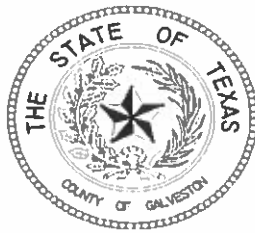


GALVESTON COUNTY



Office of County Auditor

Randall Rice CPA CISA CIO, County Auditor
Kristin Bulanek CIA, First Assistant County Auditor

P.O. Box 1418, Galveston, Texas 77553

(409) 770-5304

722 Moody Ave 4th Floor, Galveston, TX 77550

September 24, 2018

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 Galveston County Mediation Services Program Fund that covered the period May 1, 2017 through April 30, 2018. Also attached is the response letter from Thayer Evans.

Sincerely,

A handwritten signature in black ink, appearing to read "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



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722 Moody Ave 4th Floor, Galveston, TX 77550

August 10, 2018

To: Honorable Mark A. Henry, County Judge, and
Members of the Commissioners Court

From: Mr. Randall Rice
County Auditor

Re: Galveston County Mediation Services FY2018 Audit Report

The Internal Audit division conducted an internal audit of the Mediation Services, in accordance with Local Government Code §115. The internal audit covered the period May 1, 2017 through April 30, 2018.

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

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

Texas Civil Practice & Remedies Code §152 Alternative Dispute Resolution System Established By Counties

Texas Civil Practice & Remedies Code (CPR) §152 Alternative Dispute Resolution System Established by Counties sets the guidelines for the Alternative Dispute Resolution Fund. CPR §152.002 (Establishment) states the following:

- a) The commissioners court of a county by order may establish an alternative dispute resolution system for the peaceable and expeditious resolution of disputes.
- b) The commissioners court may do all necessary acts to make the alternative dispute resolution system effective, including:
 - 1) Contracting with a private nonprofit corporation, a political subdivision, a public corporation, or a combination of these entities for the purpose of administering the system
 - 2) Making reasonable rules relating to the system, including rules specifying whether criminal cases may be referred to the system
 - 3) Vesting management of the system in a committee selected by the county bar association.
- c) The actions of a committee authorized by Subsection (b)(3) are subject to the approval of the commissioners court.

Galveston County Mediation Services Program

A 'Proposal For Mediation Services of Galveston County, Texas' was approved by Commissioners Court on January 27, 1992, in accordance with CPR §152.002(a). The goals, as stated in the proposal, were to provide the courts with qualified mediators who would provide mediation for parties who needed financial assistance to afford mediation and to address the needs of civil and family courts. Section I(B) of the proposal created the Mediation Services Board (the Board), whose responsibilities include:

- Establishing guidelines for qualifications by a litigant for financially-aided mediation services
- Establishing guidelines for a qualifying mediator, based on statutory requirements
- Setting policy for the mediation services
- Working with the Galveston County judges as liaison for the mediation services
- Work with the appropriate Galveston County officials to establish a budget for the mediation services

The 'By-Laws of the Galveston County Mediation Services Board' (the By-Laws) were revised and approved by Commissioners Court in December of 2010 and provide the current guidelines for the Board, including the membership requirements, duties and jurisdiction.

Mediation Fee

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

The clerks of the county or district courts shall collect and pay the costs to the county treasurer, who shall deposit the costs in a separate fund known as the alternative dispute resolution system fund. The fund shall be administered by the Commissioners Court and may only be used to establish and maintain the system. The system shall be operated at one or more convenient and accessible places in the county.

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 clerks of the justice courts shall collect and pay the costs in the manner prescribed by Section 152.004.

The county and district courts currently collect a \$15 mediation fee for each civil case that meets the criteria set by CPR §152.004. The justice courts currently collect a \$5 mediation fee for each civil case that meets the criteria set by CPR §152.005. 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'.

