
- ☐ Cancellations
 - ☐ Posted timely
 - ☐ Correct amount
 - ☐ Correct case
 - ☐ Correct check number

ACCOUNT BANK RECONCILIATION

- ☐ Department should maintain a monthly *Registry* account bank reconciliation consisting of:
 - ☐ Bank Statements
 - ☐ Check Register
 - ☐ Outstanding Checks
 - ☐ Checks Cleared Within Month
 - ☐ Cancelled Checks
 - ☐ Deposit detail
 - ☐ Reconciling items
- ☐ Per LGC 113.008, monthly reconciliation responsibilities may be deferred to the County Treasurer
- ☐ Auditor should request bank reconciliation documents to compare:
 - ☐ Reconciliation supporting detail including evidence of supervisory review and sign-off
 - ☐ General Ledger
 - ☐ Bank Statement

TRACE REGISTRY RECEIPTS

- Generate *Registry* receipt report from court case management system (subject to Auditor system inquiry access and ad hoc report creation roles/rights within the system; may require reports to be requested from Clerks subject to audit observation of report creation)
 - ▣ Invested receipts report
 - ▣ Un-invested receipts report
- Reconcile to the general ledger (GL)
 - ▣ Verify all receipts deposited and recorded to the GL
 - ▣ Receipts deposited in a timely manner
 - ▣ Correct amount deposited in the *Registry* account

COURT ORDER REVIEW

- Sample case jackets to determine if funds were deposited into the *Registry* of court.
- Trace ordered activity to court case management system
 - ▣ Determine timeliness of investments
 - ▣ Verify disbursement issued for invested funds
 - ▣ Trace disbursement to court case management system for proper and timely posting
 - If *Registry Funds* have not been invested per court order, request explanation for delay. Document response in working papers
- Sample un-invested items and determine appropriateness for non-investment.

STATUTORY INVESTMENT COMPLIANCE

- Select a sample of investments to confirm compliance with state statutes including:
 - Local Government Code, Chapter 117
 - Property Code, Chapter 142.004
 - Education Code, Chapter 54, Subchapter F
 - Government Code, Chapter 2256
 - Estates Code, Chapter 1355

CASH BAIL BONDS

- Cash bail bonds require court order to refund
 - Verify correct payee, bond number, and amount
- Account for cash bail bonds collected for District and County Clerks by the Sheriff's Department in a separate receipting system.
 - Verify Sheriff bond receipts properly deposited & recorded to the GL to confirm accurate and timely deposit to the appropriate special registry bank account
 - Compare Sheriff's cash bail bond receipts to District or County Clerk record of receipt
 - Verify funds receipted to the correct Clerk's special account
 - Verify amount, bond number and party information matches in both systems
 - Notify department to correct variances

PROPERTY HELD IN VAULT

- Court order directs property to be placed in a safe or vault for safekeeping by District and County clerks.
- Inventory vault property:
 - Auditor completes an annual inventory
 - Request inventory log maintained by department
 - Select a sample of court orders to determine if items were ordered to be held for safekeeping
 - Compare prior year inventory to current inventory
 - Identify any items in vault not on inventory log
 - Identify any items on court orders not held for safekeeping as required
 - Identify any items on log not in vault
 - Request documentation for these items
 - Request update of inventory log if needed

COMPLIANCE WITH INTERNAL REVENUE SERVICE

When funds are deposited under chapter 117 into an interest-bearing account, any person with a taxable interest in the funds deposited to such account must submit appropriate tax forms and provide correct information to the District and County Clerks so that the interest earned on such funds can be timely and appropriately reported to the Internal Revenue Service.

LGC Chapter 117.003

1099-INT REVIEW

- Request listing of 1099-INT forms issued by department for previous calendar year
 - ▣ Available mid-February each
 - ▣ Accounts with interest of \$10 or more
- Obtain interest only investment report for calendar year from court case management system
- Compare court case management report to issued 1099-INT forms
 - ▣ Review for completeness and accuracy
 - ▣ Request clarification for variances
 - Different amount
 - Account interest \$10 or more omitted from 1099-INT listing

ESCHEATMENT OF REGISTRY FUNDS

Any funds deposited under chapter 117, except cash bail bonds, that are presumed abandoned under chapter 72, 73, or 75, property code, shall be reported and delivered by the County or District Clerk to the comptroller without further action by any court. The dormancy period for funds deposited under this chapter begins on the later of:

- The date of entry of final judgment or order of dismissal in the action in which the funds were deposited.
- The 18th birthday of the minor for whom the funds were deposited.
- A reasonable date established by rule by the comptroller to promote the public interest in disposing of unclaimed funds.

LGC Chapter 117.002

ESCHEATMENT PROCESS

- District and county clerk departments identify *Registry Funds* abandoned for 3 or more years
 - March 31st cut-off
- Attempt to locate recipients should be made within the 3 year cut-off by department
- Final due diligence letters are sent to recipients
 - Letters should be sent out by May 1st
- If no response received, the department should prepare the escheatment list.
 - *Registry Funds* \$100.01 or more are sent to the State Comptroller Office by July 1st.
 - *Registry Funds* \$100 or less will be deposited with the County Treasurer by November 1st.

Property Code, 72, 73, 75

AUDITOR ESCHEATMENT REVIEW

- District and County Clerk departments send eligible *Registry Fund* cases to auditor for review
- Auditor will review escheatment list and verify:
 - Abandoned *Registry* amount is correct for the applicable case/party.
 - *Registry Funds* have not been claimed.
 - Disbursement check was not issued prior to inclusion on escheatment list.
 - Due diligence has been performed by department.
 - Funds are within the abandoned period required by state statute.

AUDIT REPORT

- Once the *Registry* audit is complete (including supervisory and management review), prepare a draft audit report of all findings and recommendations.
 - ▣ Submit draft to Clerk for review, response, & questions
 - ▣ Respond to Clerk's questions or request for additional information
 - ▣ Update report and submit to County Auditor
- Final report will be signed by County Auditor and sent to the appropriate parties:
 - ▣ Elected Official
 - District Clerk
 - County Clerk
 - ▣ County Judge
 - ▣ Commissioner's Court
- Final report will become public record

QUESTIONS



THANK YOU

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