Burnet County Auditor's Report on Review of Cash Bond Processes 2025

The County Auditor's Office conducted a routine internal review and assessment of the County's processes for cash bonds. The first objective was to determine if internal controls are sufficient to ensure accurate and timely processing of amounts due to court registries and payors and guard against loss or misallocation of funds. The second objective was to ensure that receipting, managing, transmission, and disbursement of funds are performed timely and in accord with relevant laws and regulations. During this review and assessment, substantial assistance was afforded by the Treasurer, County Clerk, District Clerk, and Sheriff's Offices. Their deep knowledge, time, and kind courtesy are greatly appreciated. In summary, the review found robust processes and so, the assessment concludes with few recommendations.

Outline

An overview of cash bonds, volume, and their flow through County offices and courts is set forth on pages 2 through 4. Since bonds that remain on a county's books may impose a reporting duty as well as other burdens, the applicable statutory and regulatory guidance is summarized on page 5. Pages 5 and 6 detail the review and assessment process. The six samples and the results of tracing the individual cash bonds are discussed in pages 6 through 10. A summary of findings is found at page 11. Recommendations and Suggestions are on pages 12 through 13. A small appendix is followed by a confidential attachment.

Overview and Flow

Cash bonds are posted in Burnet County for a variety of cases and entities. In the main, they concern courts that are part of Burnet County: the 33rd and 424th Judicial District Courts, Burnet County Court at Law, and the four Justices of the Peace Courts. To a lesser degree, they pertain to other entities; for these, the County's responsibility is limited to receipting and transferring the bonds and their funds. Other entity payments are primarily made to Marble Falls and Burnet Municipal Courts. That said, this responsibility can include any court in Texas and other entities such as the Texas State Disbursement Unit.

Volume was assessed by determining the number of cash bonds and their ultimate destination for calendar years 2023 and 2024 for courts that receive the majority of payments. Payment volume was greatest for the County Clerk at one hundred and twenty-five payments. Next stood Burnet and Marble Falls Municipal Courts which accounted for fifty-three payments combined. The Justice of the Peace Courts, viewed in tandem, received twenty-seven cash bond payments. Cash bond payments to the District Clerk totaled fifteen over the two years. A detail chart is attached as Appendix One.

Cash bonds in the form of cashier's check or money order are receipted into Odyssey and then transferred to the Treasurer's Office. The accounting for cash bonds is handled with a dedicated cash bond fund, comprised of three asset accounts and multiple liability accounts. The Treasurer's Office deposits the funds into Cash-In-Bank Bonds account while a liability is created corresponding to the court. For example, a cash bond pertaining to a case in District Court would be recorded in the Cash Bond-Due to District Clerk liability account.

Transfer of funds from the Treasurer's Office following deposit depends upon the nature of the case. Funds are forwarded to Justice of the Peace Courts almost immediately for deposit in their registries, and then sent back to the Treasurer's Office quickly. Funds are transferred to the District and County Clerk when the Treasurer's Office is notified that a case has been filed in District Court or County Court at Law.

For entities external to Burnet County such as a municipality, the Treasurer's Office issues a check to that entity almost immediately. There is an exception for certain out-of-county bonds mainly related to child support matters in which the Treasurer's Office issues the funds to Burnet County's District Clerk who promptly remits them to the destination entity.

When a filed case is resolved whether by dismissal, plea, or trial, the bond is released in Odyssey and can be returned to the payor on order of the court. *See* TEX. CODE CRIM. PROC. ANN. art. 17.02; *Melton v. State*, 993 S.W.3d 95 (Tex. 1999); and, Tex. Att'y Gen. Op. JC-0195.

In the Justice of the Peace Courts, the return of the bond monies to the payor is a court-driven process in which the courts communicate with the Treasurer's Office which, in turn, disburses the funds to the payor.

For County Court at Law, cash bond returns are a Clerk's Office-driven process. The County Clerk's Office generates an order that is then signed by the Judge, defendant, and the County Clerk. This process has been in place since 2012.

