



COUNTY OF EL PASO  
OFFICE OF THE COUNTY AUDITOR

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03-13

March 23, 2021

Mr. Victor Perez  
Director of Financial Operations  
County Auditor Office  
800 East Overland Ave. Ste 406  
El Paso, Texas 79901

Dear Mr. Perez:

The County Auditor's Internal Audit division performed an audit of the Oaths of Office records compliance to determine if internal controls are adequate to ensure signed oaths of office are appropriately filed as mandated by the *Texas Local Government Code, 154.043(b)* and *Article XVI of the Texas Constitution*. Policies, procedures, and regulations were also reviewed to ensure processes are documented, operating and efficient.

The audit report is attached. We tested three operating controls with a total of 35 samples. There was one finding noted as a result of the audit procedures. We wish to thank the management and staff of County Payroll Division, County Human Resources Department, and County Clerk's Office for their assistance and courtesies extended during this audit.

Because of certain statutory duties required of the County Auditor, this office is not independent in regard to your division, as defined by AICPA professional standards. However, our audit was performed with objectivity and due professional care.

Respectfully,

A handwritten signature in blue ink that reads "Edward A. Dion".

Edward A. Dion  
County Auditor

EAD:HM:ya

cc: The Honorable Linda Chew, Local Administrative District Judge  
Mrs. Betsy Keller, County Administrator  
Mrs. Melissa Carrillo, Chief Human Resources Officer  
Mrs. Delia Briones, County Clerk  
Mrs. Imelda Gaytan, Audit Manager, Payroll & Benefits



**County Clerk’s Office Oaths of Office Records  
For Oaths of Office Administered as of January 2021**



**EXECUTIVE SUMMARY**

**BACKGROUND**

*Local Government Code §154.043 (b)* states that a payment cannot be made from a salary fund to an employee before an oath of office, if applicable, has been filed with the county clerk and county auditor. *Article XVI* of the *Texas Constitution* mandates that all elected and appointed officials should take the official oath of office before the performance of their duties. As indicated in the *Texas Government Code §601.008*, failure to comply with an oath of office by an official that has the power to exercise jurisdiction can lead to voidance of the official's jurisdictional actions. To ensure compliance with *Local Government Code 154.043*, the County Auditor’s Office uses TrackNet to verify filing of oaths of office with the County Clerk’s Office for applicable employees before making payment from a salary fund to such employees.

The audit was performed by Hadi Medina, internal auditor. The scope of the last audit performed was as of January 2016 and the report was issued May 27, 2016.

**AUDIT OBJECTIVES**

The audit evaluated the adequacy of controls and processes to achieve key business objectives related to the County’s compliance with employee’s oath of office requirements. Following are the business objectives and related control assessments.

<b>Business Objective</b>	<b>Control Assessment</b>
1. Adherence to documented policies and procedures	<b>Needs Improvement</b>
2. Compliance with oath requirements of the <i>Article XVI of the Texas Constitution</i> .	<b>Satisfactory</b>
3. Compliance with oath requirements of the <i>Texas Local Government Code §154.043 (b)</i>	<b>Satisfactory</b>

**SCOPE**

The scope of the audit reflects oaths administered as of January 2021.

**METHODOLOGY**

To achieve the audit objectives we:

- Reviewed policies, procedures, and applicable statutes.
- Conducted interviews with County Clerk’s Administrative Manager, Payroll & Benefits Reporting Audit division (Payroll) personnel, the Council of Judges Office Manager, and Human Resources (HR) personnel to determine current processes and controls related to oath of office filing records.
- Tested a sample of currently employed County employees’ and elected/appointed official’s oaths of office to determine compliance with *Texas Local Government Code §154.043 (b)* and *Article XVI of the Texas Constitution*.
- Tested all newly elected County official’s oaths of office to determine compliance with *Texas Local Government Code §154.043 (b)* and *Article XVI of the Texas Constitution*.

**RESULTS**

Listed below are controls and findings summaries, with findings listed from highest to lower risk. Please see the *Findings and Action Plans* section of this report for the status of the prior audit report findings, and related details and management action plans for the current findings.



