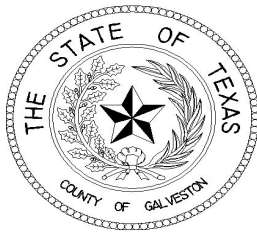


# GALVESTON COUNTY



## Office of County Auditor

Randall Rice CPA CISA CIO, County Auditor  
Madeline Walker CPA CFE, First Assistant County Auditor

P.O. Box 1418, Galveston, Texas 77553

(409) 770-5304

722 Moody Ave 4<sup>th</sup> Floor, Galveston, TX 77550

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April 1, 2024

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 to be received and filed is the internal audit report of the Alternative Dispute Resolution Fund that covered the period October 1, 2022 through September 30, 2023. Also attached is the response letter from Thayer Evans, dated February 9, 2023.

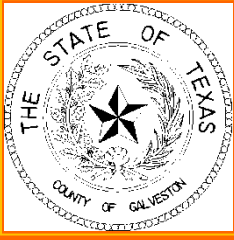
Sincerely,

*Randall Rice CPA*

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

**December 7, 2023**

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 the 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 5-6)

- 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.

## Statistical Analysis (pages 7-8)

- During FY2023, 68% of Alternative Dispute Resolution Fund expenditures were for CPS cases and 29% were family cases. There were also expenditures for 3 civil cases and 1 criminal case.
- From FY2019 through FY2023, revenues increased 3.4% and expenditures decreased 68%.

## Introduction

The Internal Audit division conducted an audit of the Alternative Dispute Resolution Fund, in accordance with Local Government Code (LGC) §115. The internal audit covered the period October 1, 2022 through September 30, 2023.

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.

Lori McWhirter, Internal Audit Manager, performed the audit.

# Reliability and Integrity of Information

## Mediation Fee

LGC §135.101 (a) states a person shall pay in a district court, statutory county court, or county court in addition to all other fees and court costs a local consolidated filing fee of \$213 on filing any civil case except a probate, guardianship, or mental health case. \$15 of the filing fee must be allocated to the county dispute resolution fund. LGC §135.102 (a) states a person shall pay in a statutory county court, statutory probate court, or county court in addition to all other fees and court costs a fee of \$223 on filing any probate, guardianship, or mental health case. \$15 of the filing fee must be allocated to the county dispute resolution fund. LGC §135.103 (a) states a person shall pay a local consolidated filing fee of \$33 on filing of any civil case in a justice court and on any action other than an original action for a civil case, including an appeal and any counterclaim, cross-action, intervention, contempt action, interpleader, motion for new trial, motion to reinstate, or third-party action. \$5 of the filing fee must be allocated to the county dispute resolution fund.

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    | \$ 58,165        |
| County Clerk's Office      | 32,500           |
| Justice Precinct -Court #1 | 10,230           |
| Justice Precinct -Court #2 | 9,840            |
| Justice Precinct -Court #3 | 5,035            |
| Justice Precinct -Court #4 | 6,965            |
| Total Collections          | <u>\$122,735</u> |

## 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 Fund. 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 authorization forms was tested for compliance with the rate and hours set by the Board and for proper authorization. No exceptions were noted.

## **Reliability and Integrity of Information (cont.)**

### **Mediator Invoices – Child Protective Services Cases**

Family Code §107.015 states an attorney appointed ad litem for a child, an attorney in the dual role, or 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, 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 Qualifications

Civil Practice & Remedies §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 31<sup>st</sup> 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

## Mediator Rotation Wheel

Government Code §37.004 Appointment of Attorneys Ad Litem, Guardians Ad Litem, Mediators and Guardians; Maintenance of Lists state, 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 requires that for every case, the Court will select a mediator 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, and puts in writing, that a conflict of interest exists or that other good cause exists for bypassing the Mediator.

## Compliance with Statutes, Policies and Procedures (cont.)

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 \$50,080.00.

| PEID         | NAME                                   | AMOUNT              | COUNT      |
|--------------|--|---------------------|------------|
| 701360       | CHRISTINE TURNER                       | \$ 8,765.00         | 25         |
| 710160       | MARCELA ORTIZ-TAING                    | 6,975.00            | 19         |
| 405987       | DINAH MUELLER                          | 6,180.00            | 20         |
| 702604       | KRISTINA LUCAS                         | 5,775.00            | 11         |
| 33290        | DIANE CLARK                            | 4,765.00            | 12         |
| 703381       | BRENDA DUSHANE                         | 4,300.00            | 11         |
| 719352       | WADE GREINER                           | 2,950.00            | 8          |
| 708153       | LAW OFFICES OF KATHRYN BRADFIELD LANAN | 2,600.00            | 5          |
| 721975       | SUSAN ALSTON                           | 2,050.00            | 5          |
| 403751       | SHAUNA BERARDINELLI CORREA             | 1,800.00            | 4          |
| 721628       | WILLIAM BONEY                          | 1,400.00            | 2          |
| 714244       | THE VEENSTRA LAW FIRM PLLC             | 900.00              | 3          |
| 702478       | RODGER DAN AMERSON                     | 800.00              | 2          |
| 722932       | ROB MCLAUHLAN                          | 700.00              | 1          |
| 709070       | SUZANNE SCHWAB-RADCLIFFE               | 120.00              | 1          |
| <b>Total</b> |  | <b>\$ 50,080.00</b> | <b>129</b> |

