

ATTESTATION ENGAGEMENT

Department of Records Philadelphia County, Pennsylvania For the Period April 1, 2016 to December 31, 2017

July 2019



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable C. Daniel Hassell
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We attempted to examine the accompanying statements of receipts and disbursements (Statements) of the Department of Records, Philadelphia County, Pennsylvania (County Officer), for the period April 1, 2016 to December 31, 2017, pursuant to the requirements of Sections 401(b) and 401(d) of *The Fiscal Code*, 72 P.S. § 401(b) and § 401(d). The County Office's management is responsible for presenting these Statements in accordance with the criteria set forth in Note 1. Our responsibility is to express an opinion on the Statements based on our examination.

As discussed in Finding No. 1, poor cash receipt practices prevented us from determining if the Commonwealth received the correct amount for Realty Transfer Taxes. We were unable to satisfy ourselves by other examination procedures; therefore, we determined that management's lack of control over proper recording of receipts restricted the scope of our examination of the Statements.

Because of the restriction on the scope of our examination discussed in the preceding paragraph, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on whether the Statements referred to above present, in all material respects, the receipts made on behalf of the Commonwealth for the period April 1, 2016 to December 31, 2017 in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Statements; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Statements. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We attempted to express an opinion on whether the Statements are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over reporting on the Statements or on compliance and other matters; accordingly, we express no such opinions.

Independent Auditor's Report (Continued).

Our consideration of internal control over reporting on the Statements was for the limited purpose of attempting to express an opinion on whether the Statements are presented in accordance with the criteria described above and was not designed to identify all deficiencies in internal control over reporting on the Statements that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described below, we identified certain deficiencies in internal control that we consider to be material weaknesses.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Statements will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies listed below to be material weaknesses:

- Inadequate Internal Controls Over Realty Transfer Tax Receipts Collected By Third Party Vendors - Recurring.
- Receipts Were Not Always Deposited The Same Day As Collected - Recurring.

As part of attempting to obtain reasonable assurance about whether the Statements are free from material misstatement, we attempted to perform tests of the County Office's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of Statements amounts. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, if the scope of our work had been sufficient to enable us to express an opinion on the statements, instances of noncompliance or other matters may have been identified or reported herein.

The examination findings contained in this report cite conditions that existed in the operation of the County Office during the last three and five engagement periods, respectively, and were still not corrected during the current examination period. The failure to implement an adequate system of internal controls over receipts may result in uncollected fines and increases the risk for funds to be lost or misappropriated. The County Office must strive to implement the recommendations and corrective actions noted in this report.

The purpose of this report is to determine whether all moneys collected on behalf of the Commonwealth have been correctly assessed, reported and promptly remitted. This report is not suitable for any other purposes.

Independent Auditor's Report (Continued)

We appreciate the courtesy extended by the Department of Records, Philadelphia County, to us during the course of our examination. If you have any questions, please feel free to contact Michael B. Kashishian, CPA, CGAP, CFE, Director, Bureau of County Audits, at 717-787-1363.

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Eugene A. DePasquale
Auditor General

June 25, 2019

CONTENTS

	<u>Page</u>
Financial Section:	
Statements Of Receipts And Disbursements:	
Realty Transfer Taxes	1
Writ Taxes And Judicial Computer System/Access To Justice Fees.....	2
Notes To The Statements Of Receipts And Disbursements	3
Findings And Recommendations:	
Finding No. 1 - Inadequate Internal Controls Over Realty Transfer Tax Receipts Collected By Third Party Vendors - Recurring	7
Finding No. 2 - Receipts Were Not Always Deposited The Same Day As Collected - Recurring	10
Summary Of Prior Examination Recommendations.....	12
Report Distribution	13

DEPARTMENT OF RECORDS
PHILADELPHIA COUNTY
REALTY TRANSFER TAXES
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
APRIL 1, 2016 TO DECEMBER 31, 2017

Receipts:

Realty Transfer Taxes (Note 2)	\$ 146,009,719
Disbursements to Commonwealth (Note 4)	<u>(145,994,255)</u>
Balance due Commonwealth (County) per settled reports (Note 5)	15,464
Examination adjustments (Note 7)	<u>900</u>
Adjusted balance due Commonwealth (County) for the period April 1, 2016 to December 31, 2017	<u>\$ 16,364</u>

Notes to the Statements of Receipts and Disbursements are an integral part of this report.

