

KINNEY COUNTY, TX

FORENSIC AUDIT

As at JUNE 11, 2024

ISSUED NOVEMBER 1, 2024

Prepared by:

Don B. Southerland, Jr., CPA, CFE

Restrictions on Use of Report

This document describes requested procedures performed by personnel of Don B. Southerland, Jr., CPA in connection with our engagement to provide a forensic accounting analysis for Kinney County. Such services do not constitute an engagement to provide audit, review, compilation or attestation services as prescribed in the pronouncements on Professional Standards issued by the American Institute of Certified Public Accountants. This document has been prepared for and is intended solely for the use of Kinney County. We will not be responsible for any losses suffered by any other party as a result of the use of this report contrary to the provisions of this paragraph.

I. Scope

The scope of this engagement is to provide a forensic accounting analysis of the financial system of Kinney County, TX. The time period of the audit covered from the years 2020 to April, 2024.

The analysis was requested to determine, among other things, whether the County's financial practices and procedures were being followed pursuant to state and federal law and what actions the County could implement to improve thereon.

II. Audit Procedures

The Texas Association of Counties' 2023 Guide to Texas Laws for County Officials is a guide for the administration of Texas Counties (**Exhibit 1**). Kinney County is a member of the Association. This guide was referred to in the performance of this forensic audit.

III. Financial Analysis

My financial analysis of the following County departments revealed the following:

A. COUNTY AUDITOR

Kinney County has a population of 3,129 (2020). According to Texas Local Government Code Title 3 Organization of County Government, Subtitle B Commissioners Court and County Officers, Chapter 84 County Auditor, Section 84.002 (a) states "In a County with a population of 10,200, or more, the District Judge *shall* appoint a County Auditor."

Section 84.002 (b) states "in a County with a population of less than 10,200:

(1) the District Judge *may* appoint a County auditor if the Judge determines that the County's financial circumstances warrant the appointment; and

(2) the District Judge *shall* appoint a County Auditor if:

(A) the commissioners court finds that a County Auditor is necessary to carry out County business and enters an order in its minutes stating the reason for this finding;

(B) the order is certified to the District Judge; and

(C) the District Judge finds the reason stated by the commissioners court to be good and sufficient."

Even though the population of Kinney County does not require the County to have a County Auditor, Kinney County has employed such a position for numerous years. Nevertheless,

according to County Commissioner Tim Ward, it has been long known that the County Treasurer's duties has been divided between the Treasurer and the County Auditor.

Description of Office (relevant items)

- **Qualification of auditor includes**, good moral character and intelligence, competent business ability and **two years experience as an accountant** – Local Government Code Sec. 84.006 (**Exhibit 2**).
- May appoint assistants and organize office with consent of district judge.
- Term of office is two years; term begins on January 1 of each odd numbered year.

Financial Operation of County Offices (relevant items)

- The County Auditor “serves as a check on the financial operations of other county offices.”
- Serve as a check on County Treasurer in recordkeeping of deposit of funds and examining reports to commissioners courts on finances; count (Surprise Cash Counts) or examine money or accounts on deposit (Bank Reconciliations) with County Treasurer on occasion without notice - Local Government Code Sec. 115.003 (**Exhibit 3**).
- Request and receive reports of other financial information from other County officials Local Government Code Sec. 114.002 (**Exhibit 4**).
- Have general oversight of all books and records of the county related to collection of money and responsible for strict enforcement of laws governing county finances - Local Government Code Sec. 112.006 (**Exhibit 5**).
- Have access to all financial accounts of other officers and the commissioners court to determine correctness of same - Local Government Code Sec. 115.001 (**Exhibit 6**).
- **Examine** all reports on collection of money made to the commissioners court Local Government Code Sec. 115.002 (**Exhibit 7**).
- **Examine** and approve all claims, bills and accounts against the County before submission to the commissioners' court - Local Government Code Sec. 113.064 (**Exhibit 8**).
- **Conduct** of independent audits - Local Government Code Sec. 115.031/115.041 (**Exhibit 9**).
- **Shall**, with approval of commissioners court, establish a procedure for administering an electronic funds transfer system for the payment of salaries, compensation and reimbursement to officers and employees - Local Government Code Sec. 156.001 (**Exhibit 10**).

Recordkeeping (relevant items)

- Make monthly and annual report to commissioners court and to district Judge - Local Government Code Sec. 114.025 (**Exhibit 11**).
- Act as a Purchasing Agent in certain Counties - Local Government Code Sec. 262.012 (**Exhibit 12**).

County Financial Reports - Local Government Code Sec. 114

The County Auditor is also responsible for the time and manner for County officials to make and submit County Financial Reports, which are due within five days after the last day of the month. The auditor is then responsible for conducting audits of these reports to ensure their accuracy.

