

**Other
Financial Management
Areas**

CHAPTER IV

OTHER FINANCIAL MANAGEMENT AREAS

A. REPORTS TO THE COMMISSIONERS COURT AND THE DISTRICT COURT

Justices of the peace, county clerks, and district clerks are required to submit monthly collections reports to the commissioners court and to the district court.

Code of Criminal Procedure, Article 103.005 (*see Appendix - page 19*) requires a justice of the peace, county clerk, or district clerk to submit a collections report to the commissioners court during each term of the court and a collections report to the district court on the first day of each court term. Commissioners court terms are monthly. District courts are required to have at least two terms per year. The report must contain the following information for the reporting period:

LGC §81.005
GC §24.012

- the amount of money collected by the officer;
- when and from whom the money was collected;
- the process by which the money was collected; and
- the disposition of the money.

The report must be in writing and under the oath of the officer. If for some reason no money has been collected since the last report, the report should so indicate.

Local Government Code, Section 114.044 (*see Appendix - page 41*) also requires that a justice of the peace, county clerk, or district clerk submit a report to the commissioners court on the collection and disposition of fines, judgments, and jury fees, at each regular court term. The report must contain the following information for the reporting period:

- the name of the person fined and the amount of the fine or the name of the person against whom judgment was rendered and the amount of the judgment;
- the style, number, and date of each case in which a fine was imposed or a judgment rendered; or
- the amount of the jury fees collected, the style and number of the case in which each jury fee was collected, and the name of the person from whom the fee was collected.

The official must also present the receipts and vouchers that show the disposition of the money, fines, or judgments.

District clerks, county clerks, and justices of the peace should consider getting together with the district judge(s), commissioners court, and county auditor to develop one report format that will satisfy both requirements (i.e. Code of Criminal Procedure, Article 103.005 and Local Government Code, Section 114.044).

B. REPORTS TO THE COUNTY AUDITOR

1. General Information

District clerks, county clerks, and justices of the peace are also required to submit financial reports to the county auditor. Local Government Code, Section 114.002 (*see Appendix - page 40*) provides that the county auditor shall determine the time and manner for making reports to the auditor, and the manner for making an annual report of office fees collected and disbursed. In other words, the county auditor determines what is reported to them and when it is reported. Reports have to be in writing and sworn to by the official making the report.

Failing to submit the required report(s) can result in a fine and/or removal from office. Local Government Code, Section 114.003 (*see Appendix - page 40*) provides that a county official who intentionally refuses to comply with a reasonable request of the county auditor relating to the report, commits an offense. The offense is a misdemeanor punishable by:

- a fine of not less than \$25 or more than \$200;
- removal from office; or
- both a fine and removal from office.

2. Sample Report Format

In addition to an annual report, most county auditors require monthly reports from officials. Most county auditors generally require officials to report all receipts and disbursements in detail, along with beginning and ending balances. A sample report format is on the following page. The format can be adapted to meet the needs in most counties by adding the specifics and additional detail required by the county auditor.

County Clerk Monthly Report

For the Month of _____, 200_

Beginning Balance (1):

Change Funds		
Other		
Total		

Receipts (2):

Total		

Total Amount To Account For

Disbursements / Remittances (3):

Total		()

Ending Balance (4):

Change Funds		
Other		
Total		

County Clerk / Date

- (1) The report should show the beginning balance, which is the balance the office was responsible for at the start of the month. The beginning balance should include all change funds, any bank account book balances, and any other funds under the control of the clerk.
- (2) The report should show all receipts for the month, breaking them down into detailed categories. The amount of detail will depend upon the county auditor's requirements, but will usually tie in with the budget, accounting, and reporting system.
- (3) All disbursements and remittances should be detailed. The amount of detail will depend upon the county auditor's requirements, but will usually tie in with the budget, accounting, and reporting system.
- (4) The report should show an ending balance, which is the amount the office is responsible for to start the next month. The ending balance is simply the beginning balance plus receipts minus disbursements/remittances. The ending balance should include change funds, bank account book balances, and any other funds under the control of the office.

