

McCURTAIN COUNTY TREASURER'S RESALE PROPERTY FUND

SPECIAL INVESTIGATIVE AUDIT

01, 2023



May 3, 2023

TO THE McCURTAIN COUNTY BOARD OF COUNTY COMMISSIONERS

Transmitted herewith is the investigative audit report of the McCurtain County Treasurer's Resale Property Fund. The goal of the State Auditor and Inspector is to promote accountability and fiscal integrity in state and local government. Maintaining our independence as we provide this service to the taxpayers of Oklahoma is of utmost importance.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during this engagement.

This report is a public document pursuant to the Oklahoma Open Records Act, 51 O.S. §§ 24A.1, *et seq.* and is available to any person for inspection and copying.

Sincerely,

A handwritten signature in blue ink that reads "Cindy Byrd".

CINDY BYRD, CPA
OKLAHOMA STATE AUDITOR & INSPECTOR



McCurtain County Treasurer's Office

Investigative Audit Report

Why We Performed This Audit

The Board of County Commissioners (BOCC) requested an investigative audit of the McCurtain County Treasurer's Resale Property Fund, pursuant to 74 O.S. § 212(I), specifically questioning possible "extravagant and unusual spending inconsistent with previous administrations." The BOCC functions as the principal administrators of the County and has the power to audit the accounts of all officers having oversight of any money belonging to the County.¹

Summary of Findings

For the period of July 1, 2019, through June 30, 2022, a total of \$181,376 of Resale Property Fund expenditures were noncompliant with statute. The expenditures were not extravagant or unusual as questioned by the BOCC but were not expended for the purpose of necessary costs in connection with delinquent taxes and resale property or for reimbursements and rebates for various resale and delinquent tax transactions as required by statute.²

The Treasurer's Office purchased 98.8% of all maintenance and operation and 100% of all capital outlay from the Resale Property Fund during the audit period, evidencing the Fund was used to pay for non-resale financial obligations.

The Treasurer filed the required Resale Property annual financial statements³ but maintained a large reserve in the "contingency for refunds" without proper support.

The Treasurer's Office incurred title search costs of \$130,000 without a written contract or agreement. The accuracy of the \$130,000 paid in contract labor for these searches could not be substantiated without a documented contract or agreement in place between the parties.

¹ 19 O.S. § 339(A)(2)

² 68 O.S. § 3137(B)

³ See the June 30, 2022, Resale Property Fund Financial Statement at Appendix 1.

Background and Objective

The current McCurtain County Treasurer, Brad Box (Treasurer), is the chief financial officer for McCurtain County (County). He was appointed on January 2, 2018, and subsequently elected on June 26, 2018, and re-elected without opposition in 2022. The county treasurer is responsible for the Resale Property Fund, which is a special cash fund established through 68 O.S. § 3137. Fund revenues originate from the collection of penalties, interest, and forfeitures accrued on delinquent real or personal *ad valorem* property taxes. The fund also receives revenue from the proceeds on the sale of property acquired at resale.

Expenditures for the Resale Property Fund are authorized for the purchase of necessary records, printing, supplies and equipment, and employment of necessary clerical personnel *in connection with delinquent taxes and resale property*. The fund may also be used for the payment of the cost of advertising or publication of *delinquent and resale tax properties* and for reimbursements and rebates for various resale and delinquent tax transactions.

Expenditures from the Resale Property Fund are paid on sworn itemized claims approved by the treasurer and reviewed and filed with the county clerk. The clerk issues the payment and files the claim and supporting documentation within that office.

The BOCC is not statutorily required to review or approve the claims for Resale Property Fund expenditures. Per 68 O.S. § 3717(E), the only statutory requirement of the BOCC is the approval of a Resale Property Fund financial statement on or before June 30th of each year.