The County Auditor advised that only the County Treasurer, County Judge and County Sheriff were the only departments to submit reports to her on a monthly basis. The County Auditor claimed that she considered looking at these reports and seeing that they balanced as an audit of these financial reports. Nevertheless, when asked, the County Auditor admitted that she was aware that the Sheriff's Office reports used a different monthly beginning balance than the previous month's ending balance and that she had never questioned why these reports were filed in this manner.

The County Auditor reported that she had never requested nor been provided a financial report from the County/District Clerk and therefore had never conducted an audit of this County office.

The County Auditor also advised that she did not prepare the format for the different County departments to report the financial data to her on a monthly and/or annual basis.

Audit of County Finances - Local Government Code Sec. 115

The County Auditor shall have continual access to and shall examine and investigate the correctness of:

- 1) the books, accounts, reports, vouchers and other records of any officer;
- 2) the orders of the commissioner's court relating to county finances; and
- 3) the vouchers given by the trustees of all common school districts of the county.

The County Auditor shall carefully examine and report on all reports that are about the collection of money for the county and that are required to be made to the commissioner's court. At least once each quarter, the County Auditor shall check the books and shall examine the reports of the County Officials. The County Auditor shall also conduct surprise cash counts of County offices on a quarterly basis.

AUDIT ASSESSMENT OF COUNTY AUDITOR

The audit began with the County Auditor's Office where we discovered the following:

- The County Auditor had no record of conducting any audits of the County's Departments during the period under audit and advised that she had never really conducted audits due to her many other duties and responsibilities, which primarily included the following:
 - Budgeting;
 - Purchasing;

- **Accounts Payable;**
 - Risk Management Coordinator;
 - Grant Certification Officer;
 - Financial Officer;
 - Equipment Inventory; and
 - Investment Officer.
- The audits expected by us, if not required by law, to have been conducted included such:
- Surprise Cash Counts of all County “cash” maintained in the following County Departments:
 - Sheriff’s Office;
 - Treasurer’s Office;
 - County/District Clerk’s Office; and
 - County Tax Assessor’s Office.
 - Financial audits of all Departments maintaining bank accounts, which would include the following:
 - Sheriff’s Office;
 - Treasurer’s Office;
 - County/District Clerk’s Office; and
 - County Tax Assessor’s Office.
- The County Auditor currently has one assistant auditor, who was primarily responsible for Accounts Payable; meaning, preparing County checks for payment of the County bills.
- The County checks are required to have two signatures;
 - The County is not delineating classification of items on employee reimbursement checks.
- The County Auditor is one of three authorized County signators, the others being the County Treasurer and the County/District Clerk.
- During the audit period, the County Auditor had one temporary employee who had worked on accumulating and maintaining the Equipment Inventory up until approximately November 2023.
- According to the recent County Auditor, she claimed that she reported to the District Judge, not to the County Judge or the Commissioners’ Court. That said, she reported that the District Judge has never provided her a performance review, nor has he had any conversations with her regarding her performance as County Auditor.

- The County Auditor is also the County Purchasing Agent and requires a Purchase Order for all purchases, regardless of the amount.

SUGGESTED CORRECTIVE ACTION FOR COUNTY AUDITOR

I would make the following suggestions for corrective action:

- 1) The Auditor ensure all external Auditor findings are corrected;
- 2) The Auditor be removed as a signator on the County's accounts;
- 3) The Auditor immediately develops a schedule of County audits to be conducted either quarterly (cash counts) or annually (County departments);
 - a. I would schedule the audit of the County/District Clerk's Office first;
 - b. I would schedule the audit of the County Treasurer's Office second;
 - c. I would schedule the audit of the County Sheriff's Office third.
- 4) The Auditor develop a standard financial report to be prepared and submitted by each County department on a monthly basis, which shows and provides:
 - a. Total revenue or collections and detailed source of such with supporting documentation;
 - b. Total expenses and detailed list of such with supporting documentation;
 - c. Inventory of assets acquired during the period with the location or assignment of the property.
- 5) The County Commissioners' transfer the duty of Accounts Payable to the Treasurer's Office;
- 6) Ensure proper reporting to the Commissioners' Court of any known irregularities as to non-budgeted spending by County departments;
- 7) Ensure proper reporting to the Commissioners' Court of any known irregularities as payments to employees (wage or contractor) by County departments without going through Human Resources;
- 8) The County Purchasing Officer (County Auditor) consider issuing blanket Purchase Orders and consider setting a higher minimum requirement for a Purchase Order.

B. SHERIFF'S OFFICE

The Sheriff's Office bank accounts are subject to examination by the County Auditor or County Treasurer.

The accounting forms used by the Sheriff are to be prescribed by the County Auditor. The forms currently used by the Sheriff's Office are common to other Sheriff's Offices and were accepted by the County Auditor.