3. Registry Fund Report In Certain Counties

In counties with a population of 190,000 or more, county and district clerks are also required to make reports under oath to the county auditor to properly reflect all registry funds received and disbursed, including all money remaining on hand at the time of the report. The county auditor is responsible for prescribing the form and frequency of the report.

LGC §117.058

C. PETTY CASH

Petty cash is simply a sum of money kept on hand for making small cash purchases.

Local Government Code, Section 130.909 (*see Appendix - page 46*) provides that the commissioners court of a county may set aside from the general fund of the county, for the establishment of a petty cash fund for any county or district official or department head approved by the commissioners court, an amount approved by:

- the county auditor, for a county with a population of 3.3 million or more ; or
- the commissioners court, for a county with a population of less than 3.3 million.

The fund must be established under a system provided and installed by the county auditor and, in a county with a population of 3.3 million or more, the county purchasing agent. Reports relating to the petty cash fund must be made to the auditor and, if applicable, the purchasing agent as the auditor or purchasing agent requires. Falsifying documents or reports relating to the fund is an offense according to Section 31.21 or 37.10, Penal Code.

The bond of the official who receives a petty cash fund must cover the official's responsibility for the correct accounting and disposition of the fund. The fund may not be used to make loans or advances or to cash checks or warrants of any kind. The commissioners court can increase or decrease the fund at any time on the recommendation of the county auditor.

D. BANK ACCOUNTS

As a general rule, Code of Criminal Procedure, Article 103.004 requires an officer of the county to deposit money collected in the county treasury no later than one business day after the money is collected.

Money held by an official should be appropriately safeguarded. The most practical way to safeguard money until it is remitted or disbursed, is ordinarily through the proper use of a bank account(s). Where possible, remittances should be made to the county treasurer on a daily basis. For example, many justices of the peace remit money to the county treasurer daily, and do not maintain a bank account.

1. Regular Operating Account(s)

Generally, money collected or held by a justice of the peace, county clerk, or district clerk, must be deposited in a county depository or subdepository [Local Government Code, Section 116.002 (*see Appendix - page 43*)]. A depository or subdepository is an institution with which the commissioners court contracts for the deposit and protection of public funds. A county is not limited to contracting with only one depository or subdepository. Contracts are usually for a two-year or four-year term. County depositories are covered in Chapter 116 of the Local Government Code. Refer to that chapter for more detailed information on county depositories and subdepositories

LGC §116.021

Officials should take steps to ensure that depository contracts include and cover all the services (e.g., number and type of accounts, and lockboxes) they need to effectively and efficiently operate their respective offices. Officials are encouraged to consult with their county auditor and county treasurer in determining what services are needed and can best be utilized.

A 1996 Attorney General Opinion (DM-396) provided that justices of the peace had to turn in fine money to the county treasurer “immediately” without first depositing the money into a separate checking account. This was based on an old requirement in the Code of Criminal Procedure, Article 103.004 which required an official to “...immediately pay the money to the county treasurer...” Article 103.004 (*see Appendix - page 19*) has since been amended to allow additional time before money has to be turned into the treasurer (see Page III-55). This being the case, a bank account is usually the best place for those funds until they are remitted to the treasurer.

2. Registry of the Court Funds

Commissioners courts are also required to contract with a qualified institution for a special county clerk account and a special district clerk account. Here again, contracts are usually for a two-year or four-year term and the commissioners court is not limited to contracting with only one institution. The special accounts are in the name(s) of the clerks.

LGC §117.021

Local Government Code, Section 117.052(c) (*see Appendix - page 44*) provides that a clerk is responsible for funds deposited into the registry fund from the following sources:

- funds of minors or incapacitated persons;
- funds tendered in an interpleader action;
- funds paid in satisfaction of a judgment;
- child support funds held for more than three days;
- cash bonds;
- cash bail bonds;
- funds in an eminent domain proceeding; and
- any other funds tendered to the clerk for deposit into the registry of the court.