The BOCC expressed concerns that Resale Property Fund expenditures were extravagant and unusual, specifically the expenditures for payroll and the renovation of the Treasurer's Office space. Based on these concerns, our audit objective was to determine if Resale Property Fund expenditures for the period of July 1, 2019 through June 30, 2022, were made in accordance with state law.⁴

Details on What We Found

Finding *A total of \$181,376 of Resale Property Fund expenditures were noncompliant with statute.*

The Treasurer used the Resale Property Fund for 98.8% of the office's maintenance and operation purchases and 100% of the capital outlay purchases made during the audit period. Of these purchases, \$181,376 was used for items not allowed under statute. Per 68 O.S. § 3137, Resale Property Fund expenditures are limited to costs associated with *delinquent taxes and resale property*.

⁴ 68 O.S. § 3137

Summary of Expenditures			
July 1, 2019, through June 30, 2022			
Account Type	General Fund	Resale Fund	Totals
Personal Services	\$521,805	\$323,978	\$845,783
Travel	\$20,220	\$2,114	\$22,334
Statutory Travel	\$12,918	\$0	\$12,918
Maintenance & Operation	\$4,519	\$377,822	\$382,341
Capital Outlay	\$0	\$27,434	\$27,434
Totals	\$559,462	\$731,348	\$1,290,810

All employees, except for the Treasurer, were paid out of the Resale Property Fund at some point during the audit period. Two separate employees were paid 83% and 87% out of the fund, although the overall payroll expenditures paid out of the fund appeared reasonable at 38.31%. The Treasurer should continue to only pay employees from the Resale Property Fund for the proportionate amount of time they work on delinquent taxes and resale property.

Budgeting

From FY 2015 through FY 2022 the Treasurer's Office was budgeted between \$1,000 and \$5,000 per year for maintenance and operation and only \$5 per year in capital outlay from the General Fund. These amounts were not sufficient to properly fund the constitutional office⁵ of the county treasurer.

County Treasurer Budgeted Funds								
	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Personal Services	\$ 125,657	\$ 132,857	\$ 141,305	\$ 141,305	\$ 112,409	\$ 208,110	\$ 165,425	\$ 162,868
Travel	\$ 7,800	\$ 7,800	\$ 7,800	\$ 7,800	\$ 7,800	\$ 13,550	\$ 12,050	\$ 6,000
Statutory Travel	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 6,500
Maint. & Operat.	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 1,000	\$ 1,500	\$ 1,500	\$ 1,500
Capital Outlay	\$ 5	\$ 5	\$ 5	\$ 5	\$ 5	\$ 5	\$ 5	\$ 5
Totals	\$ 138,462	\$ 145,662	\$ 154,110	\$ 154,110	\$ 121,214	\$ 223,165	\$ 178,980	\$ 176,873

Statute necessitates mandatory governmental functions be properly funded. Per 68 O.S. § 3007, if the governing board fails to make provision for mandatory governmental functions or if the provision is deemed inadequate, the county Excise Board is to proceed with preparing an estimate of needs for further consideration. If adequate funds are not available to finance the constitutional government functions of the County, the Excise Board is to revise the budget in an order of priority as directed in statute.

In 19 O.S. § 180.65(D), the BOCC has the authority to recommend the total amount of funds that can be used for the combined salaries in each of the county

⁵ Okla. Const., art. 17, § 2

offices. However, the approval of the funding for such offices is the responsibility of the county Excise Board.

It is essential that the BOCC and the Excise Board properly fund the Treasurer's Office, leaving resale-property funds to be utilized for costs associated with delinquent taxes and resale property as required by statute.

Resale Property Fund Financial Statement

Statute⁶ requires the county treasurer to file a financial statement of the Resale Property Fund with the county clerk for approval by the BOCC on or before June 30th of each year. The Treasurer did file the annual financial statements⁷ as required. The statute also allows setting aside necessary reserves for expenditures that are to be made or are anticipated to be made. On June 30, 2022, the "Total Reserves for Expenditures" was \$540,089.54. Of this amount, \$328,589.45 was a "contingency for refunds."