**County Clerk’s Office Oaths of Office Records  
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**EXECUTIVE SUMMARY**

<b>Controls Summary</b>	
<b>Good Controls</b>	<b>Weak Controls</b>
<ul style="list-style-type: none"> <li>Newly elected/appointed oath of office controls (Obj. 2)</li> <li>Currently elected/appointed oath of office controls (Obj. 3)</li> </ul>	<ul style="list-style-type: none"> <li>Maintain and follow department policies and procedures (Obj. 1)</li> </ul>
<b>Findings Summary</b>	
<ol style="list-style-type: none"> <li>1. Documented policies and procedures do not reflect current procedures.</li> </ol>	

**INHERENT LIMITATIONS**

This operational review was designed to provide reasonable assurance that the internal control structure is adequate to maintain the County employees’ oath of office records on file. The County’s internal control structure is designed to provide reasonable, but not absolute assurance that these objectives are met. The concept of reasonable assurance recognizes that: (1) the cost of implementing the controls should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires the use of estimates and judgment by management. Because of the inherent limitations in any system of internal controls, errors or irregularities may occur and not be detected.

**CONCLUSION**

The current Oaths of Office procedures need improvement to ensure compliance with the oath requirements of the *Texas Local Government Code §154.043 (b)* and *Article XVI of the Texas Constitution*. Implementation of the recommendation provided in this report should assist in mitigating the risk of non-compliance with *Texas Local Government Code §154.043 (b)* and *Article XVI of the Texas Constitution* by strengthening the existing internal control structure.



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**EXECUTIVE SUMMARY**

**Prior Audit Findings Summarized with Current Status**

**Status**

- H Closed**

1. **Finding:** Not all oaths of office records were filed with Payroll and the County Clerk's Office prior to salary payments. .

**Recommendation:** A centralized list of elected and appointed officials and employee positions that require an oath of office needs to be created. Responsibility for maintaining this list should be assigned. The *Texas Association of Counties' 2015 Oath & Bond Requirements for County Officials* provides detailed information on the positions required to have an oath. A web link to this publication should also be available on the County's website for transparency purposes. Procedures should be updated to provide for a more effective and efficient process of ensuring all oaths of office are received timely. Payroll, County Clerk's Office, HR, and the County Attorney's Office should be included in this procedural update. Internal Audit may be included in an advisory capacity regarding internal controls for the updated procedures.

**Action Plan:** County Clerk's Office will forward to Payroll and HR a copy of the stamped and dated oath of office to be filed for record or in the employee file as applicable. HR will maintain the oath of office list, consulting with the County Attorney's Office as necessary to ensure it is complete. They will also obtain required oaths of office and forward them to the County Clerk's Office for scanning and official recording of the oath. This applies to oaths for new employees and newly elected, appointed, reelected, or reappointed officials. Payroll will review County Clerk's electronic files, compare them to the Payroll files and the list of oaths that are needed to identify oaths that are currently missing or outdated at both places. Once those oaths are identified, the information will be forwarded to HR for follow-up.
  
- M Closed**

2. **Finding:** Oaths of office on record were not current. Elected or appointed officials required to renew are not renewing their oath of office. And as a consequence, none of their designated personnel are renewing their oaths of office. The County Clerk's Office does not have a list of elected and appointed officials with their respective term of service, and the list used by HR and Payroll is not current, which makes it difficult to determine who is required to take or renew the oath.

**Recommendation:** The centralized list recommended in Observation #1 should include the term of office for elected and appointed officials as appropriate. The County Attorney's Office is currently reviewing and updating a 2002 oaths of office list for departments. HR Department, if possible, should consider updating the employee records database to add a code identifying appointed positions that are considered official by statute. This will facilitate the creation of future reports by using a specific code. In addition, the term of service information should be added to the employee record for informational purposes.

**Action Plan:** Josie Brostrom from County Attorney's Office will update the oaths of office list by position and department to include appointed and elected officials and deputized employees. The list will be forwarded to the County Clerk's Office, Payroll, and HR by 6/12/16. HR will include a starting and ending term of service date to the oaths of office list for elected and appointed official positions. Codes to identify appointed and elected officials and respective terms of service will be added to the employee records with the implementation of the ERP system (expected implementation October 1, 2016).