For District Court cash bonds, the process is attorney-driven. Defense counsel submits a motion and draft order for a Judge's signature. Efforts to alert defense counsel to the existence of a cash bond in a resolved case where counsel had not driven the process were evident throughout the review.

Where a case is declined or rejected by the prosecutor's offices, the prosecutor's office notifies the Treasurer's Office with documentation. The Treasurer's Office, in turn remits the funds to the payor without necessity of a court order. *Cf.* Tex. Att'y Gen. Op. JC-0195.

Where before case resolution a defendant fails to appear in court as directed a Judgment Nisi issues. If the State chooses it can pursue forfeiture of the funds to the State by the multi-step process outlined in TEX. CODE CRIM. PROC. ANN. ch. 22.

Bonds, Abandoment & Dormancy

In time, some bonds remain on the books for: resolved cases, matters where the prosecutor declined to prosecute, and matters for which the statute of limitations has run. In addition to the administrative carrying cost such bonds impose additional burdens upon the custodian to report to the Comptroller, assess where the bond is at in the three-year dormancy period, and a duty to disburse funds to the Comptroller upon court order:

> Accordingly, (1) the county or district clerk as custodian of the funds was required to report and deliver unclaimed funds to the Comptroller of Public Accounts, *see* Tex. Loc. Gov't Code Ann. §§ 117.002, .052(c)(6), .0521 (Vernon 1999); (2) the dormancy period for such funds commenced on the date of entry of final judgment or order of dismissal . . . ;and (3) the funds could be transferred to the Comptroller of Public Accounts only upon an order of the court with proper jurisdiction, *see id*. 117.053(b); Tex. Code Crim. Proc. Ann. art. 17.02. *See Melton* 993 S.W.2d at 99-102.

Tex. Att'y Gen. Op. JC-0195 at 7 (discussing *Melton v. State*, 993 S.W.3d 95 (Tex. 1999) and other authorities).

During this assessment where it appeared bonds should be assessed for further analysis such as dormancy they were identified within Confidential Audit Work Paper Attachment A. (Hereinafter, “Att. A”).

Review Process

As part of routine examination, individual cash bonds were sampled. Samples were drawn from receipt journal entries, court registries, and account reconciliations. Overlap was minimal and is noted where present. The bonds dated principally from 2016 to February 2025; two were older. Each was traced through Odyssey and Incode; the status of the underlying case was determined; and, the individual bond paperwork was reviewed for each bond. Additionally, internal review group meetings were conducted weekly for a month by the Auditor’s Office to assess the samplings and reconciliations. Gracious assistance from the offices mentioned earlier was provided.

Sample One

The cash bond receipt journal for January and February 2024 yielded a sample of nineteen. Three of these were for Justice of the Peace cases. In each, the funds were promptly sent to the relevant court. These cases have been resolved and Odyssey and Incode support that monies have been returned to the payor.

Eight of the bonds were for Marble Falls Municipal Court. Odyssey and Incode support that funds were quickly disbursed from the Treasury Office to the Court.

Two bonds concern a lower volume municipal court within the county and an out-of-county criminal non-support case. Incode documents the monies were quickly disbursed to the proper entity.

Five bonds pertain to County Court at Law cases. Four were resolved at the time of review. Odyssey reflects three were returned to the payor. The fourth is detailed in Att. A. The fifth case is in warrant status and is also detailed in Att. A as a possible candidate for forfeiture.

One bond was for a District Court case, resolved at the time of review. The defense attorney filed a motion and the Judge signed the order for return of the funds. Odyssey supports that the money was returned to the payor almost immediately.

Sample Two

The reconciliation of liability account Cash Bond-Due to Justice of the Peace Courts was used to draw a sample, totaling six bonds. Money timely moved from the Treasurer's Office to the proper court for each. Two concern pending cases. Odyssey supports the money remains in the registry. Another two concern resolved cases; Odyssey and Incode document that funds were timely returned to the payors.