At least monthly, justices of the peace are required to remit to the county clerk any funds held in trust for a plaintiff in a small claims court case whose whereabouts are unknown [Government Code, Section 28.055 (*see Appendix - page 22*)].

Local Government Code, Section 117.053 (*see Appendix - page 44*) covers withdrawals of funds. This section provides that disbursements must generally be made under an order of the proper court. The clerk also has to transfer funds to a separate account when specifically required to by law (e.g., Texas Probate Code, Section 887) or when directed to by a proper court order. A separate account must be in:

- interest-bearing deposits in a financial institution doing business in this state that is insured by the FDIC;
- United States treasury bills;
- an eligible interlocal investment pool that meets the requirements of Sections 2256.016, 2256.017, and 2256.019, Government Code; or a no-load money market mutual fund, if the fund:
 - is regulated by the Securities and Exchange Commission;
 - has a dollar weighted average stated maturity of 90 days or fewer;and

- includes in its investment objectives the maintenance of a stable net asset value of \$1 for each share.

Local Government Code, Section 117.054 (*see Appendix - page 44*) provides that for interest-bearing accounts, 10 percent of the interest goes to the county's general fund to compensate the county for the accounting and administrative expenses of maintaining the account. The other 90 percent is credited to the account.

For non-interest-bearing accounts, a fee not to exceed \$50 must be deducted from the account at the time of withdrawal to compensate the county for the accounting and administrative expenses incurred in handling the funds. Family Code cases are exempt from the fee. See Local Government Code, Section 117.055 (*see Appendix - page 45*).

In counties with a population of 190,000 or more, county clerks and district clerks are also required to make reports on registry funds to the county auditor [Local Government Code, Section 117.058 (*see Appendix - page 45*)]. See Page IV-5.

Chapter 117 also contains special provisions relating to court registry funds in a county with a population of 2.4 million or more (Harris County). The differences relate primarily to disbursing, auditing, and transferring funds.

Refer to Local Government Code, Chapter 117 for more detailed information concerning registry funds.

E. BANK RECONCILIATIONS

1. General Information

Each office that maintains a bank account(s) should do regular bank reconciliations. Monthly reconciliation of the bank statement(s) with the books maintained by the office is necessary to help assure that errors and/or irregularities, if any, are found and appropriately handled without delay.

Reconciliations should be done promptly upon receipt. Additionally, reconciliations should be done by someone who is not responsible for preparing deposits or signing checks.

Almost all bank statements include a reconciliation format. Many formats are similar to the one on the following page. A county auditor may even have a specific format for officials to use.

As a general rule, reconciliations should be done initially by the office that maintains the account(s). The county auditor will usually review the reconciliations as part of the audit of the office, and he/she may even perform what is known as a “proof of cash,” which is even more inclusive of an office’s transactions than is a bank reconciliation.

2. Basic Reconciliation Procedures

After receiving the bank statement unopened (to ensure it has not been altered) from the bank:

STEP ONE

1. Enter the balance from the books in the space provided on the reconciliation form;
2. Deduct any bank charges indicated on the bank statement;
3. Make any other necessary adjustments such as adding interest earnings; and
4. Total the amounts in 1., 2., and 3. above to arrive at the adjusted book balance.

STEP TWO

1. From the bank statement, write the stated bank balance in the space provided on the reconciliation form;
2. Compare checks, deposits, and other transactions listed on the statement with the books;

3. List, in the space provided on the reconciliation form, all outstanding checks;
4. Add any deposits made by the end of the period not posted to the bank statement;
5. Make any other necessary adjustments; and
6. Total the amounts in 1., 2., 3., 4., and 5. above to arrive at the adjusted bank balance.

STEP THREE

1. Compare the amounts arrived at in Steps One and Two.
2. If they do not agree, investigate and resolve any differences.

STEP FOUR

1. Sign and date the reconciliation; and
2. Submit the bank statement and reconciliation to appropriate personnel for review and approval.

