

GALVESTON COUNTY



Office of County Auditor

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November 29, 2021

Honorable Mark A. Henry, County Judge, and
Members of the Commissioners Court
722 Moody Avenue
Galveston, Texas 77550

Honorable Judge and Members of the Court:

Attached for your consideration is the internal audit report of the Alternative Dispute Resolution Fund that covered the period September 1, 2020 through August 31, 2021. Also attached is the response letter from Thayer Evans, dated November 12, 2021.

Sincerely,

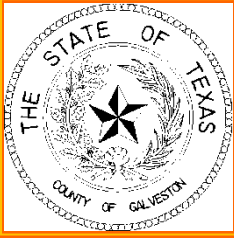
Randall Rice CPA

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Randall Rice CPA
County Auditor

cc: Thayer Evans, President

Attachment: Mediation Services Program Fund Audit Report
Response Letter, Thayer Evans



Galveston County Alternative Dispute Resolution Fund Audit

October 4, 2021

Galveston County
Internal Audit
Division

Randall Rice CPA
CITP CISA CIO CBM DABFA CGMA
County Auditor

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Executive Summary

Reliability and Integrity of Information (pages 3-4)

- All mediation fees collected by all courts were deposited in the county demand account and recorded in the special revenue fund titled 'Alternative Dispute Resolution'.
- No exceptions were noted in the testing of mediator invoices for family cases.
- No exceptions were noted in the testing of mediator invoices for CPS cases.

Compliance with Statutes, Policies and Procedures (pages 5-7)

- No exceptions were noted in the review of Mediator Rotation Wheel.
- All mediators who submitted an invoice for mediation services during the audit period were on the list of approved mediators.
- To improve the timeliness of submitting invoices to the county for the For Kid's Sake parenting seminars, the Board should implement a policy requiring the Resource Crisis Center to submit invoices within 30 days of the parenting seminar.

Statistical Analysis (pages 8-9)

- Approximately 57% of Alternative Dispute Resolution Fund cases were family cases and 42% were CPS cases.
- Revenue collected during FY2017 through FY2018 remained stable with a 39% increase from FY2019 through FY2021. Expenditures have increased 73% since FY2017 due to an increase in the number of mediation hearings held. FY2017 had 246 mediation hearings, then increased to 600 in FY2021.
- There were 509 cases for which expenditures were made from both the Alternative Dispute Resolution Fund (Mediation Services Fund) and the Galveston County general fund for CPS and Family case expenditures from FY2017 through FY2021

Introduction

The Internal Audit division conducted an audit of the Alternative Dispute Resolution Fund (referred to as Mediation Services Fund), in accordance with Local Government Code §115. The internal audit covered the period September 1, 2020 through August 31, 2021.

The objectives of the audit were to provide reasonable assurance concerning:

- Reliability and integrity of information
- Compliance with laws, regulations, contracts, policies and procedures

The scope of the internal audit encompassed the financial records and administrative procedures related to the Alternative Dispute Resolution Fund. The internal audit included, but was not limited to the, accounts, reports, contracts and records of the Alternative Dispute Resolution Fund.

The internal audit included examining transactions on a test basis and required exercising judgment in the selection of such tests. As the internal audit was not a detailed examination of all transactions, there is a risk that errors or fraud were not detected during the internal audit. The official therefore retains the responsibility for the accuracy and completeness of the financial information.

Because of certain statutory duties required of the County Auditor, we are not independent with regard to the Alternative Dispute Resolution Fund as defined by the AICPA professional standards. However, our internal audit was performed with objectivity and due professional care.

Celeste Wood, Internal Auditor I, performed the audit.

Reliability and Integrity of Information

Mediation Fee

Civil Practice and Remedies Code (CPR) §152.004 (Financing) states to establish and maintain an alternative dispute resolution system, the Commissioners Court may set a court cost in an amount not to exceed \$15 to be paid as other court costs in each civil case filed in a county or district court in the county, including a civil case relating to probate matters but not including:

- 1) A suit for delinquent taxes
- 2) A condemnation proceeding under Chapter 21, Property Code
- 3) A proceeding under Subtitle C, Title 7, Health and Safety Code

CPR §152.005 (Additional Fee For Justice Courts) states to establish and maintain an alternative dispute resolution system, the Commissioners Court may, in addition to the court cost authorized under Section 152.004, set a court cost in an amount not to exceed \$5 for civil cases filed in a justice court located in the county, but not including:

- 1) A suit for delinquent taxes
- 2) An eviction proceeding, including a forcible detainer, a forcible entry and detainer or a writ of re-entry

The mediation fee collected by all courts is deposited in the county demand account and recorded in the special revenue fund titled 'Alternative Dispute Resolution', previously called the 'Mediation Services'.

