



Office of Missouri State Auditor
Nicole Galloway, CPA

Cooper County Clerk



Nicole Galloway, CPA
Missouri State Auditor

CITIZENS SUMMARY

Findings in the audit of Cooper County Clerk

Background

The County Clerk is the chief fiscal and administrative officer of the county, whose duties include maintaining records of disbursements approved for payment by the county commission, issuing county licenses, and collecting various fees for remittance to the county treasury. The position also serves as the county's elections officer. Darryl Kempf served in this position from January 1987 until September 29, 2017, when he entered into a plea agreement with the Attorney General's Office, pleading guilty to a misdemeanor charge of theft/stealing, and resigned from office. Per the plea agreement, the County Clerk was sentenced to 6 months in the Cooper County jail; however, the sentence was suspended and he was placed on unsupervised probation for 2 years. As a condition of probation, he was required to pay restitution of \$4,843.20 to Cooper County and \$797.78 (unpaid penalty and interest) to the Missouri Department of Revenue.

During our regularly scheduled audit of Cooper County we were made aware of potential improprieties with a county vehicle lease and determined additional work was necessary to review transactions in the County Clerk's office. This report identifies serious concerns related to the vehicle lease along with other related issues. The audit of Cooper County is still in process and additional findings and recommendations regarding the County Clerk's office and other county officials will be included in a subsequent report.

Vehicle Lease and Purchase

The County Clerk leased a vehicle that was extravagant and unnecessary, and was routinely driven for personal use. He later terminated the lease early and personally purchased the vehicle, which he partially financed by misappropriating county monies totaling \$4,843.20. In addition, he unlawfully evaded paying sales tax of \$2,335.14 when the purchase occurred in August 2016. In June 2017, he subsequently paid the evaded sales tax, but did not pay any penalty and interest regarding the late payment. As a result of these actions, the County Clerk received significant benefits and monetary gain not provided to other county officials or employees. Further, this is the second time the County Clerk used his position to obtain a new vehicle by temporarily financing the vehicle with county monies, and later personally purchasing the vehicle at the purchase option price per the lease. These leases were not a prudent use of monies from the Election Services Fund (ESF), and were significantly more costly than other options.

Election Services Fund Transactions

The manner in which ESF monies have been utilized has not met the statutorily intended purpose. We reviewed the use of the ESF since its establishment in 2000 and determined ESF disbursements have primarily personally benefited the County Clerk rather than improving and enhancing the county's election functions.

The ESF has rarely been utilized for purposes clearly associated with elections, and in some years no disbursements were made from the fund. Approximately 94 percent of cumulative disbursements are associated with vehicles (leases, purchase, and repair) and transfers out to the county's

General Revenue Fund. Only 4 percent of the cumulative disbursements were directly associated with election activities and/or training, and these types of disbursements only occurred in 2 years.

In the areas audited, the overall performance of this entity was **Poor**.*

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

Cooper County Clerk

Table of Contents

State Auditor's Report	2
------------------------	---

Introduction	
Background	4

Management Advisory Report - State Auditor's Findings	
1. Vehicle Lease and Purchase	6
2. Election Services Fund Transactions.....	10

Appendixes	
A Payments to Toyota Financial Services From Election Services Fund.....	13
B Election Services Fund - Schedule of Receipts, Disbursements, and Changes in Cash Balance.....	14
C Prior Audit Finding and Response (Report No. 2005-53).....	15
D County Clerk's Response.....	17



NICOLE GALLOWAY, CPA

Missouri State Auditor

To the County Commission
and
County Clerk of Cooper County

We have audited the County Clerk of Cooper County. During our audit of certain operations of Cooper County in fulfillment of our duties under Section 29.230, RSMo, we were made aware of improprieties with a county vehicle lease and determined additional work was necessary to review transactions in the County Clerk's office. The scope of our audit included, but was not necessarily limited to, the year ended December 31, 2016. The objectives of our audit were to:

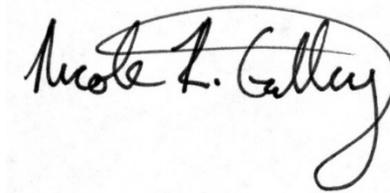
1. Evaluate the County Commission's and County Clerk's internal controls over significant management and financial functions.
2. Evaluate the County Commission's and County Clerk's compliance with certain legal provisions.
3. Evaluate concerns regarding the county vehicle lease and determine the extent of misappropriated county funds.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the county, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of applicable contract, grant agreement, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

For the areas audited, we identified (1) deficiencies in internal controls, (2) noncompliance with legal provisions, and (3) misappropriated county funds totaling at least \$4,843.20. The accompanying Management Advisory Report presents our findings arising from our audit of the Cooper County Clerk.

An audit of Cooper County, fulfilling our obligations under Section 29.230, RSMo, is still in process, and any additional findings and recommendations will be included in the subsequent report. That report contains additional recommendations addressed to the County Clerk and responses will be obtained from the interim County Clerk.