DEPARTMENT OF RECORDS
 PHILADELPHIA COUNTY
 WRIT TAXES AND JUDICIAL COMPUTER SYSTEM/ACCESS TO JUSTICE FEES
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 MARCH 1, 2016 TO DECEMBER 31, 2017

Receipts:

Writ Taxes	\$ 173,007
Judicial Computer System/Access To Justice Fees	<u>8,973,888</u>
Total Receipts (Note 2)	9,146,895
Commissions (Note 3)	<u>(5,190)</u>
Net Receipts	9,141,705
Disbursements to Commonwealth (Note 4)	<u>(9,141,705)</u>
Balance due Commonwealth (County) per settled reports (Note 5)	-
Examination adjustments	<u>-</u>
Adjusted balance due Commonwealth (County) for the period April 1, 2016 to December 31, 2017	<u><u>\$ -</u></u>

Notes to the Statements of Receipts and Disbursements are an integral part of this report.

DEPARTMENT OF RECORDS
PHILADELPHIA COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
APRIL 1, 2016 TO DECEMBER 31, 2017

1. Criteria

The Statements of Receipts and Disbursements provide a summary of receipts and disbursements by category. The categories and the amounts of taxes and fees assessed are based on Pennsylvania laws and regulations.

The Statements were prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Revenue. Under this method, only the Commonwealth portion of cash receipts and disbursements are presented, revenues are recognized when received, and expenditures are recognized when paid.

2. Receipts

Receipts consist of monies collected on behalf of the Commonwealth. These include monies collected for the following taxes and fees:

- The Pennsylvania Realty Transfer Tax is a documentary stamp tax of 1 percent on the value of the interest in real property transferred by deed.
- Writ Taxes represent a \$.50 tax imposed on various types of documents and a \$10 tax on notary public commissions processed through the office.
- Judicial Computer System/Access To Justice Fees represent a \$35.50 fee imposed for each filing of deeds in any form, mortgages, mortgage assignments, mortgage releases, mortgage satisfaction pieces, installment sales agreements, leases for a term of 30 years or longer, and easements. Effective October 30, 2017, Act 40 and Act 44 increased the fee to \$40.25.

3. Commissions

Acting in the capacity of an agent for the Commonwealth, the Department of Records is authorized to collect a commission on the Commonwealth portion of taxes as follows:

<u>Tax</u>	<u>Commission</u>
Realty Transfer	1%
Writ	3%

Commissions of \$1,460,097 for Realty Transfer Taxes were paid to the County by the Department of Revenue, which are not reflected in the Statement.

DEPARTMENT OF RECORDS
PHILADELPHIA COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
APRIL 1, 2016 TO DECEMBER 31, 2017

4. Disbursements

Realty Transfer Taxes

The Department of Records participates in the Department of Revenue's cash management system for Realty Transfer Taxes. Under this system, the "Agent" deposits Realty Transfer Tax collections to a local account approved and established in the name of the Department of Revenue, thereby eliminating the need for the agent to issue a check to disburse these taxes.

Total disbursements are comprised as follows:

Deposits into the Department of Revenue's cash management account	<u>\$ 145,994,255</u>
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Writ Taxes And Judicial Computer System/Access To Justice Fees

Total disbursements are comprised as follows:

Recorder of Deeds checks issued to:

Department of Revenue	<u>\$ 9,141,705</u>
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5. Balance Due Commonwealth (County) For The Period April 1, 2016 To December 31, 2017.

This balance reflects a summary of monthly transmittal reports as settled by the Department of Revenue.