The following table reflects the total mediation fees collected by the county during the audit period:

District Clerk's Office	\$ 55,079.44
County Clerk's Office	\$ 37,360.80
Justice Precinct -Court #1	\$ 6,980.00
Justice Precinct -Court #2	\$ 7,000.00
Justice Precinct -Court #3	\$ 4,055.00
Justice Precinct -Court #4	\$ 5,350.00
Court Collections	\$ 510.00
Total Collections	<u>\$ 116,335.24</u>

Reliability and Integrity of Information (cont.)

Mediator Invoices – Family Cases

Article VII Section 1 of the Galveston County Mediation Services Board (the Board) By-Laws states the Board shall authorize the hourly rate of compensation for mediation from the Alternative Dispute Resolution. The fees shall be paid to mediators performing subsidized mediation pursuant to the fee guidelines promulgated by the Board. Actual payment shall be authorized and approved by the judge of the referring court on a case by case basis. The Board set the standard rate for mediation services as \$200 per hour with a maximum of four hours of mediation services allowed per mediator session. The form titled 'Claim and Order for Payment for Mediation Services under Special Authorization of the Galveston County Mediation Board', submitted by the mediator and signed by the presiding judge, serves as an invoice to the county and must reflect the date of the mediation session, the number of hours for the session and any payments made to the mediator by either party.

A sample of invoices (authorization forms) was tested for compliance with the rate and hours set by the Board and for proper authorization. No exceptions were noted.

Mediator Invoices – Child Protective Services Cases

Family code §107.015 ATTORNEY FEES states an attorney appointed ad litem for a child, an attorney in the dual role, or an attorney ad litem for a parent is entitled to reasonable fees and expenses in the amount set by the court to be paid by the parents of the child unless the parents are indigent. If indigence of parents is shown, an attorney ad litem appointed to represent a child or parent in a suit filed by a governmental entity shall be paid from the general funds of the county according to the fee schedule that applies to an attorney appointed to represent a child in a suit under Title 3 as provided by Chapter 51. A person appointed as a guardian ad litem or attorney ad litem shall complete and submit to the court a voucher or claim for payment that lists the fees charged and hours worked by the guardian ad litem or attorney ad litem.

For every mediator invoice submitted for a child protective services (CPS) case, a corresponding attorney voucher is submitted for the mediation session. A sample of mediator invoices for CPS cases was tested to ensure an attorney voucher was also submitted. No exceptions were noted.

Compliance with Statutes, Policies and Procedures

Mediator Rotation Wheel

Government Code §37.004 Appointment of Attorneys Ad Litem, Guardians Ad Litem, Mediators and Guardians; Maintenance of Lists states, each case in which the appointment of an attorney ad litem, guardian ad litem or guardian is necessary, a court using a rotation system shall appoint the person whose name appears first on the applicable list.

The court may appoint a person included on the applicable list whose names does not appear first, if:

- The appointment is agreed on by the parties and approved by the court
- The person possesses relevant specialized education, training, certification, skill, language proficiency, or knowledge of the subject matter of the case
- Has relevant prior involvement with the parties or case
- Is in relevant geographic location

The Board policy for appointing mediators states for every case, the Court will select mediators from the Calendar Wheel created from the Approved Court Appointed Mediators List. A mediator may not be bypassed for appointment more than two (2) times unless the Court/Judge finds, in writing, that a conflict of interest exists or that other good cause exists for bypassing the Mediator.

The following table reflects the mediators on the approved list and the amount of mediation services provided. Total mediation services during the audit period were \$255,125.75.