F. CASH BOND FORFEITURES

In justice courts, there are two types of bond forfeitures. One is handled as a criminal case and the other type is handled as a civil-type proceeding. In county and district courts, cash bond forfeitures are handled as civil-type proceedings. Cash bonds should be receipted by the receiving official as with other intakes of money and the amount received should be adequately safeguarded until remitted.

1. Criminal Proceeding

Code of Criminal Procedure, Article 45.044 (*see Appendix - page 6*) provides for cash bond forfeiture in a justice court. A judge may enter a judgment of conviction and forfeit a cash bond in satisfaction of the costs, fees, and fine, if the defendant:

- has entered a written and signed conditional plea of no contest and a waiver of jury trial, and
- fails to appear according to the terms of the release.

The defendant must be notified in writing:

- that a judgment of conviction and forfeiture of bond was entered on a specific date and the forfeiture satisfies the defendant's fine, fees, and costs; and
- the defendant has the right to a new trial if applied for within 10 days from the date of judgment and forfeiture.

If a new trial is requested, the court must permit the defendant to withdraw the previously entered plea and waiver of jury trial. If a new trial is not requested, the judgment and forfeiture become final. **The cash bond is used to satisfy court costs, fees, and fine as in other criminal cases.** In other words, the amounts are handled just as if there was a regular conviction. Keep in mind that the defendant is automatically entitled to credit for any jail time served.

2. Civil-Type Proceeding

Code of Criminal Procedure, Chapter 22 addresses bond forfeitures that use the rules of civil procedure. Under Chapter 22, a case is initiated against the defendant and sureties. **Money forfeited stays totally with the county. Criminal case court costs, fees, and fine should not be taken out of the forfeited money.** The underlying criminal case remains

pending until it is later disposed of. If payment for the underlying case is received later, criminal case court costs, fees, and fine are satisfied at that time.

G. COMMUNITY SERVICE CREDIT

1. General Information

Community service credit for justice courts is provided for in the Code of Criminal Procedure, Article 45.049 (*see Appendix - page 7*), which provides that a defendant is considered to have discharged not less than \$50.00 for each eight hours of community service performed. That is equal to an hourly rate of at least \$6.25.

For county-level and district courts, community service credit is provided for in Code of Criminal Procedure, Article 43.09 (*see Appendix - page 3*). That article provides that a defendant is considered to have discharged \$100.00 for each eight hours of community service performed, which is equal to an hourly rate of \$12.50.

The basic provisions in both articles are similar.

- the judge must specify the number of hours the defendant is required to work;
- the judge may order that the work be performed only for a governmental entity or nonprofit organization that provides services to the general public that enhance social welfare and the general well-being of the community;
- a governmental entity or nonprofit organization that accepts a defendant must agree to supervise the defendant in the performance of the defendant's work and report on the defendant's work to the district probation department or court-related services office in county-level and district court cases and to the judge in justice court cases; and
- a judge may not order a defendant to perform more than 16 hours per week of community service, unless the judge determines that requiring the defendant to work additional hours does not work a hardship on the defendant or the defendant's dependents.

In addition, Article 43.09 (for county-level and district courts) provides that:

- the judge must specify whether the community supervision and corrections department or a court-related services office will perform the administrative duties required by the placement of the defendant in the community service program; and

- the court may require bail of a defendant to ensure the defendant's faithful performance of community service and may attach conditions to the bail as it determines are proper.

2. Example

Community service credit applies to the court costs, fees, and fine. If there are enough community service hours worked, the entire amount owed is satisfied. However, if a defendant satisfies part of the amount owed by performing community service and pays the balance, the amount paid is credited to court costs and fees first (both state and local), and the balance, if any, to the fine.

Assume a defendant is convicted of an offense in a county-level court and owes \$800.00, as follows:

Court costs and fees	\$204.00
Fine	<u>596.00</u>
Total owed	<u>\$800.00</u>

Case 1: Defendant performs eight days of community service at \$100.00 per day.