A handwritten signature in black ink that reads "Nicole R. Galloway". The signature is written in a cursive style with a large, looping flourish at the end of the name.

Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this report:

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Cooper County Clerk

Introduction

Background

The County Clerk is the chief fiscal and administrative officer of the county, whose duties include maintaining records of disbursements approved for payment by the county commission, issuing county licenses, and collecting various fees for remittance to the county treasury. The position also serves as the county's elections officer.

Darryl Kempf was elected Cooper County Clerk in November 1986 and took office in January 1987, and was subsequently elected to the position every 4 years thereafter. During the year ended December 31, 2016, he received compensation of \$73,331, which included \$11,767 in commissions for preparing city property tax books. The County Clerk's office had 3 full-time employees as of December 31, 2016.

At various times during 2015 and 2016, the County Commission received concerns and information regarding a vehicle that the County Clerk had leased using county monies, including concerns regarding his personal usage of the vehicle and use of the vehicle for election campaign activities. On August 4, 2016, the County Commission contacted the county's attorney to discuss further investigation of the matter. On August 25, 2016, 2 State Representatives whose districts include portions of Cooper County issued a letter to the County Commission outlining constituent concerns they had received regarding possible unlawful use of a county vehicle by the County Clerk, and suggesting the county conduct a complete and prompt investigation of the County Clerk and his office. The County Commissioners indicated they were not sure how to properly respond to citizen concerns because the County Clerk controls the Election Services Fund (ESF)¹ that was used to pay the monthly vehicle lease payments. The County Commission provided these concerns to the Sheriff in September 2016 and requested he investigate.

The County Commission notified the State Auditor's Office (SAO) when we began audit fieldwork on March 27, 2017, of this issue and provided documentation related to the vehicle lease. At the request of the County Commission, the Sheriff contacted the Missouri State Highway Patrol (MSHP) on March 27, 2017, to request an investigation to determine if criminal violations had occurred. Audit work by the SAO confirmed the

¹ The Election Services Fund is used to account for certain election related receipts and disbursements. The county assesses an additional fee of 5 percent of total election costs proportionately to each political subdivision (including the county) and deposits this fee into the fund. In addition, certain election related reimbursements from the Missouri Secretary of State's Office are deposited into this fund and interest accrues monthly. The fund is under the custody of the County Treasurer, but disbursements do not require County Commission approval; rather, the County Clerk submits a warrant/check request and supporting documents to the County Treasurer to authorize disbursements from this fund. ESF checks only require the County Treasurer's signature. Section 115.065.4, RSMo, states "The election services fund shall be budgeted and expended at the direction of the election authority. . . ."



Cooper County Clerk
Introduction

County Clerk had misappropriated county funds to purchase the vehicle for himself and subsequently evaded paying sales tax on the purchase of the vehicle.

MSHP investigators questioned the County Clerk in May 2017. Upon conclusion of the investigation, the case was assigned to a special prosecutor at the Missouri Attorney General's Office. On September 29, 2017, the County Clerk entered into a plea agreement with the Attorney General's Office and pled guilty to a misdemeanor charge of theft/stealing. Per the plea agreement the County Clerk was sentenced to 6 months in the Cooper County jail; however, the sentence was suspended and he was placed on unsupervised probation for 2 years. As a condition of probation, he was required to pay restitution of \$4,843.20 to Cooper County and \$797.78² to the Missouri Department of Revenue. Also, as part of the plea agreement, he resigned from office.

The County Commission appointed Keat Catlett to serve as interim County Clerk starting October 2, 2017, and until the Governor makes an appointment to fulfill the rest of the term that ends December 31, 2018.

² The penalty and interest due as a result of the late payment of sales tax on the vehicle.

Cooper County Clerk Management Advisory Report State Auditor's Findings

1. Vehicle Lease and Purchase

The County Clerk leased a vehicle that was extravagant and unnecessary, and was routinely driven for personal use. He later terminated the lease early and personally purchased the vehicle, which he partially financed by misappropriating county monies totaling \$4,843.20. In addition, he unlawfully evaded paying sales tax of \$2,335.14 on the purchase. As a result of these actions, the County Clerk received significant benefits and monetary gain not provided to other county officials or employees. Further, this is the second time the County Clerk used his position to obtain a new vehicle by temporarily financing the vehicle with county monies, and later personally purchasing the vehicle at the purchase option price per the lease.