PEID	NAME	AMOUNT	COUNT	% OF COUNT
701360	TURNER, CHRISTINE	\$ 23,200.00	62	10.7%
707452	HUMPHREYS, JAHN	\$ 20,295.00	50	8.6%
702478	AMERSON, DAN	\$ 23,450.00	44	7.6%
703381	DUSHANE, BRENDA	\$ 15,875.00	41	7.0%
33290	CLARK, DIANE	\$ 18,050.00	40	6.9%
710160	ORTIZ-TAING, MARCELA	\$ 17,620.00	40	6.9%
708298	GOLDSBERRY, SHARI	\$ 15,590.00	37	6.4%
136689	MCGARVEY, GENEVIEVE	\$ 13,550.00	29	5.0%
405987	MUELLER, DINAH	\$ 10,450.00	28	4.8%
403751	BERARDINELLI CORREA, SHAUNA	\$ 11,000.00	26	4.5%
708153	LAW OFFICE OF KATHRYN BRADFIELD LANAN	\$ 12,550.00	24	4.1%
708879	LAW OFFICES OF SUSAN M EDMONSON PLLC	\$ 10,000.00	24	4.1%
702604	LUCAS, KRISTINA	\$ 11,500.00	23	4.0%
717800	ALSTON, SUSAN	\$ 11,300.00	23	4.0%
714244	THE VEENSTRA LAW FIRM PLLC	\$ 5,825.00	15	2.6%
719352	GREINER, WADE	\$ 6,000.00	14	2.4%
710066	FISHER, EMILY	\$ 4,600.00	10	1.7%
700067	KILGORE, JEFF	\$ 4,200.00	10	1.7%
709070	SCHWAB-RADCLIFFE, SUZANNE	\$ 5,000.00	9	1.5%
404921	MCCUTCHEN, MAUREEN	\$ 3,352.00	9	1.5%
721675	MCKENNA, SYNTHET	\$ 3,200.00	7	1.2%
721676	MCKENNA, JOHN	\$ 3,400.00	6	1.0%
701045	TREFETHERN, MARIE	\$ 1,700.00	4	0.7%
721628	BONEY, BRAD	\$ 1,400.00	3	0.5%
45286	DUCOTE, JAMES	\$ 768.75	1	0.2%
720888	HARRISON, J. BESS	\$ 700.00	1	0.2%
706338	RESOURCE CRISIS CENTER	\$ 450.00	1	0.2%
722141	MARSH, REBECCA	\$ 100.00	1	0.2%
700160	MAHONEY, KAREN	\$ -	0	0.0%

Compliance with Statutes, Policies and Procedures (cont.)

Mediator Qualifications

CPR §154.052 requires individuals to have completed a minimum of 40 classroom hours in mediation training in order to qualify as a mediator. A court may appoint in certain circumstances a mediator who does not qualify under sections (a) or (b) if the mediator is appointed based on legal, professional training or experience in mediation.

The Board requires each mediator to submit an application for appointment as mediator to the County Court Administrator. The applications are submitted to the Board for approval and added to the approved appointed list. All mediators must submit a sworn affidavit to the County Court Administrator every year by December 31st in order to be included on the approved mediator list. The following qualifications must be met for all mediators:

- Membership in the Galveston County Bar Association, if an attorney
- Membership in the Galveston County Mediation Association
- Complete forty (40) hour basic training
- Complete any advanced training for Family, Juvenile, Children's Protective Services cases, and/or Criminal matters which may be required by the Board

Parent-Child Relationship Disputes:

- Additional 24 hours in the fields of Family Dynamic, Child Development and Family Law
- Minimum of 4 hours of family violence training

CPS Pre-Trial Mediators:

- Complete at least an 8 hour CPS Mediation Training program

CPS Pre-Trial Adversary:

- Complete at least an 8 hour CPS Mediation Training program
- Perform 3 years of Family Mediation
- Perform 15 mediations either Family or CPS Pretrial Mediations
- Attorney Mediators must participate in Pre-Adversary Mediations at least 10 times, of which 5 are pick-up mediations
- Non-Attorney Mediators must conduct at least 5 CPS pre-trial mediations and observed at least 5 Pre-Adversary Mediations.

The current approved mediator list was obtained from the County Court Administrator. All mediators who submitted an invoice for mediation services during the audit period were on the list of approved mediators.

Compliance with Statutes, Policies and Procedures (cont.)

For Kid’s Sake Parenting Seminars

Under Section 1 of Article V of the revised By-Laws, the Board shall specifically authorize all commitments and/or contracts which shall entail the payment of money, and shall authorize the expenditure of all monies appropriated for the use and benefit of the Mediation Services Board and/or Galveston County residents. Rule 4.53 of the Local Rules for the County Courts at Law and District Courts of Galveston County mandates that in all cases in which the conservatorship, rights and duties or possession of a child is at issue, the parties shall attend the parenting seminar “For Kid’s Sake” or the equivalent thereof at their own expense, and file proof thereof with the court. The court may, upon proper motion, waive or reduce the fee for the seminar sponsored by the Board.