The Sheriff's Office may maintain a Petty Cash fund.

It is common for the Sheriff's Office to maintain a Commissary account for the sale of food and personal items to inmates and an Inmate Account for funds belonging to the Inmates.

The Sheriff's Office currently has three (3) bank accounts as follows:

- Kinney County Abandoned Motor Vehicle Escrow Account
- Kinney County Sheriff's Dept. Commissary Account
- Kinney County Inmate Account

Kinney County Abandoned Motor Vehicle Escrow Account

The Kinney County Abandoned Motor Vehicle Escrow Account had a bank account balance of \$74,521.52 on January 1, 2021. The current balance of the account is \$648,146.49 at April 30, 2024. These funds belong to the County.

This account appears to have been opened on December 21, 1995 by Sheriff LK Burgess under the Kinney County Federal Tax Number. The bank did not provide any other type of opening information other than a "Business Account Agreement" for "Public Funds" (**Exhibit 13**). The current signatories on the account are Sheriff Brad Coe and Cynthia Gose as of 2/22/2017 (**Exhibit 14**). Gose said that she is not a signator on the account and has never signed a check from the account. The account requires only one signature and the Sheriff signs all of the checks.

A search by Kinney County Attorney Brent Smith found no record of the Commissioners' minutes approving the establishment of the account, but all of the signatory changes appear to have been made with the approval of the Commissioners' Court.

This fund has fluctuated with several different revenue streams:

- The Sheriff's sale of property due to tax liens;
- The sale of seized vehicles not processed through foreclosure actions; and
- Fees charged to owners/lien holders for return of seized vehicles. Fees generally include:
 - reimbursement of towing fees which are currently set at \$275.00; and
 - an administrative fee which started at \$300.00 and is now \$700 as of January 1, 2024.
- Miscellaneous items such as the sale of "challenge coins";
- Bail Bond funds; and
- Other possibly unknown funds.

The Audit failed to identify the true source of the funds deposited into the account because there was limited documentation maintained to identify the funds. The Sheriff's Office advised that they did not maintain any supporting documentation such as copies of checks deposited or documentation of some cash receipts. The Sheriff's Office did maintain a receipts book(s),

mainly for the collection of impound fees and coin sales, but it was not all inclusive of monthly deposits. They also received electronic payments through "Square."

As an example of the failure to properly document the source of the funds, the Sheriff's Office just determined that a bail bond in the amount of \$5,000 had been inappropriately deposited into this account in 2021 and not been remitted to the County Clerk as required.

This account had expenditures of \$1,034,981.71 from 1/1/2020 through 3/30/2024 as summarized:

1099 Employees	\$ 31,437.90	3%
Auction fees	\$ 1,110.00	0%
Bank fees	\$ 720.03	0%
Capital Assets	\$ 42,315.99	4%
Motor Vehicle Sales to Treasurer	\$ 162,092.81	16%
County-Property Sales	\$ 57,061.00	6%
Donation/Gifts	\$ 14,122.45	1%
Electric for Towers	\$ 27,355.60	3%
Equip & Supplies	\$ 106,212.83	10%
Lodging	\$ 154.20	0%
Repairs	\$ 399.00	0%
Maintenance	\$ 53,341.74	5%
Marketing	\$ 48,542.09	5%
Meals	\$ 5,875.66	1%
Meals-BP station	\$ 33,637.50	3%
Postage	\$ 8,622.15	1%
Subscriptions/Dues	\$ 12,937.25	1%
Taxes	\$ 2,056.75	0%
Towing & Storage	\$ 402,131.49	39%
Training	\$ 9,696.67	1%
Miscellaneous	\$ 15,158.60	1%
	<u>\$1,034,981.71</u>	100%

A pie chart delineates these expenditures (**Exhibit 15**).

The Sheriff's sale of property due to tax liens

The Sheriff's duties include the sale of property to satisfy the County's tax liens. As such, when a property is sold at auction due to the tax lien, the proceeds are remitted to the Sheriff and he deposits those proceeds into this account, to which he almost immediately remits a check in the same amount to the Kinney County Appraisal District.

The Sale of Seized Vehicles

The Sheriff's Office has seized vehicles used for illegal smuggling of drugs, guns and other unlawful activity. These vehicles, often referred to as "Abandoned" vehicles, are sold at a Sheriff's auction after proper notice and public notification to the registered owner(s) and/or lienholders.