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EXECUTIVE SUMMARY

Status

- M Closed** 3. **Finding:** We found some departments use their own oath of office form that does not include required sections or has them listed in the wrong order. The official oath as required in *Article XVI* of the *Texas Constitution* includes two sections that must be signed by all elected and appointed officials before undertaking the duties of their offices. These sections are the oath or affirmation and the statement of officer (anti-bribery statement). The statement of officer must be signed before an elected or appointed state official takes the oath of office.
- Recommendation:** County offices must ensure required elements of the official oath of office are included in the correct order on all oath of office forms used as official records filed at the Payroll and County Clerk's Office to ensure compliance with *Article XVI* of the *Texas Constitution*.
- Action Plan:** A new form that meets the statutory requirements has been implemented effective May 2016. County Attorney's Office has specialized forms on file for different offices if they are needed.
- M Closed** 4. **Finding:** Prior audit recommendations have not been implemented completely. A sample of 33 current oaths of office was selected for departments that had a finding in the 2011 audit. We found 28 out of the 33 employees' oaths were not in compliance with the *Texas Local Government Code §154.043 (b)* and *Article XVI of the Texas Constitution*. The prior audit found the oaths of office on record for the Juvenile Probation Department were missing the date the oath was administered.
- Recommendation:** Periodic reviews should be conducted to ensure oaths of office files are current. A record should be kept of the reviews performed.
- Action Plan:** The process for the oaths of office has changed. HR will follow up weekly on oaths that have not been received or are out of compliance with statutory requirements.



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**EXECUTIVE SUMMARY**

Current Audit Finding

Finding #1		Risk Level <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">M</span>								
<p><b><u>Documented Policies and Procedures:</u></b> Documented policies and procedures do not reflect current procedures. Policies and procedures help with the implementation of controls and provide a consistently effective and efficient reference to ensure all required oaths of office are completed and filed properly. The following responsibilities are not well documented in the respective department procedures:</p> <ul style="list-style-type: none"> <li>• Payroll's responsibility for reviewing and verifying an oath of office has been filed in the County Clerk's Office before making a payment from the salary fund to ensure compliance with <i>Local Government Code 154.043 (b)</i>.</li> <li>• The HR's role regarding follow up to ensure all newly elected/appointed officials sign and forward oaths of office to County Clerk's office. Also, the procedures still reflect WebExtender as the software being used; the current software is TrackNet.</li> <li>• The County Clerk's Office responsibility for timely uploading and filing of all oaths received.</li> </ul>										
<p><b>Recommendation</b></p> <p>Payroll, HR, and County Clerk's office should cooperate in updating the existing documented policies and procedures for oaths of office in their respective areas. The list created in 2016 by County Attorney of elected and appointed officials that require an oath of office also needs to be updated and maintained as necessary. Responsibility for maintaining this list should be assigned.</p>										
<p><b>Action Plan</b></p> <table border="1"> <thead> <tr> <th>Person Responsible</th> <th>Payroll, HR, County Clerk</th> <th>Estimated Completion Date</th> <th>May 2021</th> </tr> </thead> <tbody> <tr> <td colspan="4"> <p><b>HR</b> will ensure the appropriate HR staff have accurate access to the TrackNet+ system. (Completed). They will update the Oath of Office procedures to reflect current procedures and practices, and then share with the identified staff from Payroll and the County Clerk's Office to also review, update, and finalize the procedures. The procedures will be shared in July of even-numbered years for each of the offices to review and revise as necessary prior to putting into practice in December of that year and into January of the following year.</p> <p><b>Payroll</b> will ensure procedures are updated to reflect responsibility to review and verify that an oath of office has been filed in the County Clerk's Office before making a payment from the salary fund.</p> <p><b>County Auditor's Office</b> will assess the incorporation of a function into Munis that will facilitate the oaths verification process. Procedures will be updated if this proves viable.</p> <p><b>County Clerk's Office</b> will ensure procedures reflect responsibility for the timely uploading and filing of all oaths received.</p> </td> </tr> </tbody> </table>			Person Responsible	Payroll, HR, County Clerk	Estimated Completion Date	May 2021	<p><b>HR</b> will ensure the appropriate HR staff have accurate access to the TrackNet+ system. (Completed). They will update the Oath of Office procedures to reflect current procedures and practices, and then share with the identified staff from Payroll and the County Clerk's Office to also review, update, and finalize the procedures. The procedures will be shared in July of even-numbered years for each of the offices to review and revise as necessary prior to putting into practice in December of that year and into January of the following year.</p> <p><b>Payroll</b> will ensure procedures are updated to reflect responsibility to review and verify that an oath of office has been filed in the County Clerk's Office before making a payment from the salary fund.</p> <p><b>County Auditor's Office</b> will assess the incorporation of a function into Munis that will facilitate the oaths verification process. Procedures will be updated if this proves viable.</p> <p><b>County Clerk's Office</b> will ensure procedures reflect responsibility for the timely uploading and filing of all oaths received.</p>			
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