Lease of truck

On May 17, 2014, the County Clerk visited a Toyota dealership in Kansas City, Missouri, and entered into a monthly lease with Toyota Financial Services for the lease of a new 2014 Toyota Tundra pickup truck (equipped with four-wheel drive and a double cab). He test drove the vehicle, signed the lease agreement, and took delivery of it on a weekend. The documentation provided indicates this transaction was planned ahead of time because (1) the County Clerk submitted a business credit application to Toyota Financial Services in April 2014; (2) the County Clerk had pre-determined the exact payment amount; (3) the County Treasurer issued the check for the first payment on May 13, 2014 (hand delivered to the dealership by the County Clerk); and (4) the County Clerk faxed information to the dealership regarding payment terms on May 14, 2014. The County Clerk signed the lease in the name of the county and the lease required 36 monthly payments of \$484.32. Each month thereafter, the County Clerk approved the invoice for payment, identified the Election Services Fund (ESF) as the proper accounting coding for the disbursement, and submitted the documents to the County Treasurer for payment.

During the term of the lease, the County Clerk displayed standard license plates on the vehicle at his own expense and did not otherwise identify the vehicle as county property. This is inconsistent with standard county procedures because other county-owned vehicles display a county license plate or other visible identification showing the vehicle is county-owned and for official use. In addition, the County Clerk indicated he paid for fuel and maintenance for the vehicle at his own expense. This is also inconsistent with standard county procedures because the county pays these expenses for other county-owned vehicles.

Purchase of truck and sales tax evasion

On August 4, 2016, the County Clerk misappropriated county monies totaling \$4,843.20³ by terminating the lease early and requesting the County Treasurer

³ Although only 9 payments totaling \$4,358.88 remained under the terms of the lease agreement, the County Clerk mistakenly believed that 10 payments totaling \$4,843.20 remained.



Cooper County Clerk
Management Advisory Report - State Auditor's Findings

issue a check for this amount to Toyota Financial Services from the ESF. Additionally, on that date the County Clerk issued a personal check for \$23,547.47 to Toyota Financial Services for a total payment of \$28,390.67 in order to purchase the vehicle. The County Clerk could not provide a valid reason why county monies were used to partially finance the purchase since he was taking personal ownership of the vehicle. The County Clerk indicated he decided to terminate the lease early rather than allow it to continue to its May 2017 termination because he was considering early retirement (his term ends December 31, 2018), and he did not want to miss the opportunity to purchase it.

On August 17, 2016, Toyota Financial Services issued the bill of sale, lien release, and title to the County Clerk. On August 23, 2016, the County Clerk visited the Boonville (the Cooper County seat) license office of the Missouri Department of Revenue and registered and titled the vehicle in the name of the county. On August 29, 2016, the County Clerk prepared an affidavit indicating the county was gifting the vehicle to him and representing there was no money or other valuable consideration involved in the transaction. The Deputy County Clerk signed this affidavit, and the Deputy County Clerk and the County Clerk both signed the seller portion of the title. Thus, the County Clerk signed as both purchaser and seller. On August 31, 2016, the County Clerk visited a Columbia license office (outside the county) and transferred ownership to himself. By gifting the vehicle to himself, the County Clerk unlawfully evaded paying state and local sales taxes on the purchase of the vehicle totaling \$2,335.14.

The County Clerk indicated it was necessary to first title the vehicle in the name of the county upon purchase because the terms of the lease agreement stipulated that the vehicle could only be sold to the named lessee (Cooper County). He could not provide a valid reason for gifting the vehicle to himself.

Control and usage of the
vehicle

The County Clerk indicated he had mostly exclusive use of the vehicle and drove it on a daily basis for both business and personal use, including commuting to and from work. He indicated the vehicle was available to his employees on election days. He estimated that he used it approximately 30 percent for business and 70 percent for personal use. This usage is inconsistent with the terms of the lease which state the vehicle would primarily be used for business. In addition to travel that may be required for the conduct of elections, the County Clerk indicated he is active in various professional organizations and legislative activities, which require travel. He could not provide any records to support his estimate of business use. A significant portion of the County Clerk's usage of the vehicle is not directly related to the conduct of elections; therefore, using statutorily restricted monies from the ESF to pay for the full cost of the lease is questionable and violates statutory restrictions on the allowable uses of the fund.



Cooper County Clerk
Management Advisory Report - State Auditor's Findings

In June 2013, the County Clerk purchased a used 2006 GMC Envoy sport utility vehicle (SUV) for use by his employees for election purposes and other official business. This purchase was also made from the ESF. This purchase was the first time since at least July 2006 (when a previous lease of a vehicle for the County Clerk ended) that the County Clerk and his employees were provided the option of driving a county vehicle instead of driving their personal vehicles and requesting mileage reimbursement. Based on discussions with the County Commission and review of fuel records, this vehicle has been used infrequently by the County Clerk and his employees.

While the County Clerk's position requires some travel throughout the county during elections, the amount of travel required is limited and, as a result, the vehicle lease is not a prudent use of ESF monies. It would have been more cost effective for him to conduct county business by driving the county-owned SUV or driving his personal vehicle and requesting mileage reimbursement. According to the bill of sale, the County Clerk drove 17,328 miles during the period the county was leasing the vehicle. Using his own estimate, the estimated business miles during this period was 5,198. If the county had instead reimbursed the County Clerk for using his personal vehicle at the county's reimbursement rate of 48.5 cents per mile, this would have cost the county \$2,521.03, an estimated savings of \$13,645.88 compared to the \$16,166.91⁴ expended for the lease, property taxes, and insurance.