The Sheriff's Office has conducted four (4) vehicle auctions as follows which has resulted in Net Sales after allowed expenses in the amount of \$442,405:

<u>SALE #</u>	<u>DATE OF SALE</u>	<u>CARS SOLD</u>	<u>SALES AMOUNT</u>	<u>AUCTION EXPENSES</u>	<u>AUCTION COMMISSION</u>	<u>NET SALES AMOUNT</u>
1	5/13/2023	120	\$223,150.00	\$8,800.00	\$33,472.50	\$180,877.50
2	10/21/2023	67	\$110,900.00	\$5,750.00	\$16,635.00	\$88,515.00
3	1/20/2024	57	\$89,725.00	\$400.00	\$13,458.75	\$75,866.25
4	3/23/2024	79	\$115,525.00	\$1,050.00	\$17,328.75	\$97,146.25
		323	\$539,300.00	\$16,000.00	\$80,895.00	\$442,405.00

From the \$442,405.00, the Sheriff's Office has remitted \$232,864.96 to the County Treasurer as follows:

<u>SALE #</u>	<u>DATE OF SALE</u>	<u>CARS SOLD</u>	<u>NET SALES AMOUNT</u>	<u>CHECK TO COUNTY</u>	<u>DATE OF CHECK</u>	<u>DIFFERENCE</u>
1	5/13/2023	120	\$180,877.50	\$103,076.56	12/14/2023	\$77,800.94
2	10/21/2023	67	\$88,515.00	\$0.00	12/14/2023	\$88,515.00
3	1/20/2024	57	\$75,866.25	\$59,016.25	2/20/2024	\$16,850.00
4	3/23/2024	79	\$97,146.25	\$70,771.25	5/15/2024	\$26,375.00
		323	\$442,405.00	\$232,864.06		\$209,540.94

As such, the Sheriff's Office retained \$209,540.94 of the sales proceeds, which were dispersed as follows *according* to the Sheriff's Office:

<u>TOWING</u>	<u>RELEASE FEES</u>	<u>KEYS</u>	<u>OFFICE SUPPLIES</u>	<u>VEHICLE MOVING</u>	<u>BOND TITLES</u>	<u>SCOPE TRUCK REPAIR</u>	<u>SCOPE TRUCK EQUIPMENT</u>	<u>IMPOUND LOT AGGREGATES</u>	<u>MISC</u>
\$33,550.00		\$510.00	\$335.92	\$8,925.00	\$2,256.95		\$27,461.15		\$337.48
\$18,700.00						\$38,891.53		\$35,515.87	
\$15,950.00	\$400.00	\$500.00							
\$21,725.00	\$1,050.00			\$3,600.00					
\$89,925.00	\$1,450.00	\$1,010.00	\$335.92	\$12,525.00	\$2,256.95	\$38,891.53	\$27,461.15	\$35,515.87	\$337.48

The proceeds of the sale are to only have been used for the following according to State statute Sec 683.015 (**Exhibit 16**):

- The cost of the auction;
- Towing, preservation and storage fees resulting from the taking into custody; and
- The cost of notice or publication as required by law.

Nevertheless, the Sheriff's Office has used these funds for other expenditures that are not allowed such as:

- Scope Truck Equipment and Repairs; and
- Impound Lot Aggregates.

Impound Revenue

In addition to the sale of seized vehicles, the Sheriff's Office charged a flat fee of approximately \$775.00 to anyone who claimed their vehicle within the notice period. This fee consisted of \$500.00 for an "administrative" fee and \$275.00 for towing costs. It was noted that all towing fee costs of the Sheriff's Office were not \$275.00. As such, these fees resulted in the additional funds that created the balance remaining in the account. Furthermore, some of these funds were expended by the Sheriff's Office for the following costs:

- Labor;
- Capital Assets;
- Donations and Gifts;
- Equipment and Supplies;
- Maintenance of Vehicles;
- Marketing;
- Electric installation of camera towers;
- Meals;

- Subscriptions and Dues; and
- Other Miscellaneous expenditures

An inventory of the assets purchased with these funds failed to locate a pistol because there was no record of whom it was assigned to.

Vehicle Storage Fees

According to the Texas Department of Licensing and Regulation, Vehicle Storage Facilities' rates are established as follows (Exhibit 17):

- Tow Fees - \$272.00 per vehicle
- Daily Storage Fee - \$22.85 a day
- Notification fees - \$50.00
- Government entity fee - \$10.00 flat fee provided to law enforcement

As a result, the Sheriff's Office is paying a fee of \$275 to some of the towing companies, which is in excess of what is allowed by law. In addition, the Sheriff's Office is charging the owner this unlawful fee.

Further, we could not provide any documentation to support the charging of an Administrative fee by the Sheriff's Office, such as an action by the Commissioners' Court. It is noted that the Sheriff's Office has raised the Administrative fee to \$700 as of 1/1/2024.

Kinney County Sheriff's Office Commissary Account

The Kinney County Sheriff's Commissary Account has a balance of \$273.35 at April 30, 2024. These funds belong to the County as they are the proceeds of sales of food and personal items to inmates.

