



OFFICE OF THE COUNTY AUDITOR

Bob Grogan, CPA, CFE
DuPage County Auditor

421 N. County Farm Road
Wheaton, Illinois 60187
(630) 407-6075
FAX: (630) 407-6076
www.dupageco.org/auditor

January 30, 2019

Hon. James Mendrick, County Sheriff
DuPage County
Wheaton, IL 60187

Dear Sheriff Mendrick:

The Office of the County Auditor has completed an internal audit of the Real Estate and Personal Property Levy Account (Account) maintained by the County Sheriff's Office. The internal audit consisted of examining the internal controls, records, receipts and disbursements of the Account during the year ended November 30, 2018. The results of the audit are presented herein.

Results

- The transactions that were examined were found to be consistent with the intent of the Account.
- The procedures manual should be updated and finalized.
- The nominal balance of \$1,000 should be recorded in QuickBooks as a liability to the General Fund.

Objective

The County Auditor will perform a series of audit procedures designed to evaluate the internal controls over certain bank accounts outside the control of the County Treasurer. The objectives of the audit were to evaluate the procedures related to the processing of Account receipts and disbursements during fiscal year 2018 in order to determine if internal controls in place at the Sheriff's Office were adequate to safeguard the funds in the Account, that receipts were properly documented, recorded and deposited intact and in a timely manner, and that disbursements were appropriate and documented.

Background / Audit Scope

Illinois compiled statutes prescribe that the property of a person against whom a judgment has been entered in any court can be sold to satisfy the judgment. Further, the statutes prescribe that the payment from the sale shall be made to the Sheriff of the county in which the sale is made.

The purpose of the Account is to administer the collection and disbursement of funds while recovering property in order to satisfy judgments. In a personal property levy case, the

action is initiated by the plaintiff's attorney who submits certified copies of the judgment, a surety bond in the amount of two times the value of the judgment, and a fee for the service of the levy. The fee is deposited into the County's general fund and the other funds are deposited into the Account. The Sheriff's Office Civil Division computes the interest on the judgment at the statutory rate of 9% and calculates the total amount due to the plaintiff. Notice of the total amount is served on the defendant by a Sheriff's Deputy. The defendant is given an opportunity to pay the full amount, otherwise the property is seized, the sale is publicly advertised, and the property is sold at an auction administered by the County Sheriff. The proceeds of the sale are deposited in the Account. A commission is paid to the Sheriff's Office from the proceeds and deposited in the general fund, and the balance of the sale proceeds are remitted to the plaintiff from the Account.

In a real estate levy case, the action is initiated by the plaintiff's attorney, who submits certified copies of the judgment, a letter of direction asking the Sheriff to levy the real estate, and a \$400 payment to pay for the costs of the levy and sale. The payment is deposited to the Account. The Civil Division prepares and records a Certificate of Levy, which is served on the defendant by a Deputy. In the case of a defendant's homestead, an appraisal is obtained. At the direction of the plaintiff's attorney, a sale is scheduled and publicly advertised. The sale is performed at the Sheriff's Office with the sale going to the highest bidder. If a third party wins the bid, the proceeds are deposited to the Account. A redemption period of six months and one day follows the sale, during which the defendant can satisfy the judgment. At the end of the redemption period, the sale must be confirmed by the Court, and then the Deed is prepared by the Civil Division. An invoice is prepared showing the original deposit for the fees, the expenses incurred, the Sheriff's commission of \$1,000, and the balance due. This amount is received from the plaintiff's attorney, deposited to the Account, and then a separate disbursement is made to the County's general fund for the commission.

Levy actions are somewhat infrequent. Because the timing is driven by the plaintiff, the cases can remain open without activity for a period of time.

As of the end of fiscal year 2018, the Account had a balance of \$2,243 and is maintained in a non-interest bearing demand deposit account at a local bank. During FY 2018, two deposits totaling \$401 were deposited into the Account. Eight payments totaling \$275 were disbursed. The Account is appropriately included in the County's Comprehensive Annual Financial Report (CAFR) as an agency fund.

As an agency account, all deposits to the Account are distributed to the Sheriff or another party for costs incurred, or to the plaintiff. The Account balance at any time should represent amounts payable to others, including the \$1,000 nominal balance which is payable to the General Fund. The Account is included in the County's general ledger and Comprehensive Annual Financial Report (CAFR) as an agency fund.

The audit procedures included reviewing pertinent accounting records, court records, banking transactions and other supporting documentation related to the deposit and disbursement of Account funds by the Sheriff's Office. Interviews were conducted with the County Sheriff and Sheriff's Office management staff as deemed necessary in order to obtain an understanding of the procedures and internal controls related to the financial transactions of the Account.

All deposits and disbursements were matched from bank statements to the accounting records.

Audit Findings and Recommendations

Account Balance on Hand

The nature of the Account as an agency fund requires that all funds should be payable to a specific third party. The Auditor's analysis indicated that the cash on hand should consist of the following components:

- Cash received from real estate sales that have not yet completed the redemption period and been confirmed by the court, and therefore, have not yet been distributed,
- Undisbursed balances from the \$400 prepayments from fees related to real estate levy cases, and
- A nominal balance of \$1,000 that was transferred from the previous Replevin and Levy Account.

A previous internal audit performed by the County Auditor determined that the cash balance in the Replevin and Levy account was significantly in excess of the undisbursed amounts in open cases. During FY2017, Civil Division staff investigated activity in the account and determined that \$804.38 was attributable to the 5 active cases. This amount was deposited in the Real Estate and Personal Property Account. An additional \$1,000 was transferred to the Real Estate and Personal Property Account to serve as a nominal balance in the account. The remaining balance of \$55,385.73 was transferred to the County Treasurer for deposit in the general fund. It was determined that these funds had been received several years ago and were likely fees from replevin cases. Procedures have been implemented since the previous internal audit to account for the activity in each case using QuickBooks so that the total of all balances on open cases can be reconciled to the bank balance.

A review of the QuickBooks transactions indicated that a journal entry should be made in QuickBooks to document that the \$1,000 nominal balance is a liability to the General Fund. The Account balance of \$2,243 on November 30, 2018 agrees to the total of the unexpended amounts on the open cases.

Internal Controls

The County Auditor obtained an overview of the internal controls relative to the Account by interviewing Sheriff's staff. One employee is responsible for preparing the checks, signing them, and recording them in QuickBooks. During FY2018, procedures were implemented to include a secondary signature. A review of the bank statements noted that the reconciliations were performed on a timely basis and reviewed by Sheriff's Office supervisory staff.

Procedures

There are written procedures describing the activities to be performed. However, it was observed that the instructions appear to be several years old and have many handwritten notes appending the processes. It is recommended that the procedures be updated and rewritten to integrate the additions. It is our understanding that updated procedures have been prepared and are being reviewed by the State's Attorney's Office.

Account Disbursements

All disbursements made from the Account were examined. All checks were related to active cases and were signed by authorized individuals.

Summary of Recommendations

- The \$1,000 liability to the General Fund for the nominal balance should be journalized in QuickBooks.
- The Sheriff should contact the State's Attorney's Office and finalize the proposed update to the procedures manual.

I want to express my sincere appreciation for the generous assistance provided by your Office and your staff. If you have any questions, please contact me.

Sincerely,

OFFICE OF THE COUNTY AUDITOR



Bob Grogan, CPA, CFE
County Auditor

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cc: County Board
Robert Berlin, State's Attorney
Tom Cuculich, County Administrator
Paul Rafac, Chief Financial Officer