A fifth bond pertains to a case dismissed in December. Odyssey reflects funds remain in the relevant Justice of the Peace Court's registry. Incode provides collateral support for this, as it establishes neither the defendant nor payor were issued payment for the bond.

The sixth pertains to a resolved case that is on appeal and currently on a separate appeal bond. When a case is resolved the initial bond is discharged and, often, an appeal bond is posted. Review indicates further analysis is warranted for these two cash bonds and so they are listed in Att. A.

Sample Three

A sample was drawn from the County Clerk Registry & Trust Accounts With Balances-Criminal Cash Bond. From seventy-one listed cases eleven were sampled to assess a variety of case statuses: two disposed, two dismissed, two with warrants pending, two active cases, one on deferred prosecution, one on pretrial diversion, and one deferred judgment.

Odyssey reflects funds remain in the registry for the deferred prosecution, pre-trial diversion, and active status cases, pending case resolution.

Tracing showed funds remain in the registry for the two disposed, two dismissed, and one deferred judgment cases, they are detailed in Att. A.

One of the cases in warrant status is possibly subject to forfeiture and is listed in Att. A. The other has had two cash bonds posted, the second was forfeited pursuant to Tex. Code Crim. Proc. Ann. chapter 22.

Sample Four

The reconciliation of liability account Cash Bond Due to County Clerk was drawn upon for a sample of forty-two bonds. Twenty-five concern unfiled cases. Odyssey and Incode document funds moved straightaway to the Treasurer's Office, were promptly deposited, and await case-filing.

Ten pertained to matters the County Attorney's Office declined to prosecute. Incode documented the Treasurer's Office disbursed the funds to the payor promptly for all ten.

Two bonds related to resolved cases. Incode supports that the funds moved to the County Clerk's registry quickly upon case filing. Odyssey documents that for one, the funds were returned. Odyssey indicates efforts were made to release funds for the other but the payor likely moved; therefore, it is listed in Att. A.

One bond concerned an unfiled case where funds remain in the bank, the case is beyond limitations for filing and may be subject to dormancy analysis; it is detailed in Att. A.

Two bonds concern cases where the defendant failed to appear and the State successfully pursued forfeiture.

The last two concern the same person and same case. This person's initial cash bond was held insufficient and another was posted. Incode reflects liabilities were created in timely fashion for both cash bonds in the Cash Bond-Due to County Clerk account. Odyssey reflects funds were not transferred to the registry upon case filing. To be sure, this person had multiple bonds and cases moving through the justice system during this time; this likely accounts for the bonds' continued presence. Recently, the underlying case was resolved and so these bonds are delineated in Att. A for possible assessment.

Sample Five

The District Clerk Registry & Trust Accounts With Balances-Criminal Cash Bond yielded a sample of thirteen. Pursuant to Odyssey, four of these concern cases that are pending and the funds remain in the registry. Eight cases are resolved and according to Odyssey the remaining case was recently filed. Accordingly, the nine are listed in Att. A for possible further assessment.

Sample Six

The reconciliation of liability account Cash Bond-Due to District Clerk yielded a sample of eleven. Three bonds were earlier included in the Sample Five discussion, so only eight are addressed.

Odyssey and Incode document two were returned to the payor following the prosecutor's decision not to charge the case.

Three concerned out-of-county entities. Incode documents a 2017 cash bond was promptly paid to the applicable Sheriff's Office. Incode documents the transfer of funds to the Burnet County District Clerk for the other two; in turn, Odyssey documents the District Clerk swiftly issued checks to the out-of-county entities.

Three of the bonds concern unfiled cases. Incode supports that the funds remain awaiting transfer to the District Clerk upon filing of the case.