Kinney County Inmate Account

The Kinney County Inmate Account has a balance of \$832.39 at April 30, 2024, but the County has no inmates and had not had inmates for some time. This account is a "Trust" account, so the money does not belong to the County. The Sheriff's Office could not provide an accounting as to whom these funds belonged to, i.e., which former inmate had deposited these funds into the County's account.

Petty Cash Fund

The Sheriff's Office does not maintain a Petty Cash fund.

Bail Funds

The Sheriff's Office is routinely collecting cash Bail funds from inmates for their release and submitting the funds to the County/District Clerk. During the audit period, but prior to our

arrival, the Sheriff's Office had collected and maintained over \$1 million in cash in its office before submitting the funds to the County/District Clerk.

ASSESSMENT OF SHERIFF'S OFFICE FINANCIAL REPORTING

The Sheriff's Office submits three financial reports monthly to the County Auditor. The Commissary fund and the Inmate fund show little to no activity during the last year due to the Sheriff's Office jail being closed. The Sheriff's Office Bank Reconciliations financial reports revealed the following:

Abandoned Motor Vehicle Escrow Account

- 1) The bank account appears to have been opened illegally as the establishment of the account was not approved by action of the County Commissioner's Court;
- 2) The reconciliations are not correct as:
 - a) Many of them have a different monthly ending balance than the next month's beginning balance;
 - b) The reconciliations include previous months checks that did not clear the bank in the previous month as current month checks;
 - c) There are numerous examples of cleared checks shown as outstanding checks;
 - d) There are many examples of outstanding checks not included in the reconciliation.
- 3) From at least 1/2018 through 7/2020, the reconciliation included adjustments to the bank balance in an amount up to \$9,444.36 of checks that had previously cleared the bank, resulting in a lower reported Book Balance which resulted in an inaccurate record submitted to the County Auditor.
 - i. In essence, the checks were originally recorded as outstanding, which was correct, but when the check cleared, the Sheriff's Office recorded the check again (duplicative) as a monthly expenditure, which caused the bank balance to improperly be reduced by that cleared item so as to balance the accounts.
 - ii. The bank reconciliation was corrected in August 2020 by removing the outstanding checks from the bank account reconciliation and adjusting the beginning Book balance for the month.
- 4) The Sheriff's Office receiving revenue from vehicle sales and impound fees that are not included, but should be included, in the County's budgeting process. The Sheriff's Office is not preparing and/or submitting a report of this revenue to the County Auditor or Commissioner's Court on a monthly basis. In addition, the Sheriff's Office is also

expending funds from this revenue that are not budgeted and/or approved by the Commissioner's Court. As such, the Sheriff's Office has made unapproved expenditures for the following categories from these unbudgeted/reported revenue:

- Labor;
- Capital Assets;
- Donations and Gifts;
- Equipment and Supplies;
- Maintenance of Vehicles;
- Marketing;
- Electric installation of camera towers;
- Meals;
- Subscriptions and Dues; and
- Other Miscellaneous expenditures.

In all, the Sheriff's Office has received unreported and unbudgeted revenue of \$1,628,486.04 and made unreported and unbudgeted expenditures of these funds in the amount of \$1,034,981.71 leaving a balance of \$593,504.33 as follows:

<u>YEAR</u>	<u>DEPOSITS</u>	<u>EXPENDITURES</u>	<u>REMAINING</u>
2020	\$96,336.18	\$78,116.86	\$18,220.33
2021	\$141,557.82	\$39,422.55	\$42,135.27
2022	\$413,365.60	\$281,733.56	\$161,632.04
2023	\$709,481.21	\$462,935.90	\$246,545.31
2024	\$267,745.23	\$142,773.85	\$124,971.38
Totals	\$1,628,486.04	\$1,034,981.71	\$593,504.33

Cynthia Gose

The Audit revealed that Gose holds an expired license as a law enforcement dispatcher/telecommunicator. She is not currently, or ever has been, a licensed Texas Peace Officer.

Nevertheless, we found that Gose is attending continuing education for law enforcement officers, including attending several annual Sheriff's conferences; though, her training record does not show her attending any training specific for her position as Administrative Assistant in the Sheriff's Office. It is noted that the Association of Sheriff's does provide training for the Sheriff's Office Administrative Assistant.

TCOLE reported that Gose has taken 298 hours of continuing education from 4/14/2017 - 7/10/2024 as follows (Exhibit 18):

4/14/2017 – 5/4/2017	20 hrs.
10/11/2017 -4/18/2019	148 hrs.
10/18/2019 – 7/20/2021	41 hrs.
10/14/2021 – 6/30/2023	57 hrs.
10/23/2023 – 7/10/2024	32 hrs.