Prior lease and purchase

As noted in SAO Report No. 2005-53, *Cooper County*, issued in August 2005, the County Clerk previously leased a 2002 Toyota 4Runner SUV in July 2002. This lease was also paid from the ESF. Auditors questioned the cost-effectiveness of that lease and recommended the County Clerk and County Commission evaluate vehicle needs of the County Clerk and consider the cost effectiveness of the vehicle lease compared to other alternatives; however, no changes occurred. See Appendix C for the prior finding, recommendation, and County Clerk and County Commission responses.

The County Clerk subsequently personally purchased this vehicle in July 2006 when the lease ended and paid state and local sales taxes on the purchase. The County Clerk indicated he owned and drove this vehicle for a period of years but later sold it. According to personal property assessment listings obtained from the County Assessor, the County Clerk sold that vehicle in 2014, the same year in which he entered into the Toyota Tundra truck lease. He submitted mileage reimbursements to the county for using his personal vehicle for business travel for the years between the 2 leases.

⁴ The total is the sum of (1) \$13,076.64 total lease payments excluding the final payment of \$4,843.20 applied to the purchase price, (2) \$1,382.27 property taxes, and (3) \$1,708.00 for automobile insurance. Insurance was paid from the General Revenue Fund and is not presented in Appendix A.



Cooper County Clerk
Management Advisory Report - State Auditor's Findings

Payment of sales tax and
questionable checks

Appendix B illustrates the years during which the County Clerk drove the county leased vehicles as compared to the years during which he drove those same vehicles as personally owned vehicles.

We noted additional unusual transactions occurred subsequent to the County Clerk being questioned by MSHP investigators in May 2017.

On June 2, 2017, the County Clerk visited the Boonville license office, processed a title correction reversing the previous transaction where he gifted the vehicle to himself, and paid the previously unpaid sales taxes of \$2,335.14.

Also, the County Clerk prepared 2 warrant/check requests dated June 6, 2017, and payable to Toyota Financial Services. One request was from the General Revenue Fund (GRF) for \$9,418.99 and the other was from the ESF for \$14,128.48. Both requests listed the purpose as "complete transaction purchase, 2014 Toyota Tundra, titled Cooper County" and, as support included documentation from Toyota Financial Services dated August 4, 2016, related to terminating the lease and purchasing the vehicle. However, the county had no active account with and did not owe any monies to Toyota Financial Services. The County Clerk had completed the purchase of the vehicle in August 2016.

Only one associate commissioner was present when the GRF warrant/check request was presented on June 8, 2017. Although he was aware of the investigation of the County Clerk, he approved the warrant/check request and signed the check and returned it to the County Clerk, but retained copies of the documentation to discuss with the other commissioners. On the same day, the County Treasurer prepared and signed the check from the ESF and returned it to the County Clerk.

The associate commissioner subsequently discussed his concerns regarding the GRF warrant/check request with the other commissioners and they discussed the matter with the Sheriff. The Presiding Commissioner contacted the bank to stop payment on the GRF check on June 13, 2017. The county commissioners were not aware of the existence of the ESF check until we notified them on June 23, 2017. The Presiding Commissioner also contacted the bank to stop payment on the check issued from the ESF. The County Clerk subsequently voided both of these checks, and indicated he did not mail the checks to the vendor. County financial records have been revised so that these transactions are no longer reflected.

The County Clerk could not provide auditors or the County Commission with an adequate explanation for requesting these checks. The total of these checks is \$23,547.47 which equals the amount of the personal check issued by the County Clerk to purchase the vehicle in August 2016. When we questioned



Cooper County Clerk
Management Advisory Report - State Auditor's Findings

the County Clerk about the purpose of these transactions, he directed us back to the warrant/check requests and indicated he was trying to "fix it." In our opinion, he may have been trying to obtain a refund of the personal funds he used to purchase the vehicle and convert it back to a county-owned vehicle.

Overall conclusion

The County Clerk's lease of a 2014 Toyota Tundra pickup truck was not a prudent use of monies from the ESF, and was significantly more costly than other options. The County Clerk misappropriated county monies to purchase the vehicle and unlawfully evaded sales tax on the purchase.

Statutory provisions state the ESF shall be budgeted and expended at the direction of the election authority (county clerk in this case) and not be used to substitute for or subsidize any allocation of general revenue for the operation of the election authority's office without the authority's consent. This arrangement results in a lack of oversight or opportunity for questions regarding the use of these public funds. Also, had the monies in this fund been used for allowable and reasonable election related costs, there may have been a savings to the county's GRF for election costs paid by that fund.