Appointment of Impartial Third Parties

CPR §154.051 allows the court to appoint an impartial third party to a case if it is agreed upon by the parties. The qualifications the third parties must meet in order to be eligible to participate are outlined in CPR §154.052:

- a) A person must have completed a minimum of 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court making the appointment.
- b) For disputes relating to the parent-child relationship, a person must complete the training required by section a) and an additional 24 hours of training in the field of family dynamics, child development, and family law, including a minimum of four hours of family violence dynamics training developed in consultation with a statewide family violence advocacy organization.
- c) In appropriate circumstances, a court may in its discretion appoint a person as an impartial third party who does not qualify under sections a) or b) if the court bases its appointment on legal or professional training or experience in a particular dispute resolution process.

Finding: The Mediation Services Board was unable to provide proof the current mediators meet the qualifications described in CPR §154.

Recommendation MS-18-01: All mediators should submit proof of qualifications which should be retained by the Mediation Services Board as support for compliance with CPR §154.

Compensation of Mediators and Support Staff

Article VII Section 1 of the 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 standard rate for mediation services was \$125 per hour with a maximum of five hours of mediation services allowed per case. On November 28, 2016, the Board approved a new form titled 'Claim and Order for Payment for Mediation Services under Special Authorization of the Galveston County Mediation Board'. The approved authorization form increased the standard rate to \$200.00 per hour with a maximum of four hours of mediation services allowed per case. The form, submitted by the mediator and signed by the presiding judge, serves as an invoice to the county and must reflect the amount of hours worked on the case and any payments made to the mediator by either party.

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

Parenting Seminars

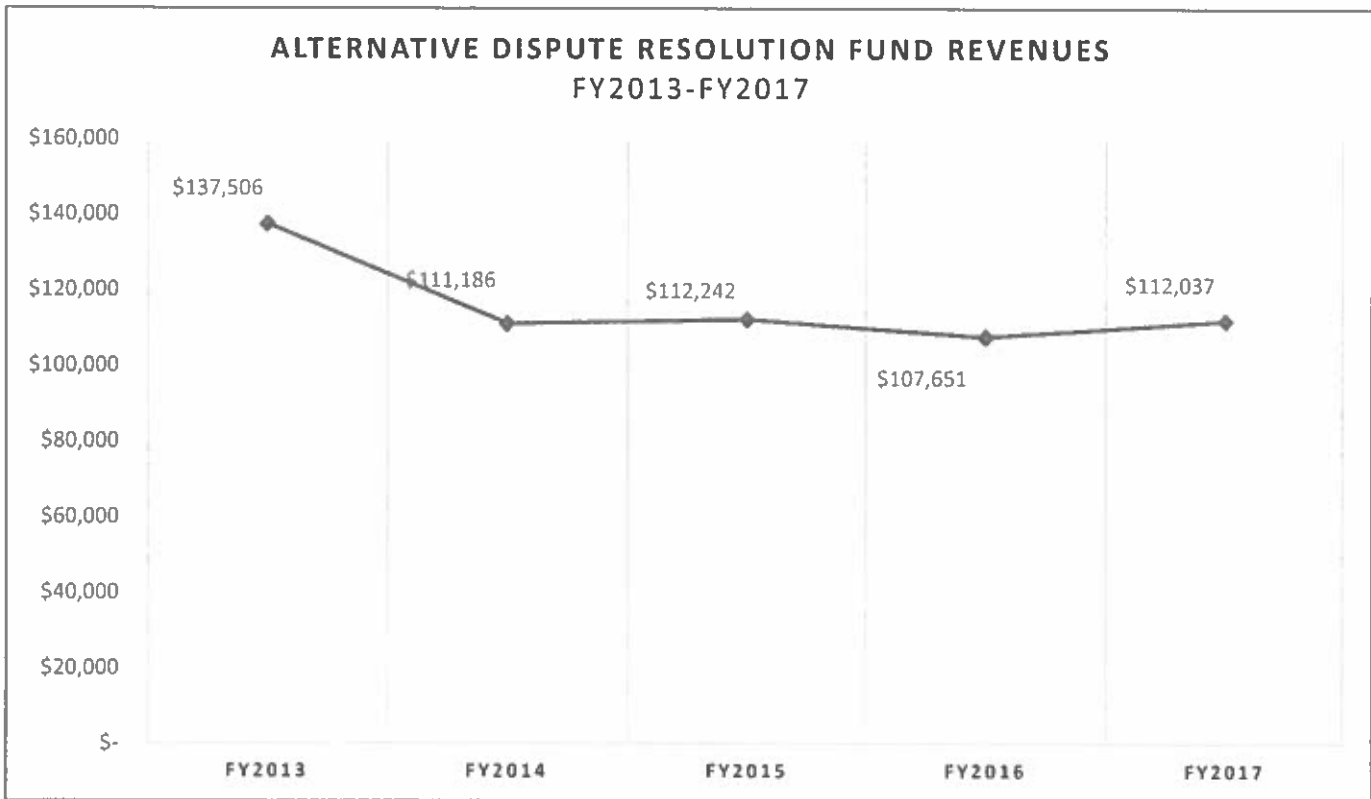
Under Section 1 of Article V of the revised By-Laws, the Mediation Services Board shall especially authorize all commitments and/or contracts which shall entail the payment of money, and shall authorize the expenditure of all monies appropriated for the use and benefit of the Mediation Services Board 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 Mediation Services Board.