DEPARTMENT OF RECORDS
 PHILADELPHIA COUNTY
 NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 APRIL 1, 2016 TO DECEMBER 31, 2017

6. Reconciliation Of Settled Reports - Realty Transfer Taxes

The following presents a reconciliation of monthly reports settled by the Department of Revenue for the period April 1, 2016 to December 31, 2017:

Date of Summary of Collections Report	Balance Due Settled Reports Commonwealth (County)	Adjustments	Adjusted Balance Due Commonwealth (County)
2016			
April	\$ 5,196		\$ 5,196
May	1,098		1,098
June	(6,524)		(6,524)
July	2,806		2,806
August	(2,347)		(2,347)
September	(4,364)		(4,364)
October	16,004		16,004
November	(8,834)		(8,834)
December	7,078		7,078
2017			
January	(3,091)		(3,091)
February	1,206		1,206
March	11,839		11,839
April	(7,005)		(7,005)
May	5,125		5,125
June	3,174		3,174
July	1,072		1,072
August	1,990		1,990
September	(3,032)		(3,032)
October	(1,820)		(1,820)
November	(81)		(81)
December	(4,026)		(4,026)
Balance due Commonwealth (County) per settled reports			15,464
Examination adjustments (Note 7)			900
Adjusted balance due Commonwealth (County) for the period of January 1, 2014 to December 31, 2017			\$ 16,364

DEPARTMENT OF RECORDS
PHILADELPHIA COUNTY
NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
APRIL 1, 2016 TO DECEMBER 31, 2017

7. Examination Adjustments

The examination adjustment represents the difference between the Department of Revenue's settled monthly deposits and our examination's reconciliation of deposits. Included in this adjustment are non-sufficient funds (NSF) checks totaling \$404,416. The Department of Revenue is responsible for collecting the NSF amounts due directly from the payer. Please refer to Finding No. 1 for more information.

8. County Officer Serving During Examination Period

James P. Leonard, Esquire served as Department of Records during the period April 1, 2016 to December 31, 2017.

DEPARTMENT OF RECORDS
PHILADELPHIA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
APRIL 1, 2016 TO DECEMBER 31, 2017

**Finding No. 1 - Inadequate Internal Controls Over Realty Transfer Tax Receipts Collected
By Third Party Vendors - Recurring**

We cited the issue of inadequate internal controls over realty transfer tax receipts collected by third party vendors in the three prior examinations with the most recent for the period January 1, 2014 to March 31, 2016. Our current examination found that the former officeholder did not correct this issue.

The Department of Records (office) contracted with three third party vendors to collect Real Estate Transfer Tax (RTT) fees through electronic transactions. The third party vendors collect approximately 85 percent of RTT fees. The third party vendors obtain approval from the office for all transactions prior to collecting RTT fees. After approval, the office records the electronic transactions through the office's computerized receipting system prior to sending these transactions back to the applicable third party vendor for processing. Once the third party vendor processes the transaction, the vendor then deposits all RTT fees directly into a Commonwealth controlled bank account. Our examination disclosed the following deficiencies in the internal controls over the Commonwealth Realty Transfer Tax receipts collected by third party vendors:

- The office does not reconcile the approved daily third party vendor transaction report to deposits made by the vendors. Of the 30 receipts dates tested, there were 28 in which the amount per the office's third party vendor report did not agree with the amount deposited into the Commonwealth's bank account.
- Our testing found that the deposits made into the Commonwealth's bank account exceeded the amounts recorded by the third party vendors report by \$405,316. We found that a total of \$404,416 in non-sufficient funds (NSF) checks were included in the difference. The Department of Revenue stated that one of the November 2017 NSF checks totaling \$393,294 was paid during that month but the Department of Records office was not notified. The Department of Revenue did not provide us with documentation regarding the collection of the NSF checks as of the date of our examination report. Please see page 8 for further detail.

These conditions existed because the prior officeholder failed to establish adequate internal controls over the deposit and settlement of Commonwealth RTT moneys received from third party vendors as recommended in the three prior examination reports.

DEPARTMENT OF RECORDS
 PHILADELPHIA COUNTY
 FINDINGS AND RECOMMENDATIONS
 FOR THE PERIOD
 APRIL 1, 2016 TO DECEMBER 31, 2017

**Finding No. 1 - Inadequate Internal Controls Over Realty Transfer Tax Receipts Collected
 By Third Party Vendors - Recurring (Continued)**

Based on the issues cited above, we could not determine if the Commonwealth received all RTT funds due. Our comparison of the Department of Revenue’s deposit records to our reconciliation revealed a \$405,316 difference as noted below:

Month	Year	Department Of Revenue Bank Statement	Department of Court Records Vendor Report	Difference	
April	2016	\$ 5,352,178.52	\$ 5,352,278.52	\$ (100.00)	
August	2016	\$ 6,097,390.50	\$ 6,097,390.49	\$ 0.01	
October	2016	\$ 7,405,252.28	\$ 7,410,252.28	\$ (5,000.00)	
November	2016	\$ 5,665,653.09	\$ 5,660,653.09	\$ 5,000.00	
July	2017	\$ 12,061,522.05	\$ 12,052,507.15	\$ 9,014.90	NSF Check
August	2017	\$ 8,210,549.87	\$ 8,210,467.06	\$ 82.81	NSF Check
November	2017	\$ 8,936,561.35	\$ 8,541,193.35	\$ 395,368.00	394,368 in NSF checks
December	2017	\$ 7,546,783.22	\$ 7,545,833.22	\$ 950.00	NSF Check
Total				\$ 405,315.72	
Removing the NSF checks				\$ (404,415.71)	
Examination adjustment				\$ 900.01	

Good internal accounting controls ensure that:

- All collections are reconciled by the office to the approved third party vendor transaction report daily totals and should match the totals remitted to the Commonwealth to ensure that all funds collected have been properly recorded and deposited.
- All deposits are reconciled timely and discrepancies, including NSF checks, are immediately investigated and resolved.

Without a good system of internal controls over funds received by the office, the possibility of funds being lost or misappropriated increases significantly.

Recommendations

We again strongly recommend that the office establish and implement an adequate system of internal controls over the deposit of state RTT monies into the Commonwealth’s bank account. The office should reconcile all third party vendor collections daily to ensure that all RTT funds are properly assessed, recorded and remitted.

DEPARTMENT OF RECORDS
PHILADELPHIA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
APRIL 1, 2016 TO DECEMBER 31, 2017

**Finding No. 1 - Inadequate Internal Controls Over Realty Transfer Tax Receipts Collected
By Third Party Vendors - Recurring (Continued)**

Management's Response

The County Officer responded as follows

DOR [Department of Records], as well as third party e-recording entities, have always made and will continue to make a concerted effort to provide the Commonwealth with the necessary reports and documentation to settle the Realty Transfer Tax as efficiently, accurately and quickly as possible.

As the largest city in the Commonwealth, we currently permit three (3) third party e-recording entities to e-record with the County. Approximately 85 percent of all recordings are e-recorded annually, which includes the collection of associated State Realty Transfer Tax. While we respect the State's recommendation for third party e-recording entity collections to be reconciled daily, the largest third-party e-recording entity makes deposits on the third business day, while the remaining two third-party e-recording entities make deposits on the next business day.

As a large department working with three (3) third party e-recording entities, there are often adjustments that need to be reconciled due to over and underpayments. The process for reconciling adjustments after researching questionable transactions normally takes several weeks to resolve, thereby making it more efficient, practical and accurate to reconcile after the month has ended.

Additionally, the State Realty Transfer Tax historically has been deposited into a State bank account, which restricts any access or knowledge the County may have regarding any type of transactions that are made within this account. Real Estate Transfer Tax have never been deposited into a Philadelphia County bank account. Implementation of this recommendation would create a significant delay in transmitting funds to the State

Auditor's Conclusion

It is the responsibility of the Department of Records' office to ensure proper accountability over all funds due the Commonwealth. This includes reconciling all collections received by third party vendors to deposits. Our reconciliation of third party vendor bank deposits exceeded the amount recorded by the Department of Revenue by \$900, which could not be explained. The internal controls weaknesses described in the finding prevented us from obtaining sufficient and appropriate evidence to determine whether the Commonwealth received the correct amount for Realty Transfer Taxes. We will determine if the office complied with our recommendations during our next examination.

DEPARTMENT OF RECORDS
PHILADELPHIA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
APRIL 1, 2016 TO DECEMBER 31, 2017

**Finding No. 2 - Receipts Were Not Always Deposited The Same Day As Collected -
Recurring**

We cited the issue of receipts that were not always deposited on the same day as collected in the five prior examinations, with the most recent for the period January 1, 2014 to March 31, 2016. Our current examination found that the prior officeholder did not correct this issue.

Our examination disclosed that receipts were not always deposited on the same day as collected. Of the 30 office deposits tested, all 30 were not deposited the same day as collected. The time lapse from the date of receipt to the subsequent date of deposit for over the counter and mail transactions ranged from 1 to 8 days. The time lapse from the date of receipt to the subsequent date of deposit for electronic third party vendor transactions also ranged from 1 to 8 days.