Recommendation

The County Commission should work with the County Clerk to evaluate cost-effectiveness of future vehicle needs and ensure future disbursements from the Election Services Fund are proper.

Auditee's Response

The County Commission provided the following response:

The Cooper County Commission will continue to hold ourselves and all elected officials to a high standard of ethical behavior, evaluate the cost effectiveness of all expenditures from all funds, and ensure that the proper intended use of monies from all funds is strictly followed.

See Appendix D for the County Clerk's response.

2. Election Services Fund Transactions

The manner in which ESF monies have been utilized has not met the statutorily intended purpose.

The statutory purpose of the ESF is to have monies available for training programs and to purchase supplies or equipment to improve the conduct of elections. Monies deposited in the fund include a 5 percent fee assessed on election billings and certain reimbursements from the Missouri Secretary of State's Office. We reviewed the use of the ESF since its establishment in 2000 and determined ESF disbursements have primarily personally benefited the County Clerk rather than improving and enhancing the county's election functions.

In addition to serious concerns addressed in MAR finding number 1, we identified additional unallowable ESF disbursements. Appendix B details



Cooper County Clerk
Management Advisory Report - State Auditor's Findings

annual receipts, disbursements, and changes in cash balances since the county established the fund.

The ESF has rarely been utilized for purposes clearly associated with elections, and in some years no disbursements were made from the fund. Approximately 94 percent of cumulative disbursements are associated with vehicles (leases, purchase, and repair) and transfers out to the county's General Revenue Fund. Only 4 percent of the cumulative disbursements were directly associated with election activities and/or training, and these types of disbursements only occurred in 2 years.

We identified the following unallowable disbursements.

- In 2016 and 2017, the County Clerk paid \$1,782 in legal fees that do not relate to elections. The County Clerk serves on the Cooper County Salary Commission, which meets every other year. He indicated he voluntarily pursued legal advice to seek clarification and better understand motions made by the 2015 and 2017 Salary Commission. He indicated the motions and subsequent decisions made by the Salary Commission can affect a candidate's decision to run for office; therefore, he believes the legal expenses relate to elections.
- In 2016, the County Commission ordered a transfer of \$20,000 from the ESF to the GRF. However, the County Commission did not document any data to support the amount of the transfer or specific reasons for the transfer.

Section 115.065.4, RSMo, states "The election services fund shall be budgeted and expended at the direction of the election authority and shall not be used to substitute for or subsidize any allocation of general revenue for the operation of the election authority's office without the express consent of the election authority. The election services fund may be audited by the appropriate auditing agency, and any unexpended balance shall be left in the fund to accumulate from year to year with interest. The election services fund shall be used by the election authority for training programs and purchase of additional supplies or equipment to improve the conduct of elections, including anything necessarily pertaining thereto."

Costs paid by the fund should be clearly related to the uses allowed by law and documentation should be retained to demonstrate the disbursements comply with statutory restrictions.

Recommendation

The County Clerk and County Commission re-evaluate the future usage of the Election Services Fund and ensure the fund is used for the purposes intended by state law. Also, the County Commission should discontinue making transfers from the Election Services Fund to the General Revenue



Cooper County Clerk
Management Advisory Report - State Auditor's Findings

Fund and consider reimbursing the Election Services Fund for the improper transfer.

Auditee's Response

The County Commission provided the following response:

The Cooper County Commission was aware the \$20,000 transfer from the Election Services Fund to the General Revenue Fund did not meet the statutory requirements. The sole intent of the budgeted transfer was to safeguard the \$20,000 from the historic gross misappropriation by the County Clerk from the Election Services Fund. The County Commission will gladly budget a reimbursement from the General Revenue Fund to the Election Services Fund now that trust has been restored with the office of County Clerk.

See Appendix D for the County Clerk's response.

Appendix A

Cooper County Clerk

Payments to Toyota Financial Services From Election Services Fund

Check Date	Check Number	Scheduled Lease Payment	Property Taxes - Reimbursed to Toyota	Payment Applied to Purchase of Truck	Total Check Amount
05/13/14	5526	\$ 484.32	0	0	484.32
06/04/14	5534	484.32	0	0	484.32
07/07/14	5588	484.32	0	0	484.32
08/07/14	5631	484.32	0	0	484.32
09/15/14	5660	484.32	0	0	484.32
10/06/14	5688	484.32	0	0	484.32
11/06/14	5700	484.32	0	0	484.32
12/03/14	5739	484.32	0	0	484.32
01/06/15	75000	484.32	0	0	484.32
02/05/15	75073	484.32	0	0	484.32
03/05/15	75121	484.32	0	0	484.32
04/06/15	75169	484.32	0	0	484.32
05/05/15	75230	484.32	0	0	484.32
06/08/15	75249	484.32	0	0	484.32
07/08/15	75282	484.32	0	0	484.32
08/05/15	75307	484.32	0	0	484.32
09/08/15	75317	484.32	0	0	484.32
10/06/15	75365	484.32	0	0	484.32
11/04/15	75398	484.32	0	0	484.32
12/08/15	75434	484.32	0	0	484.32
01/06/16	75510	484.32	0	0	484.32
02/03/16	75570	484.32	0	0	484.32
03/07/16	75611	484.32	0	0	484.32
04/05/16	75668	484.32	704.01	0	1,188.33
05/03/16	75705	484.32	0	0	484.32
06/07/16	75759	484.32	0	0	484.32
07/06/16	75818	484.32	0	0	484.32
08/04/16	75851	0	0	4,843.20	4,843.20
12/27/16	76044	0	678.26	0	678.26
		\$ 13,076.64	1,382.27	4,843.20	19,302.11