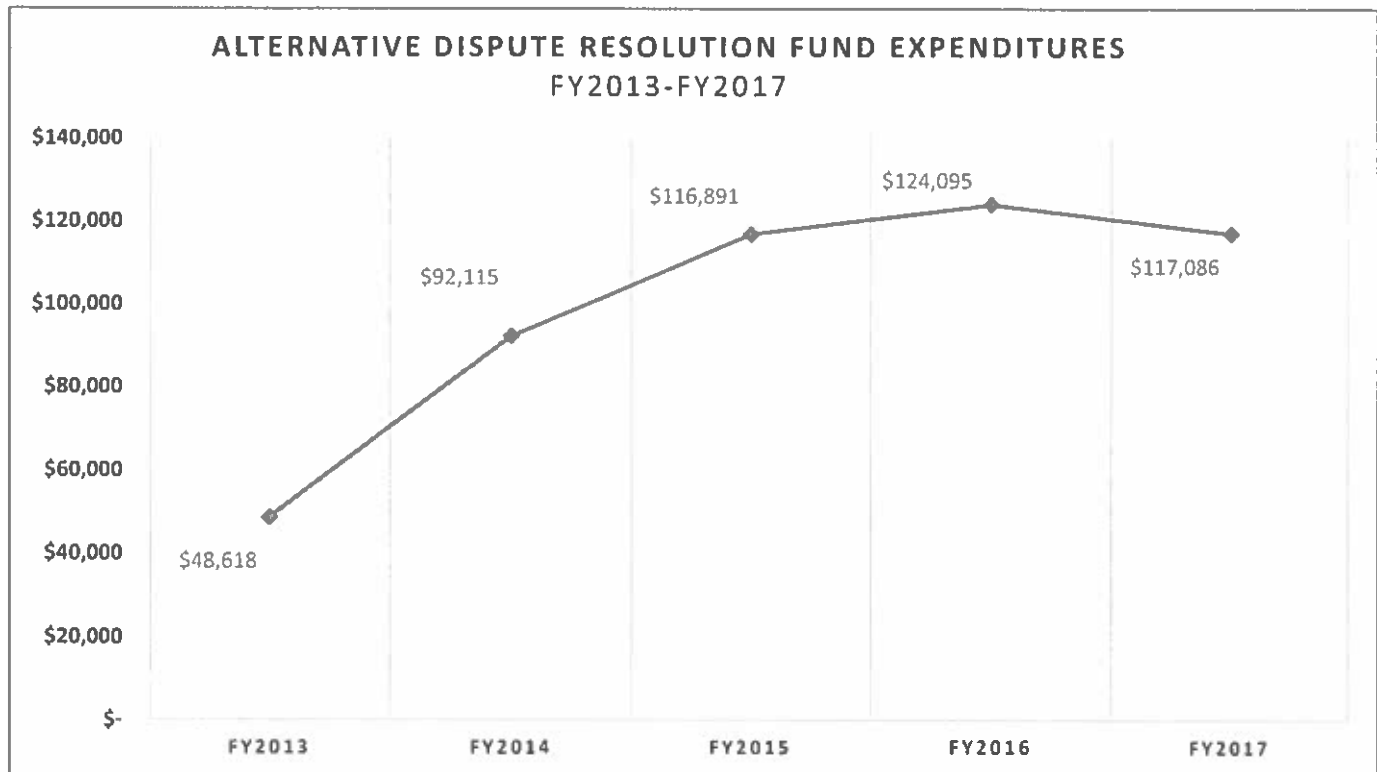
During the audit period, \$5,850 was paid to the Resource Crisis Center for "For Kid's Sake" seminars. A 'Claim Under Special Authorization of Galveston County Mediation Board' form is submitted as a monthly invoice for payment. This form includes the number of facilitator sessions performed and the dates the sessions were performed. Each form is signed by a representative of the Resource Crisis Center and the presiding judge.