The Resource Crisis Center sponsors the For Kid’s Sake parenting seminars. A ‘Registration Form For Kid’s Sake Seminar’ must be submitted by the client in order to attend the seminar. The registration form provides the client information and the court and case number. The Resource Crisis Center invoices the county monthly for mediation services provided through the parenting seminars. The cost to the county is \$450 per seminar. The following is the schedule of the parenting seminars provided during the audit period:

Date of Seminar	# of Attendees
09/05/2020	2
11/07/2020	2
01/02/2021	2
02/06/2021	2
03/06/2021	1
05/01/2021	1

The invoices submitted by the Resource Crisis Center during the audit period were reviewed. The August 2020 seminar was the last invoice submitted to the county.

Finding: The Resource Crisis Center are not submitting invoices to the county in a timely manner. (Prior audit finding)

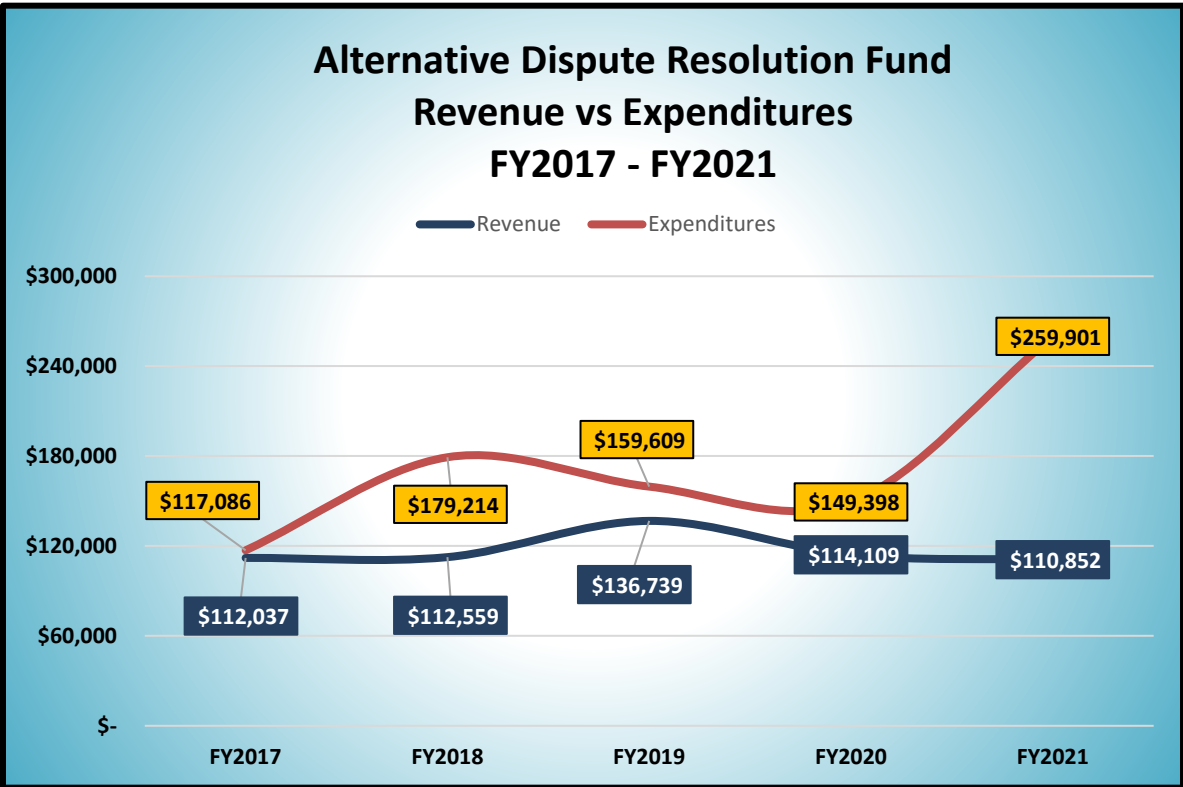
Recommendation ADR-21-01: To improve the timeliness of submitting invoices to the county for the For Kid’s Sake parenting seminars, the Board should implement a policy requiring the Resource Crisis Center to submit invoices within 30 days of the parenting seminar.

Statistical Analysis

An analysis was performed on the case types for which expenditures were made from the Alternative Dispute Resolution Fund (Mediation Services Fund) for the audit period. A total of 582 cases were included in the analysis. Almost 57% of the cases were family cases and 42% were for CPS cases. The following reflects the case types for which expenditures were made from Alternative Dispute Resolution Fund.