TCOLE advised that Sec 37.12 False Identification as Peace Officer: Misrepresentation of Property states that (a) A person commits an offense if:

- 1) The person makes, provides to another person, or possesses a card, document, badge, insignia, shoulder emblem, or other emblem, or other item, including a vehicle, bearing an insignia of a law enforcement agency that identifies a person as a peace officer or a reserve law enforcement officer; and
- 2) The person who makes, provides, or possesses the item bearing the insignia knows that the person so identified by the item is not commissioned as a peace officer or reserve law enforcement officer as indicated on the item;
c-1 For purposes of this section, an item bearing an insignia of a law enforcement agency includes an item that contains the word "police," "sheriff," "constable" or "trooper."

4/14/2017 – 5/4/2017	20 hrs.
10/11/2017 -4/18/2019	148 hrs.
10/18/2019 – 7/20/2021	41 hrs.
10/14/2021 – 6/30/2023	57 hrs.
10/23/2023 – 7/10/2024	32 hrs.

SUGGESTED CORRECTIVE ACTION FOR COUNTY SHERIFF

- 1) County Commissioners' request the Sheriff to turn over all funds in his Abandoned Motor Vehicle Escrow Account to the County Treasurer to be deposited into the County's Abandoned Motor Vehicle Escrow Account;
- 2) County Commissioners' request the Sheriff to close the illegally opened Sheriff's Abandoned Motor Vehicle Escrow Account;
- 3) The Sheriff's Office cease to accept funds for bail bonds, impound fees or anything other than funds related to inmates by referring payors to submit said funds to the County/District Clerk's Office;
- 4) The Sheriff's Office reconcile the Inmate's Account to determine the ownership of the funds and return those funds to the owner, escheat them to the State, or turn over to the County Treasurer;
- 5) The Sheriff's Office provide training to the Administrative Assistant to prepare reconciliations of bank accounts, maintain detailed records of funds in the Inmate Fund

- Account and the proper procedures to pay employees (both wage and contract) through the County's Human Resources Office;
- 6) The Sheriff ensure that all employees with badges have the appropriate certification and training.

3. COUNTY TREASURER'S OFFICE

The 2023 Guide to Texas Laws for County Officials includes Texas Local Codes for the County Treasurer (Pages 99 – 105). The primary duties of the Treasurer are Section 113:

- Chief custodian of County funds;
- Responsible for receiving all money due to the County from whatever source;
- Responsible for disbursement of all funds; i.e. responsible for expending money from the treasury in accordance with the directions of the commissioner's court and honoring orders for payment issued by authorized county officials;
- Responsible for accounting for all funds in the County treasury and submits periodic reports to the Commissioner's Court for approval;
- Keep true account of receipts and expenditures of money and debts to and from the County; and
- Report to Commissioner's Court at each regular term on and all money collected and expended.

The County Treasurer advised that her duties include the following:

- Treasurer;
- Human Resources;
- Payroll, including issuing W-2's;
- Co-Risk Management Insurance Coordinator w/ County Auditor; and
- Co-Investment Officer w/ County Auditor.

The County Treasurer is a co-signer on County checks, which requires two signatures.

ASSESSMENT OF TREASURER'S OFFICE FINANCIAL REPORTING

The County Treasurer is materially in compliance with its duties and responsibilities.

SUGGESTED CORRECTIVE ACTION FOR COUNTY TREASURER

- 1) Ensure proper reporting to the Commissioners' Court of any known irregularities as to non-budgeted spending by County departments;
- 2) Ensure proper reporting to the Commissioners' Court of any known irregularities as payments to employees (wage or contractor) by County departments without going through Human Resources;
- 3) Assume the duties of managing the Accounts Payable function;

- 4) Ensure all outside Auditor findings are corrected in a timely manner.

4. COUNTY CLERK/DISTRICT CLERK

The 2023 Guide to Texas Laws for County Officials includes Texas Local Codes for the County Clerk (Pages 85 – 97) and District Clerk (Pages 106 – 109). The County Clerk is also the District Clerk based upon the size of the County. His primary financial duties are Section(s) 113/114:

- Make full report of collections to Commissioner's Court and enter reports of other County officers on finance ledger;
- Furnish County Auditor with itemized report specifying orders for payment issued, numbers, amounts, persons and purpose;
- Keep account of all monies accruing to the office, including:
 - Maintain Registry funds such as:
 - Escrow Accounts
 - Estate/Probate Accounts;
 - Bail Bond accounts;
 - Excess Sales Taxes;
 - Bond Forfeitures – to be turned over to the Treasurer
 - County Attorney Bond Forfeiture Account – to be turned over to the Treasurer
- The Clerk provides some services that provide revenue to the office that is to be accounted for and remitted to the Treasurer's Office.

The Clerk claimed that he maintains three (3) bank accounts for the Clerk's Office.