Source: Warrant/check requests and check stubs obtained from the County Treasurer

Appendix B

Cooper County Clerk
 Election Services Fund - Schedule of Receipts, Disbursements, and Changes in Cash Balance

Calendar Year	Beginning Cash Balance	Total Receipts	Disbursements					Total Disbursements	Ending Cash Balance	
			Vehicle Lease	Vehicle Purchase and Repair	Legal Services	Election Activities and/or Training	Transfer Out			
2000 (1)	\$ 0	4,148	0	0	0	0	0	0	4,148	
2001	4,148	2,757	0	0	0	0	0	0	6,905	
2002	6,905	3,948	3,256	0	0	0	1,500	4,756	6,097	Toyota 4Runner SUV lease began (July 2002)
2003	6,097	1,814	4,645	0	0	0	0	4,645	3,266	
2004	3,266	5,999	4,645	0	0	0	0	4,645	4,620	
2005	4,620	1,580	4,645	0	0	0	0	4,645	1,555	
2006	1,555	5,547	1,935	0	0	0	0	1,935	5,167	Toyota SUV lease terminated and County Clerk personally purchased vehicle (July 2006)
2007	5,167	1,580	0	0	0	0	0	0	6,747	
2008	6,747	8,853	0	0	0	451	0	451	15,149	
2009	15,149	1,558	0	0	0	0	0	0	16,707	
2010	16,707	6,128	0	0	0	0	0	0	22,835	
2011	22,835	2,844	0	0	0	2,138	0	2,138	23,541	
2012	23,541	9,850	0	0	0	0	0	0	33,391	
2013	33,391	4,661	0	7,399	0	0	0	7,399	30,653	GMC Envoy SUV purchased (June 2013)
2014	30,653	6,818	3,874	0	0	0	0	3,874	33,597	Toyota Tundra pickup truck lease began (May 2014)
2015	33,597	8,621	5,812	0	0	0	0	5,812	36,406	
2016	36,406	7,567	9,616	0	1,053	0	20,000	30,669	13,304	Pickup truck lease terminated early and County Clerk personally purchased vehicle (August 2016)
2017 (2)	13,304	3,485	0	0	729	0	0	729	16,060	
	\$	<u>87,758</u>	<u>38,428</u>	<u>7,399</u>	<u>1,782</u>	<u>2,589</u>	<u>21,500</u>	<u>71,698</u>		
			54%	10%	2%	4%	30%			

Source: Election Services Fund general ledgers obtained from the County Treasurer

(1) The Election Services Fund was established by the county in 2000.

(2) 2017 activity is through August 17, 2017.

Appendix C

Cooper County Clerk

Prior Audit Finding and Response (Report No. 2005-53)

7.

Election Services Vehicle

The county has not considered the cost effectiveness of a vehicle leased for the County Clerk. In 2002, the County began leasing a vehicle for \$4,645 annually with monies from the Election Services Fund (ESF). The County Clerk uses the vehicle when needed for election purposes, other duties of his office, and for personal commuting. The official usage of the vehicle has not been fully identified but it appears the county could reduce its costs by discontinuing the lease and reimbursing the County Clerk for using his personal vehicle.

During the three years ended December 31, 2004, ESF disbursements totaled about \$11,600 for the vehicle lease. The County Clerk indicated the General Revenue Fund has periodically reimbursed the ESF for vehicle mileage incurred for official usage, including election purposes. We reviewed the reimbursements and noted, for example, during the 13 months ending in August 2004, the lease costs (\$5,032) exceeded the mileage reimbursements (4,717 miles at 37.5 cents per mile for a total of \$1,769) by \$3,263. Reimbursements totaled \$2,507 through December 31, 2004. It appears eliminating the lease and reimbursing the County Clerk for travel in his personal vehicle would have resulted in lower costs to the county. If a county vehicle is needed, the county should consider allowing other employees to share the vehicle to increase its official usage.

WE RECOMMEND the County Clerk and County Commission evaluate the vehicle needs of the County Clerk and consider the cost effectiveness of the vehicle lease compared to other alternatives.