Family	331	56.87%
CPS	247	42.44%
Criminal	2	0.34%
Resource Crisis Center	1	0.17%
Civil	1	0.17%
Civil JP	0	0.00%
Total # of Invoices	582	100.00%

A statistical analysis was performed on the Alternative Dispute Resolution Fund (Mediation Services Fund) from FY2017 through FY2021. Revenue collected during FY2017 through FY2018 remained stable with a 39% increase from FY2019 through FY2021. Expenditures have increased 73% since FY2017 due to an increase in the number of mediation hearings held. FY2017 had 246 mediation hearings, then increased to 600 in FY2021. The chart below reflects the trend of revenue and expenditures from the Alternative Dispute Resolution Fund.



Statistical Analysis (cont.)

An analysis was performed on cases for which expenditures were made from both the Alternative Dispute Resolution Fund (Mediation Services Fund) and the Galveston County general fund for CPS and Family case expenditures from FY2017 through FY2021. The following reflects the cases for which expenditures were made from both funds:

Case #	Mediation Fees <i>Fund 2212</i>	Attorney Fees <i>Fund 1101</i>	Total Expenditures	
18CP0025	\$ 2,450.00	\$ 38,912.42	\$ 41,362.42	
16CP0009	\$ 3,050.00	\$ 33,064.67	\$ 36,114.67	
19CP0155	\$ 2,660.00	\$ 32,628.14	\$ 35,288.14	
19CP0162	\$ 600.00	\$ 30,314.31	\$ 30,914.31	
18CP0148	\$ 1,750.00	\$ 27,914.84	\$ 29,664.84	
18CP0190	\$ 2,350.00	\$ 27,071.38	\$ 29,421.38	
19CP0012	\$ 1,500.00	\$ 27,761.97	\$ 29,261.97	
17CP0131	\$ 800.00	\$ 28,192.49	\$ 28,992.49	
18CP0062	\$ 3,600.00	\$ 23,176.80	\$ 26,776.80	
18CP0127	\$ 900.00	\$ 25,852.12	\$ 26,752.12	
15CP0076	\$ 950.00	\$ 24,860.13	\$ 25,810.13	
20CP0059	\$ 1,000.00	\$ 24,490.72	\$ 25,490.72	
18CP0028	\$ 1,700.00	\$ 23,631.70	\$ 25,331.70	
17CP0129	\$ 2,850.00	\$ 21,993.73	\$ 24,843.73	
16CP0089	\$ 1,700.00	\$ 22,756.97	\$ 24,456.97	
15CP0101	\$ 1,400.00	\$ 21,403.34	\$ 22,803.34	
19CP0164	\$ 3,000.00	\$ 19,383.86	\$ 22,383.86	
18CP0096	\$ 1,260.00	\$ 21,109.93	\$ 22,369.93	
18CP0034	\$ 2,780.00	\$ 19,521.88	\$ 22,301.88	
20CP0062	\$ 850.00	\$ 21,064.50	\$ 21,914.50	
17CP0045	\$ 1,600.00	\$ 20,286.63	\$ 21,886.63	
17CP0005	\$ 2,000.00	\$ 19,619.43	\$ 21,619.43	
15CP0019	\$ 1,750.00	\$ 19,387.29	\$ 21,137.29	
19CP0093	\$ 800.00	\$ 19,811.00	\$ 20,611.00	
Total expenditures from \$10,000 - \$20,000				
90 Cases	\$ 125,845.00	\$ 1,085,846.30	\$ 1,211,691.30	
Total expenditures from \$5,000 - \$9,999				
183 Cases	\$ 179,013.75	\$ 1,151,003.09	\$ 1,330,016.84	
Total expenditures less than \$5,000				
212 Cases	\$ 135,537.50	\$ 488,769.47	\$ 624,306.97	
Totals	509 Cases	\$ 483,696.25	\$ 3,319,829.11	\$ 3,803,525.36

11-12-21

Celeste,

Board vice president Marcela Ortiz-Taing and I have reviewed and discussed the draft internal audit report for the Alternative Dispute Resolution Fund that covers September 1, 2020 through August 31, 2021.

We accept your report. We will detail it with the remainder of our board during our next meeting on December 7.

The board appreciates your assistance and patience during the audit process.

Sincerely,

A handwritten signature in black ink, consisting of two overlapping, slightly curved lines that suggest the name 'Thayer Evans'.

Thayer Evans
President
Galveston County Mediation Services Board