### Additional Requirements for Specific Case Types:

#### 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 observe at least 5 Pre-Adversary Mediations.

The approved mediator lists for the audit period 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.

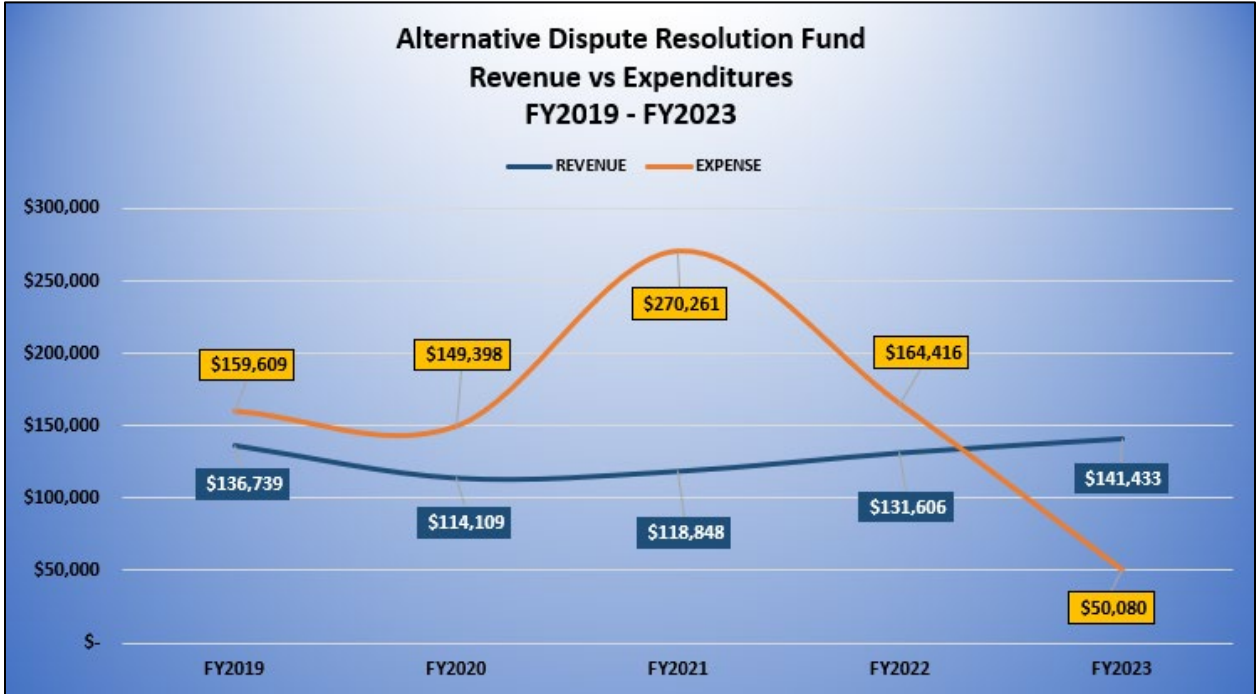


# Statistical Analysis

An analysis was performed on the case types for which expenditures were made from the Alternative Dispute Resolution Fund during the audit period. A total of 139 cases were included in the analysis. The following reflects the case types for which expenditures were made from Alternative Dispute Resolution Fund.

|                            |            |                |
|----------------------------|------------|----------------|
| CPS                        | 95         | 68.35%         |
| Family                     | 40         | 28.78%         |
| Civil                      | 3          | 2.16%          |
| Criminal                   | 1          | 0.72%          |
| <b>Total # of Invoices</b> | <b>139</b> | <b>100.00%</b> |

A statistical analysis was performed from FY2019 through FY2023 on the Alternative Dispute Resolution Fund. Since FY2019, revenue increased 3.4% and expenditures decreased 68%. The chart below reflects the trend of revenue and expenditures from the Alternative Dispute Resolution Fund.



3-20-24

Lori,

The Galveston County Mediation Services Board reviewed, discussed and unanimously approved the October 1, 2022-September 30, 2023 audit report's findings during its March 20th meeting.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Thayer Evans', written over a horizontal line.

Thayer Evans  
President  
Galveston County Mediation Services Board