AUDITEE'S RESPONSE

The County Clerk provided the following response:

I believe it would be good to look at all the county vehicles as to cost effectiveness. It would pay the county to hire a professional financial consultant to look objectively at the number of vehicles and their uses. With numerous Sheriff and deputy patrol cars, Road and Bridge vehicles and vehicles used in both Emergency Management Agency and for Enhanced 911 services, I am sure some savings would result from a professional evaluation. If previous audits had written up such a report years ago about these numerous other county vehicles and a study had been done, the savings could have been significant.

The County Commission provided the following response:

The County Commission disagrees because the Election Services Fund is a special use fund, established by statute, for discretionary use by the County Clerk. The County Commission has no responsibility in administering the ESF.



Appendix C
Cooper County Clerk
Prior Audit Finding and Response (Report No. 2005-53)

AUDITOR'S COMMENT

We agree that the county should review the cost effectiveness of all county vehicles, giving consideration to specially equipped vehicles which may be needed. In addition, since General Revenue monies under the control of the County Commission are reimbursing part of the costs incurred by the ESF, the County Commission should ensure such expenditures are reasonable and cost effective.

Appendix D

Cooper County Clerk

County Clerk's Response

The County Clerk submitted the following response to the audit.

MAR 1: Vehicle Lease & Purchase

The lease of this vehicle was approved by the County Commission on May 12, 2014. I don't know how this information didn't get in the County Commission minutes.

Other county owned vehicles are routinely used for personal use.

Prior to making this lease agreement I took bids from St. Louis to Kansas City to get the most cost-effective price for Cooper County. After negotiating the best price available I leased the vehicle in Kansas City as it was the least expensive.

I did not test drive the vehicle. There wasn't any need to test drive the vehicle as this was the vehicle that was specified in the bid process. What does having taking delivery on the weekend have anything to do with the lease. I made arrangements with the dealership that would suit the dealership and myself when to get the vehicle picked up and the additional required paperwork signed. It happens that the agreed upon time was on a weekend.

A business credit application was required by Toyota as part of the lease process.

How many times must I point out that the lease was approved by the County Commission.

Of course, the County Clerk had pre-determined the exact payment amount. Who doesn't do that when bids are taken?

That is why the County Clerk submitted to the County Treasurer, Stanley Serck the exact amount to begin the lease. That is why the County Clerk submitted to the County Commission the pay request for the lease with an exact amount.

The County Clerk displayed regular license plates on the truck as Toyota required regular plates when the lease began.

Indeed the County Clerk paid for fuel and maintenance for the vehicle at his own expense. As Presiding Commissioner Brickner states it was the intention of the County Commission that this vehicle would be used by the County Clerk for both county and personal use.

The County Clerk paid for fuel, maintenance and insurance to account for it's personal use and to save the county a significant expense of a county leased vehicle.

Others who use county owned vehicles routinely for personal use could save the county a significant expense if they paid for fuel and maintenance when using those vehicles for personal use.

The audit states "The Cooper County Clerk" could not provide a valid reason why county monies were used to partially finance the purchase as he was taking personal ownership of the truck." I stated to the Auditor I requested a check for \$4843.20 from the County Treasurer as I considered this the proper amount to pay the required 36 months of the lease. I never considered this lease payment as a portion of the purchase price. The use of the truck did not change after its payoff and its total expenses continued to be paid by me without expense to the county.



Appendix D
Cooper County Clerk
County Clerk's Response

In the 2016 audit prepared by the private firm Daniel Jones & Associates the lease being paid off early is denoted. But this audit did not criticize the County Clerk's office for such early payoff.

The audit states: "On August 29, 2016, the County Clerk prepared an affidavit indicating that the county was gifting the vehicle to him and representing there was no money or other valuable consideration involved in the transaction."

On August 29, 2016 when I went to the fee agent office to title the vehicle and to pay the sales tax I was told by an employee of the fee agency office that I qualified for the gift exemption. That employee provided the affidavit of gift exemption along with instructions as to how it should be filled out.

I have a written statement from that employee in the fee agent office that she along with her supervisor directed me to use the gift exemption. I subsequently learned the Department of Revenue should have rejected the gift exemption as the Cooper County title was a TAX EX 08.

The vehicle was always available any day of the week for employees of the office on any given day.

The Audit States "He (County Clerk) could not provide any records to support his estimate of business use."

I wasn't aware I would ever be required to provide records of documentation of the use of the vehicle for election use and to attend County Clerk related matters.

If the auditors had asked for this information its history could have been reconstructed. History would include election and county business uses.

The Audit states "On June 2, 2017, the County Clerk visited the Boonville license office, processed a title correction reversing the previous transaction where he gifted the vehicle to himself, and paid the previously unpaid sales tax of \$2,335.14."

The County Clerk paid the sales tax when he discovered that the Department of Revenue's advice was incorrect. When he discovered the information and assistance he was given by the Department of Revenue was incorrect, the County Clerk paid the sales tax immediately.