Total owed	\$800.00
Community service credit (8 days @ \$100 per day)	<u>800.00</u>
Balance owed	<u><u>0.00</u></u>

Case 2: Defendant performs five days of community service at \$100.00 per day and pays \$300.00.

Total owed	\$800.00
Community service credit (5 days @ \$100 per day)	<u>500.00</u>
Balance owed	<u>300.00</u>
Amount paid:	
Court costs and fees	\$204.00
Fine	<u>96.00</u>
Total	300.00
Balance owed	<u><u>0.00</u></u>

Case 3: Defendant performs three days of community service at \$100.00 per day and pays \$150.00.

Total owed		\$800.00
Community service credit (3 days @ \$100 per day)		<u>300.00</u>
Balance owed		500.00
Amount paid:		
Court costs and fees	\$150.00	
Fine	<u>0.00</u>	
Total	150.00	<u>150.00</u>
Balance owed		<u>\$350.00</u>

3. Basic Procedures

- verify compliance with the requirements of Code of Criminal Procedure, Article 45.049 or Article 43.09;
- give the defendant a copy of the court order or other appropriate paperwork that indicates the specifics about the required community service (i.e. entity or organization name and location, number of hours to be worked, when the work must be completed by, etc.);
- send written notification to the entity or organization about the community service requirement, as well as a form to complete concerning the defendant's community service. The written notification and form can be combined into one form. The form should provide space for the entity or organization to indicate whether the work was performed as specified by the judge's order. The entity or organization should specifically indicate how many hours the defendant worked. The form should also provide space for the entity or organization to enter any additional comments they feel are warranted. The form should be signed and dated by an appropriate representative of the entity or organization;
- file a copy of the paperwork in some sort of tickler system so it can be pulled and followed up on if the completion of community service hours form is not received back from the entity or organization when due; and

- once the completion of hours form is received back from the entity or organization, the appropriate individual in the office should verify the amount of hours required and completed and enter the credit in the accounting and other records and then file the form with the case records. If there are any additional amounts owed, appropriate procedures should be followed to satisfy any balance. The form should be signed or initialed by the individual entering the credit in the accounting records.

H. JAIL TIME CREDIT

1. General Information

Jail time credit for justice courts is provided for in the Code of Criminal Procedure, Article 45.048 (*see Appendix - page 6*), which requires that the credit be at least \$50.00 for each period of time served, as specified by the convicting court. A convicting court may specify a period of time that is not less than eight hours or more than 24 hours as the period of time to satisfy \$50.00.

For county-level and district courts, jail time credit is provided for in Code of Criminal Procedure, Article 43.09 (*see Appendix - page 3*), which provides a basic amount of \$50.00 for each day. It is important to remember that Code of Criminal Procedure, Article 42.03 (*see Appendix - page 2*) also provides that defendants are entitled to any pre-conviction time they spend in jail.

The law also provides for additional credits.

- Code of Criminal Procedure, Article 43.09 (*see Appendix - page 3*) provides that the court or the county sheriff may grant an additional two days credit for each day served to any inmate participating in an approved work program or a rehabilitation, restitution, or education program.
- Code of Criminal Procedure, Article 42.032 (*see Appendix - page 2*) allows the county sheriff to grant additional credit for good conduct, industry, and obedience. The amount is not to exceed an additional day for each day served, and the total credit amount is not to exceed one-third of the original sentence of fines and court costs.

2. Example

Jail time credit applies to the court costs, fees, and fine. If there is enough jail time credit, the entire amount owed is satisfied. However, if a defendant satisfies part of the amount owed by jail time credit and pays the balance, the amount paid is credited to court costs and fees first (both state and local), and the balance, if any, to the fine.

Assume a defendant is convicted of an offense in a county-level court and owes \$750.00, as follows:

Court costs and fees	\$204.00
Fine	<u>546.00</u>
Total owed	<u>\$750.00</u>

Case 1: Defendant receives five days of jail time credit at \$150.00 per day.