Statistical Analysis

A statistical analysis was performed on the revenue collected for the Alternative Dispute Resolution fund from FY2013 through FY2017. Since FY2013, the amount of revenue collected has decreased from \$137,506 to \$112,037, an 18.52% decrease. The chart below reflects the trend of the revenue collected for the Alternative Dispute Resolution fund.



A statistical analysis was performed on the expenditures from the Alternative Dispute Resolution fund from FY2013 through FY2017. Since FY2013, the amount of expenditures has increased from \$48,618 to \$117,086, a 140.83% increase. Of the \$117,086 spent in fiscal year 2017, \$6,300 was spent on facilitator sessions and \$110,786 was spent on mediator fees. The chart below reflects the trend of the expenditures from the Alternative Dispute Resolution fund.



- cc: Thayer Evans, President Galveston County Mediation Services Board
- Marcela Ortiz-Taing, Vice President Galveston County Mediation Services Board
- Honorable Lonnie Cox, 56th Judicial District Court, Board Member
- Honorable Anne B. Darring, 306th Judicial District Court, Board Member
- Honorable John Grady, County Court at Law #1, Board Member
- Brenda Dushane, Board Member
- Monica Gracia, Board Member
- Myrna Reingold, Board Member
- Margaret Hindman, Board Member

Bulanek, Kristin

From: Thayer Evans <thayer@thayerevansgalveston.com>
Sent: Tuesday, September 18, 2018 4:43 PM
To: Bulanek, Kristin
Subject: RE: FW: Galveston County Mediation Services Audit Report

Kristin,

Fortunately, our board was able to hold an official meeting earlier today. The board's official response to the audit is as follows:

The Galveston County Mediation Services Board has reviewed the audit's findings and during its September 18 meeting, a subcommittee consisting of board president Thayer Evans, Judge Ann Darring and court administrator of county courts Monica Gracia was appointed to create a process for verifying mediator's qualifications. The subcommittee plans to submit that process to the board for approval before the end of this year in order for it to be in effect for 2019.

If you have any questions about the aforementioned or anything else, please let me know.

Best,

Thayer Wade Evans
(409)-739-5258
thayer@thayerevansgalveston.com

On September 11, 2018 at 9:26 AM Thayer Evans <thayer@thayerevansgalveston.com> wrote:

Kristin,

Absolutely on working to correct. Will do regarding the board's action.

Best,

Thayer Wade Evans
(409)-739-5258
thayer@thayerevansgalveston.com

On September 11, 2018 at 9:23 AM "Bulanek, Kristin"
<Kristin.Bulanek@galvestoncountytexas.gov> wrote:

Good morning Thayer,

That is great! We look forward to working with the Mediation Board moving forward in correcting this issue. Please feel free to submit a response to me including the board's decision.