This condition existed because the prior officeholder failed to establish adequate internal controls over its receipts as recommended in the five prior examination reports.

A good system of internal controls ensures that all monies collected are deposited intact at the bank on the same day as collected, with allowance for establishing a daily afternoon cutoff time for which subsequent transactions could be recorded and deposited with the next day's deposits.

Without a good system of internal controls over funds received by the office, the possibility of funds being lost or misappropriated increases significantly.

Recommendation

We strongly recommend that the office establish and implement an adequate system of internal controls over receipts as noted above. The office should establish a cutoff time in the afternoon to record and deposit the majority of that day's collections prior to the close of business.

Management's Response

The County Officer responded as follows

As the recorder of deeds for Philadelphia County, our hours of operation must align to support the constituents and business communities we serve. While we respect the State's finding, depositing moneys on the same day would require DOR to close its public recording operation several hours earlier each day in order for moneys to be reconciled and then deposited on the same day. Given the extremely high volume of recording in the County, this would lead to significant delays in recording, which would have detrimental effects on our ability to effectively and efficiently serve the public.

DEPARTMENT OF RECORDS
PHILADELPHIA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
APRIL 1, 2016 TO DECEMBER 31, 2017

**Finding No. 2 - Receipts Were Not Always Deposited The Same Day As Collected -
Recurring (Continued)**

Management's Response (Continued)

While we do not have the flexibility to change our hours of operations to the degree necessary to attempt to make same day deposits, we take seriously the State's finding in this and previous audits. Accordingly since the previous audit we have made changes to improve the speed with which moneys are deposited.

1. Our team now uses check scanners to deposit checks remotely in the bank; this scanned deposit typically occurs the day following the day on which the transaction is processed. Prior to scanned check deposits, the deposit would occur two days following the day on which the transaction was processed. This new process reduces the time frame for deposits and improves efficiency of operations.
2. We also are working closely with the City's depository bank to improve deposits. In the City's fiscal year 2020, we anticipate that the bank will provide DOR with three (3) remote deposit safes to secure cash and check deposits. When cash is deposited in these safes the deposit will be made into the appropriate account. We expect that this will improve cash deposits from two days to one day following the date on which the transaction is processed. The bank secured safes will serve as a device for all cash and check receipts to be maintained until they are retrieved by armored car service to transport to the bank. This new process will provide a more efficient and seamless system to reduce risk for exposure to theft.

Auditor's Conclusion

We appreciate the officeholder's efforts to correct these issues. However, it is the responsibility of the Department of Records' office to ensure proper accountability over all funds due to the Commonwealth. Deposits should be made at the end of every business day or, for funds received after a daily cutoff time, the very next business day, which is done by the majority of recorder of deeds' offices in other counties. Deposits held for more than a day increases the possibility that funds may be lost or misappropriated. This is a recurring finding, and it is imperative that the office take all steps necessary to comply with our recommendation. During our next examination, we will determine if the office complied with our recommendations.

DEPARTMENT OF RECORDS
PHILADELPHIA COUNTY
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS
FOR THE PERIOD
APRIL 1, 2016 TO DECEMBER 31, 2017

Summary Of Prior Examination Recommendations

During our prior examination, we recommended:

- That the office establish and implement an adequate system of internal controls over the receipting system.
- That the office establish and implement an adequate system of internal controls over receipts.

During our current examination, we noted that the office did not comply with our recommendations. Please see the current year findings for additional information.

DEPARTMENT OF RECORDS
PHILADELPHIA COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
APRIL 1, 2016 TO DECEMBER 31, 2017

This report was initially distributed to:

The Honorable C. Daniel Hassell
Secretary
Pennsylvania Department of Revenue

The Honorable Timonthy A. Reese
Pennsylvania State Treasurer

The Honorable Thomas B. Darr
Court Administrator of Pennsylvania
Supreme Court of Pennsylvania
Administrative Office of Pennsylvania Courts

The Honorable James P. Leonard, Esquire
Commissioner of the Department of Records

The Honorable Rebecca Rynhart
Controller of the City of Philadelphia

The Honorable Lisa M. Deeley
Chairperson of the Board of Commissioners

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