Summary of Findings

Review and assessment documented an efficient system operating within the County to manage custody of and process cash bonds. Analysis of samples reflect that over time, the County has become increasingly efficient in processing of cash bonds. The systems and controls for cash bond processing were created when only two to three cash bonds were anticipated a month. Current volume is larger and expanding. Current processes place an administrative and accounting workload upon multiple county offices.

Despite this workload and the complexity of processing payments to multiple entities on a state-wide basis, the system is currently robust. County Officials and office personnel reflected the presence of the most important internal control: a positive attitude to get the process correct. To the extent minimal inefficiencies were observed it was clear they were corrected when encountered. For instance, when a payment to a registry that had not taken place the matters were ultimately corrected by payment to the proper registry. No evidence of any impropriety was present.

The samples and workgroup discussions reflected that funds processed to the Justice of the Peace registries were promptly sent back to the Treasurer's Office, to await case resolution and ultimate disbursement to the payor. During this review, the Treasurer's Office created a separate bank account for these funds to more precisely account for them.

Recommendations & Suggestions

One. Regarding bonds for Justice of the Peace cases, the past procedure has been to send them to the court for registry deposit and then to have the funds sent back to the Treasurer's Office. Then, upon direction by the court that the matter has been resolved the Treasurer's Office disburses the funds to the payor. It seems unnecessary to task the Treasurer's Office with disbursing and then near immediate re-taking of the funds. It is suggested the new account for Justice of the Peace bonds be used to receipt the funds and to send the receipt to the Justice of the Peace Court. It is thought this will reduce the workload on the Treasurer's Office. Additionally, the Treasurer's Office will send the bond and receipt to the Justice of the Peace Court.

Two. The cash bond return process for resolved cases requires a court-order pursuant to Tex. Code Crim. Proc. Ann. art. 17.02. Review reflected a handful of instances where defense counsel did not drive the process for felonies in District Court, and so, monies remain in registry creating burdens of custodianship, dormancy analysis, and accounting. Paper form banks are maintained in the District Courts, and so, it is suggested paper forms for cash bond release be added to that repository.

Three. To avoid dormancy analysis of multiple bonds at once it is recommended the registries be reviewed periodically. In this manner cash bond funds can be identified, reported as necessary, and steps taken to obtain a court order as needed. This could prevent build-up of a large amount of cash bonds requiring analysis at once.

Four: Consideration might be given to creation of a procedure revision workgroup. The Treasurer's Office is currently involved as a disbursing entity, at some point, for every cash bond. Attorney General guidance suggests a different procedure: "a sheriff should simply *receipt* the cash bonds and turn over the money to the authorized custodian, namely, the clerk of the court or the justice of the peace as appropriate." Tex. Att'y Gen. Op. JC-0195 at 2 (citing Tex. Att'y Gen. Op. JC-0195; Tex. Att'y Gen. Op. No. H-183 (1973)) (emphasis in original).

It is suggested that if such workgroup meets that stakeholders who enter the information in Odyssey and Incode meet and devise a set of rules for how names are entered into both systems to achieve maximum consistency between both the case and financial aspects of Odyssey. As the County continues to grow there will be more bonds and more names, and so, a naming convention could grow in importance.

Respectfully,

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Karin Smith
Burnet County Auditor

Appendix One

Within Incode a vendor payment search was performed for calendar years 2023 and 2024 to see how many cash bond payments the Treasury Office made and to which of the primary courts. This search reflected the following:

Vendor	Number of Payments
JP1	9 payments, largest is for 750 which was for three bonds on one person
JP2	9 payments, two reversals, net seven, none greater than 500, none for more than one person
JP3	4 payments, none greater than 500, none for more than one person
JP4	5 payments, none greater than 500, none for more than one person
County Clerk	125, 1 reversal, net 124 Drilled down on one $9000 and it was a compound payment
District Clerk	15, 2 reversals, net 13
Marble Falls Municipal Court	34, no reversals, compound payments seem prevalent after sampling five that were over $1,000
Burnet Municipal Court	19, no reversals, there are some compound payments