The audit states in the paragraph "Also, the County Clerk prepared two warrant/check requests dated June 6, 2017.... to Toyota Financial Services as the County Clerk had completed the purchase of the vehicle in August of 2016."

Since there was an objection made to me that I own the truck this was an attempt to void that transaction and then transfer title to the truck from me to the county.

The Pay Request for these two warrant/check requests stated exactly what each pay request was for.

These two warrant/check requests were approved by the Cooper County Commission.

There was no need to stop payment of these two warrant/checks as the County Clerk did not present them for payment.

The County Clerk was out of town when the warrant/check requests were approved by the County Commission.

The County Clerk had no intent of presenting these checks until the County Clerk had the opportunity to discuss the retitling of the truck with the County Commission.



Appendix D
Cooper County Clerk
County Clerk's Response

The Audit states "he directed us back to the warrant/check requests and indicated he was trying to "fix it"."

Yes, that is exactly what I was doing. If the County owned the truck it was only right that the County pay for the truck. I had paid \$23,547.47 for the purchase of the truck.

The County has been fully reimbursed for all funds in question.

The following statement is from the Audit Response by County Clerk Kempf to the previous audit. "I believe it would be good to look at all the county vehicles as to cost effectiveness. It would pay the county to hire a professional financial consultant to look objectively at the number of vehicles and their uses. With numerous Sheriff and deputy patrol cars, Road and Bridge vehicles and vehicles used in both Emergency Management Agency and for Enhanced 911 services, I am sure some savings would result from a professional evaluation. If previous audits had written up such a report years ago about these numerous other county vehicles and a study had been done, the savings could have been significant."

Study all county vehicles as to the cost effectiveness. The county should have a written policy as to the use of all county vehicles.

Yet the county elected to continue to handle its vehicles without any changes.

MAR 2: Election Services Fund Transactions

Your audit States: "Approximately 94 percent of cumulative disbursements are associated withGeneral Revenue Fund."

GMC Envoy SUV represents 10%. That vehicle has added immensely to the needs in its election use. Yes, it has been used by other departments. Since when has it been considered mismanagement to utilize funds from one fund to subsidize another fund when a resource is setting idle in the parking lot?

\$20,000 from the Election Services Fund was transferred to General Revenue for Sheriff's office to hire a new Deputy. The County Commission didn't document that at budget time. The Sheriff was seeking funds for a Deputy Sheriff. As provided by statute I did consent to the use of this transfer of funds to supplement the cost of the new Deputy Sheriff.

This one-time transfer of \$20,000 (for Deputy Sheriff) represents 28% of the total of all expenditures from the Election Services Fund from the year 2000 until 2017.

This \$20,000 for the Deputy Sheriff position exceeds by nearly \$4,000 the total cost of \$16,166.91 for the vehicle lease and associated costs. These costs for the vehicle lease were over a period of 2 and 1/2 years.

I am pleased that the County Clerk ESF \$20,000 could be used to supplement the appointment of a New Deputy!!!!

Since when has it been considered questionable and appears to violate statutory restrictions to use resources from a fund such as ESF to improve the financial well-being of another fund such as General Revenue Fund?



Appendix D
Cooper County Clerk
County Clerk's Response

In 2015 and 2016 the County Commission has written numerous Commission orders ordering the County Treasurer to transfer funds over \$100,000.00 from one fund to another.

These transfers have ordered hundreds of thousands of dollars being transferred. The County Commission did not document any data to support the amount of the transfer and in some cases when the County Commission did provide data their data is questionable. Questionable when transferring hundreds of thousands of dollars out of the Road & Bridge Trust Fund.

This audit states \$1,782.00 in legal fees are characterized as unallowable.

These fees were spent when the Salary Commission voted for raises for specific county offices. I wanted to obtain legal opinion from a specialist in county law about these questionable raises so I could give answers to candidates as to their expected salaries before they file for office. I cannot see how that is not related to elections.

Auditor's Comment

The audit documents significant issues and the County Clerk has pled guilty to a criminal charge resulting from his actions. However, in some instances the above responses attempt to deflect the County Clerk's responsibility for his actions and discount the areas of concern by attempting to shift blame or focus to others, and discuss matters not relevant to our audit findings and recommendations. Some comments made by the County Clerk are inconsistent with his earlier statements to auditors and documentation reviewed by auditors. For example, the County Clerk's response indicates he did not test drive the vehicle; however, the lease agreement provided to auditors includes the County Clerk's handwritten comments indicating "That was my first test drive of this or any Tundra." Also, no documentation was provided by either the County Clerk or the County Commission to support the conflicting explanations provided in their responses regarding the \$20,000 transfer from the ESF to the county's GRF. As already stated in the report, any unexpended balance is to be left in the ESF to accumulate from year to year. There is no statutory provision for such a transfer and using the monies to fund a deputy sheriff position is not an allowable use. The totality of the actions taken provide the appearance of a person trying to personally benefit rather than do what is in the best interest of county citizens.