ASSESSMENT OF THE CLERK'S OFFICE

The Audit of the Clerk's Office revealed either a lack of cooperation or a failure to provide the requested financial information requested. In addition, the Clerk's staff did not have knowledge or access to any of the requested information or records. The Clerk was requested to provide the following, which was not provided:

- Copies of bank statements of all accounts maintained by the Clerk's office;
- Copies of the bank reconciliations for the requested bank accounts; and
- An accounting of funds in each of the accounts maintained by the Clerk's Office.

The financial reports to the Commissioner's Court consist of "whole" numbers; they do not report the actual financial transactions, nor do the reports contain supporting documentation.

During the early stages of the audit, the Clerk claimed that the Sheriff's Office had over a million dollars in Bail Bond monies that had not yet been remitted to the Clerks Office. The Sheriff's Office denied that it still had any Bail Bond funds in their possession. A further examination by the Clerk's Office determined that they had received all bail bond funds from the Sheriff's Office, except for two (2) outstanding bonds.

It was determined that these two bail bonds had been collected by a former Sheriff's Office employee who previously admitted that he had stolen bail bond funds in another instance. This employee had previously been indicted, pled guilty and convicted.

SUGGESTED CORRECTIVE ACTION FOR COUNTY/DISTRICT CLERK

- 1) Ensure bank reconciliations of bank accounts are conducted and maintained on a timely basis;
- 2) Ensure an accounting of County maintained funds are is conducted and maintained instantaneously to the deposit and transfer of the funds;
- 3) Ensure all outside Auditor findings are corrected in a timely manner.

5. GRANT INVENTORY

Kinney County receives several different grants, the main one being a Federal grant named Stonegarden and a State grant named Operation Lone Star :

The audit primarily examined the audit of assets purchased by the County.

Grant Audit Objectives

As part of an external audit conducted for the Kinney County, Texas Commissioner's Court, a comprehensive inventory was performed for each Kinney County department that received funds from the Operation Lone Star (OLS) grant, a crucial financial resource provided to Kinney County from the State of Texas. The primary objective of the inventory was to locate and identify items purchased with these significant grant funds since September 2022, thereby determining the effectiveness of procedures and controls in place to maintain control of the items purchased.

Procedures and Scope

The following procedures were followed to conduct the inventory: The Grant Manager for the Kinney County Sheriff's Office was interviewed. The Kinney County Auditor was asked to provide the most current inventory of items purchased by Kinney County using the OLS grant. This inventory was analyzed to establish a baseline for items purchased by each department.

An employee, entrusted with the responsibility of maintaining the inventory for each department, was identified and interviewed about the process of making purchases for that department with OLS grant funds. This employee was interviewed regarding their knowledge of the department's needs, the county's process, and guidelines for purchasing items with grant funds. They were also asked to provide a current inventory of items purchased since September 2022. Finally, the

employee, acting as a guide, was asked to direct the external auditor to the items on the inventory list, and each item was verified unless noted below.

An inventory was conducted for the following departments:

Kinney County Attorney's Office
Kinney County Judge's Office
Kinney County Emergency Medical Services
Kinney County Sheriff's Office
Kinney County Auditor/Treasurer's Office
Kinney County Clerk's Office

Grant Summary

The Kinney County Auditor has a process for purchasing items with OLS grant funds, including verifying that the item requested is eligible under the OLS grant and obtaining approval to buy the item from department heads, the Auditor, and the County Judge. It is worth noting that each department representative who is responsible for ordering items for that department is not only aware of the process but also actively follows it. Five of the six departments use a method to track the OLS purchases; however, those methods are inconsistent, and there is no consistency in reporting the department inventories to the Auditor's Office. The Auditor's Office attempted to inventory all OLS purchases through September 2023; however, after the employee responsible for maintaining the inventory left the Auditor's Office and eventually the county, the list was not updated. Some departments have done a more comprehensive job of keeping track of their inventory. The Clerk's Office does not maintain an inventory, and the KCSO has an incomplete inventory.

EXTERNAL AUDITOR

The external Auditor issued a County Audit on 7/19/2024 in which he noted several deficiencies that he had also noted in previous audits that have not been corrected to include (**Exhibit 19**):

- Account codes inconsistent and not standardized;
- Commingling of investment bank balances;
- Recordation of transfers between deposit accounts; and
- Improper expenditures of sales proceeds of abandoned vehicles without budgeting these expenditures.