Historically, the Treasurer did not use the Resale Property Fund to pay refunds and there was no documentation to support the large contingency reserved for refunds on June 30, 2022. The Treasurer should maintain support for amounts held in reserves or apportion any amount over and above the necessary reserves in accordance with statutory requirements.⁸

As of June 30	Contingency for Refunds	Refunds Made From Resale
2019	\$68,625.96	\$0
2020	\$81,016.32	\$377.93
2021	\$43,295.78	\$0
2022	\$328,589.54	\$0
Totals	\$521,589.60	\$377.93

Finding *The Treasurer did not obtain a contract or written agreement when expending \$130,000 for professional services related to delinquent tax.*

The Treasurer *verbally* contracted with four individuals to perform title searches on properties to be sold in the delinquent tax property sales. The contractors were paid \$250 for each parcel/title search performed. During the 27-month period of February 2020 through April 2022, the Treasurer's Office issued 54 payments to the contractors totaling \$130,000.

Claims were submitted for the services provided, but, without a prior written contract or agreement there were no clear, binding terms to clarify the

⁶ 68 O.S. § 3137(E)

⁷ See the June 30, 2022, Resale Property Fund Financial Statement at Appendix 1.

⁸ 68 O.S. § 3137(F)

responsibilities and liability of each party, the services to be provided, and the amount of payment expected for those services.

Six surrounding counties were surveyed to determine the customary charge for title search services. Other counties paid between \$85 and \$200 for the searches and added the cost of each title search to the cost of the delinquent taxes. McCurtain County also incorporated the \$250 title search charges into the total delinquent taxes to be collected for each parcel sold to re-coup the cost of the searches.

County	Cost Paid Per Search	Number of Searches
Choctaw	\$75-\$90	75-90
Leflore	\$125	90-100
McIntosh	\$200	100-150
Pittsburg	\$100	70-100
Pontotoc	\$85	120-150
Pushmataha	\$200	30-50

McCurtain County paid more for the searches than any other county in the surrounding area. Without a written contract or agreement, it could not be determined if the County paid a fair and equitable amount for the services rendered.

Exhibit 1

OSAI Form # 409 (2016)

**Resale Property Fund
Financial Statement**

To the Board of County Commissioners:
MCCURTAIN County, Oklahoma


In accordance with 68 O.S. § 3137, the following financial condition of the Resale Property Fund is submitted for your consideration and approval.

Financial Statement June 30, 2022

Cash balance		486,186.93
Unapportioned items:		53,902.61
Total Available:		<u>\$ 540,089.54</u>
Reserves for expenditures:		
Publications	30,000.00	
Records, Supplies and Equipment	75,000.00	
Salaries	50,000.00	
Maintenance of unsold properties	8,500.00	
Contingency for refunds	328,589.54	
Other: <u>RESALE RESEARCH</u>	50,000.00	
Total Reserves for Expenditures:		<u>\$ 540,089.54</u>
Balance subject to apportionment as provided by statute		<u>\$ 0.00</u>


Witness my hand on this day: J. [Signature]

County Treasurer: [Signature]



The above financial report of the reserves and balance subject to apportionment pertaining to the Resale Property Fund approved on this day: 6-27-22

The Board of County Commissioners
[Signature]
[Signature]
[Signature]



Karen E. Bryan
 ATTEST COUNTY CLERK

DISCLAIMER

In this report, there may be references to state statutes and legal authorities which appear to be potentially relevant to the issues reviewed by the State Auditor & Inspector's Office. This Office has no jurisdiction, authority, purpose, or intent by the issuance of this report to determine the guilt, innocence, culpability, or liability, if any, of any person or entity for any act, omission, or transaction reviewed. Such determinations are within the exclusive jurisdiction of regulatory, law enforcement, prosecutorial, and/or judicial authorities designated by law.

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S·A·I
STATE AUDITOR & INSPECTOR



Cindy Byrd, CPA | State Auditor & Inspector

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