Total owed	\$750.00
Jail time credit (5 days @ \$150 per day)	<u>750.00</u>
Balance owed	<u>0.00</u>

Case 2: Defendant receives three days of jail time credit at \$150.00 per day and pays \$300.00.

Total owed	\$750.00
Jail time credit (3 days @ \$150 per day)	<u>450.00</u>
Balance owed	300.00

Amount paid:

Court costs and fees	\$204.00
Fine	<u>96.00</u>
Total	<u>300.00</u>
Balance owed	<u>0.00</u>

Case 3: Defendant receives two days of jail time credit at \$150.00 per day and pays \$150.00.

Total owed	\$750.00
Jail time credit (2 days @ \$150 per day)	<u>300.00</u>
Balance owed	450.00

Amount paid:

Court costs and fees	\$150.00
Fine	<u>0.00</u>
Total	<u>150.00</u>
Balance owed	<u>\$300.00</u>

3. Basic Procedures

- verify there is appropriate documentation for the defendant to spend time in jail (e.g., an order signed by the judge or a motion signed by the defendant to lay out the costs, fees, and fine in jail);
- receive appropriate paperwork from the jail indicating the time served and showing the number of days credit given, the daily credit amount, and the total credit amount.

(There should be a form at the jail showing the time the defendant was placed in jail and the time the defendant was released from jail. The form should be signed or initialed by the appropriate individual at the jail showing the date and time the defendant was placed in jail. The form should also be signed or initialed by the appropriate individual at the jail showing the date and time the defendant was released from jail.)

- the appropriate individual in the office should verify the days served and the amounts and enter the credit in the accounting and other records and then file the paperwork with the case records. If there are any additional amounts owed, appropriate procedures should be followed to satisfy any balance due. The form indicating the time served and number of days credit given should be signed or initialed by the individual entering the credit in the records; and
- a determination should be made if there are any additional amounts owed, and if so, appropriate procedures should be followed to satisfy any balance due.

I. COMPUTER SECURITY AND CONTROLS

1. Introduction

County offices continue to rely more and more on computers in daily operations and in storing important data and information. As a result, computer security and controls continue to grow in importance.

Computer malfunctions, viruses, intentional and/or unintentional problems caused by current or ex-employees, or even problems that could be caused by outside hackers present a real challenge to county officials in today's electronic workplace.

2. Some Basics

Each official should take the responsibility of computer security and controls seriously. Unfortunately, it is an area that is often overlooked because of the other demanding day-in and day-out responsibilities that have to be fulfilled. However, basic security is not as complicated or time-consuming as most people think.

Complying with the following **minimum** basics should be a goal for each county official. Additional controls and security measures unique to a particular county, office, computer system, and software should be added as needed. Officials should consult with the county auditor and information technology department in developing good security and controls.

a. Written policies and procedures.

The county as a whole and each office should have written policies and procedures that cover just about everything when it comes to computer security and controls. The policies and procedures should be required reading for all officials and employees. Some offices require employees to sign a document indicating that they have read the policies and procedures, they understand them, and agree to abide by them. Procedures should cover and include:

- 1) who is responsible for what and how;
- 2) who has access to what (both physical access and computer access);
- 3) how that access is controlled;

- 4) software policies, such as the use of personal software;
- 5) an Internet use policy;
- 6) e-mail use policy; and
- 7) how passwords are to be used.

b. Restrict access.

Both hardware and software access should be restricted to authorized personnel. Users should be required to log off their computer whenever they leave their work area. This would also include an appropriate segregation of duties to prevent one person from having too much control over transactions.

c. Appropriately use passwords.

This is probably the easiest way to improve computer security, but it is also an area that is often not taken very seriously. Passwords should not be shared and they should be changed often. In addition, passwords should not be written down and left close to the computer where someone else can find and use them.

d. Use anti-virus programs.

Current programs should be obtained and used consistently.

e. Back up data and information.

Unfortunately, most people learn to do this the hard way—as a result of losing important data or information. Do not be one of them. Back your files up regularly and store the back-up in a location different from where your computer is located.