IV. Findings

- 1) The County Auditor has not conducted any proper audits in at least the last eight years;
- 2) The County Auditor has not developed any formal financial reporting for County departments to remit to the Auditor on a monthly basis;
- 3) The County Auditor's Office oversees the Accounts Payable function; therefore, the County Auditor is responsible for auditing its own work;
- 4) The Sheriff's Office, prior to the current Sheriff, improperly opened a bank account without the approval of the Commissioner's Court;
- 5) The Sheriff's Office Inmate Account does not have a record of the source of the current balance of funds. This is a Trust account whose funds do not belong to the County;
- 6) The Sheriff's Office has paid current and outside employees without issuing W-2's or 1099's and did not provide information to the County Treasurer's office, which is responsible for the payroll function;
- 7) The Sheriff's Office misused funds to reimburse Sheriff and Administrative assistant for travel costs that not only exceeded the County per diem but had been denied reimbursement by the Auditor;
- 8) The Sheriff's Office expended County funds that were not within his annual budget and not approved expenditures by the County Commissioner's.
- 9) The County Clerk was unable or unwilling to provide bank statements, bank account reconciliations, accounting of bank account balances and/or supporting documentation of monthly reports submitted to the Commissioner's Court;
- 10) The external Auditor for the County noted continued deficiencies from prior audits in the County as follows:
 - a. Account codes inconsistent and not standardized;
 - b. Commingling of investment bank balances;
 - c. Recordation of transfers between deposit accounts; and
 - d. Improper expenditures of sales proceeds of abandoned vehicles without budgeting these expenditures.

V. Recommendations

- 1) The County Auditor should focus on developing an audit plan for the County and conduct departmental audits and surprise cash counts on an appropriate basis;
- 2) The Auditor's Office should develop a standardized report for each County department to submit monthly to report their financial intake and expenditures, which would include documentation of the source of the funds and the expenditure of the funds;
- 3) The Auditor's Office should develop a standardized inventory form used by every County department that receives funds from the OLS grant. Each department should be required to maintain an inventory of the items they purchase, which is periodically remitted to the Auditor. The Auditor's Office should conduct a complete inventory of items purchased by each department annually;
- 4) The Kinney County District Judge should review County audits conducted by the County Auditor and provide annual performance reviews of the County Auditor;

- 5) The Accounts Payable function should be reassigned to the department of the County Treasurer;
- 6) The Sheriff's Office should direct the Auctioneer of tax lien property sales to remit the sales proceeds directly to the Kinney County Appraisal District, instead of to the Sheriff's Office;
- 7) The Sheriff's Office should direct the Auctioneer of abandoned vehicle sales to remit the sales proceeds directly to the County Treasurer, instead of to the Sheriff's Office;
- 8) The County Clerk should be the direct recipient of certain funds the Sheriff's Office is receiving at this time, including, but not limited to:
 - a. Impound fees; and
 - b. Bail Bonds.
- 9) The Sheriff's Office should only maintain two checking accounts; one each for the Inmate account and the Commissary account.
 - a. The Sheriff's Office should maintain a Petty Cash Fund for small miscellaneous expenditures;
 - b. The Sheriff's Office Abandoned Vehicle bank account should be abolished with all funds transferred to the County Treasurer.
- 10) The Sheriff's Office should determine the ownership of the \$832.39 in its bank balance and return the funds to its owner(s) or escheat them to the State of Texas;
- 11) The County Purchasing Agent should consider a minimum dollar amount for the requirement of purchases requiring Purchase Orders rather than requiring a purchase order for minimal expenditures;
- 12) The County Clerk should provide County Auditor with the following:
 - a. Bank account reconciliations for the past three (3) years;
 - b. An accounting of the Registry bank accounts; and
 - c. Supporting documentation for monthly reports to the Commissioner's Court for the last year.
- 13) The County should ensure that all County sources of revenue and expenditures should be accounted for through the Budget process and approved by the Commissioner's Court, including the seizure and sale of abandoned vehicles;
- 14) The County should ensure that County expenses should be processed through the Accounts Payable function;
- 15) The Accounts Payable function should delineate the characterization of expense on employee reimbursement checks;
- 16) All payments to County employees for wages should be made through the County's payroll function so as to ensure required IRS filings;
- 17) The Sheriff and his Administrative Assistant should reimburse the County for monies the Sheriff used from his Abandoned Vehicle account to reimburse travel in excess of the County per diem unless amount approved by County Commissioners;
- 18) The County Auditor should oversee the immediate correction of the continued audit deficiencies as noted by the external Auditor.

VI. Summary

The Kinney County Auditor has not conducted audits for over eight (8) years, which has resulted in a void of financial management in the County such as:

- a) Departments are not being checked for the performance of bank account reconciliations;
- b) Departments have no formal procedure for reporting financial position to the Commissioner's Court;
- c) External Audit noted deficiencies have not been corrected and continue to exist year to year;
- d) The Sheriff's Office was able to operate out of an unlawful bank account and make unbudgeted (unapproved) expenditures from unbudgeted and questionable revenue;
- e) The Sheriff's Office was paying employees (County and contract) without going through the County's payroll system so as to ensure accurate reporting to the IRS; and
- f) Questionable expenditures by the Sheriff's Office for marketing, travel and labor.