

Internal Audit Department

O R A N G E C O U N T Y
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AOC SPECIAL REQUEST: REVIEW OF CLERK-RECORDER FUND 12D REVENUE SOURCES, EXPENDITURES, AND RELATED ACCOUNTING PRACTICES

Critical Impact Audit

For the Two Years Ended June 30, 2012

At the request of the Audit Oversight Committee (AOC), we reviewed the revenue sources, expenditures, and related accounting practices of the Clerk-Recorder's Office Special Revenue Fund 12D from July 1, 2010 to June 30, 2012.

It should be noted that during our audit period the former Clerk-Recorder was in office. The former Clerk-Recorder was elected to that position in 2002, and re-elected in 2006 and 2010. On December 3, 2012, the former Clerk-Recorder resigned from the position. On April 2, 2013 the Board of Supervisors appointed Hugh Nguyen as Clerk-Recorder.

Our review identified **twelve (12) Critical Control Weaknesses; three (3) Significant Control Weaknesses;** and **four (4) Control Findings** where there was inadequate oversight and accounting by the former Clerk-Recorder's Office for the statutorily-restricted Fund 12D.

Our review found the former Clerk-Recorder's Office did not maintain sufficient supporting records for the Fund 12D expenditures, to the extent that the records were inadequate for the purpose of readily determining whether Fund 12D monies were expended in compliance with statutory requirements.

However, the current Clerk-Recorder's Office, upon implementation of the recommendations included in this report and subsequent re-evaluation of their records, should be able to develop a reasonable methodology/basis to support Fund 12D usage during the audit period, subject to our follow-up audit.

AUDIT NO: 1159-B
REPORT DATE: OCTOBER 11, 2013

Director: Dr. Peter Hughes, MBA, CPA, CITP
Senior Audit Manager: Alan Marcum, CPA, CIA
Audit Manager: Carol Swe, CPA, CIA

RISK BASED AUDITING

GAO & IIA Peer Review Compliant – 2001, 2004, 2007, 2010



American Institute of Certified Public Accountants Award to Dr. Peter Hughes as 2010 Outstanding CPA of the Year for Local Government

GRC (Government, Risk & Compliance) Group 2010 Award to IAD as MVP in Risk Management



2009 Association of Certified Fraud Examiners' Hubbard Award to Dr. Peter Hughes for the Most Outstanding Article of the Year – Ethics Pays



2008 Association of Local Government Auditors' Bronze Website Award



2005 Institute of Internal Auditors' Award for Recognition of Commitment to Professional Excellence, Quality, and Outreach



ORANGE COUNTY BOARD OF SUPERVISORS' **Internal Audit Department**

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RISK BASED AUDITING

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OC Fraud Hotline (714) 834-3608



Transmittal Letter



Audit No. 1159-B October 11, 2013

TO: Hugh Nguyen, Clerk-Recorder

FROM: Dr. Peter Hughes, CPA, Director
Internal Audit Department

SUBJECT: AOC Special Request: Review of Clerk-Recorder
Fund 12D Revenue Sources, Expenditures, and
Related Accounting Practices

We have completed a Review of Clerk-Recorder Fund 12D Revenue Sources, Expenditures, and Related Accounting Practices for the two years ended June 30, 2012. We were directed to perform this review by the Audit Oversight Committee (AOC) at its March 15, 2012 meeting. Our final report is attached for your review.

Please note we have a structured and rigorous **Follow-Up Audit** process in response to recommendations and suggestions made by the Audit Oversight Committee (AOC) and the Board of Supervisors (BOS). Our **first Follow-Up Audit** will begin at six months from the official release of the report. A copy of all our Follow-Up Audit reports is provided to the BOS as well as to all those individuals indicated on our standard routing distribution list.

The AOC and BOS expect that audit recommendations will typically be implemented within six months and often sooner for significant and higher risk issues. Our **second Follow-Up Audit** will begin at six months from the release of the first Follow-Up Audit report, by which time **all** audit recommendations are expected to be addressed and implemented. At the request of the AOC, we are to bring to their attention any audit recommendations we find still not implemented or mitigated after the second Follow-Up Audit. The AOC requests that such open issues appear on the agenda at their next scheduled meeting for discussion.

Each month I submit an **Audit Status Report** to the BOS where I detail any critical and significant audit findings released in reports during the prior month and the implementation status of audit recommendations as disclosed by our Follow-Up Audits. Accordingly, the results of this audit will be included in a future status report to the BOS.

As always, the Internal Audit Department is available to partner with your staff so that they can successfully implement or mitigate difficult audit recommendations. Please feel free to call me should you wish to discuss any aspect of our audit report. Additionally, we will request your department complete a **Customer Survey** of Audit Services. You will receive the survey shortly after the distribution of our final report.

ATTACHMENTS

Other recipients of this report are listed on the **OC Internal Auditor's Report** on page 7.

Table of Contents



AOC Special Request:
Review of Clerk-Recorder Fund 12D Revenue Sources,
Expenditures, and Related Accounting Practices
For the Two Years Ended June 30, 2012

Audit No. 1159-B

Transmittal Letter	i
OC Internal Auditor's Report	
OBJECTIVES	1
RESULTS	1
BACKGROUND	2
SUMMARY OF FINDINGS	4
SCOPE AND METHODOLOGY	6
SCOPE EXCLUSIONS	6
AUDITOR'S CONCLUSION	9
Detailed Results, Findings, Recommendations and Management Responses	
Finding No. 1 – Lack of Sufficient Supporting Records for Some of the Fund 12D Expenditures (Critical Control Weakness)	10
Finding No. 2 – Lack of Sufficient Supporting Records for Some of the Operating Transfers From Fund 12D to Fund 059 (Critical Control Weakness)	14
Finding No. 3 – Some of the Fund 12D Fee Revenue Incorrectly Recorded (Critical Control Weakness)	18
Finding No. 4 – Limited Oversight and Accountability Over Fund 12D (Critical Control Weakness)	24
Finding No. 5 – Reasonableness of Transferring Funds from the Clerk-Recorder's Office to the County General Fund in Net County Cost Contributions (Critical Control Weakness)	28
Finding No. 6 – Inadequate Accounting Support Staff (Critical Control Weakness)	29
Finding No. 7 – Inadequate Controls Over Setting and Changing Certain Fees (Critical Control Weakness)	31
Finding No. 8 – Limited Oversight Regarding Fund 12D Balance (Critical Control Weakness)	33
Finding No. 9 – Update Required to Ensure Certain Fees Charged Recover Actual Costs (Critical Control Weakness)	35
Finding No. 10 – Errors Noted in Certain Fees Charged (Critical Control Weakness)	37
Finding No. 11 – Incomplete Information Regarding the Use of Fund 12D Monies on Four (4) ASRs Submitted to BOS (Critical Control Weakness)	39
Finding No. 12 – Misclassification of Vital Record Fee Revenue Within Fund 059 (Critical Control Weakness)	40

Table of Contents



AOC Special Request:
*Review of Clerk-Recorder Fund 12D Revenue Sources,
Expenditures, and Related Accounting Practices*
For the Two Years Ended June 30, 2012
Audit No. 1159-B

Finding No. 13 – No Strategic Plan Prepared for Managing Fund 12D Monies (Significant Control Weakness)	41
Finding No. 14 – Errors Made in Reporting of Fund 12D Fees and Usage to the California Department of Public Health (Significant Control Weakness)	42
Finding No. 15 –Deposit of Annual Interest Earnings on Restricted Fund 12D Needs Re-evaluation (Significant Control Weakness)	44
Finding No. 16 – Inaccurate Cashiering System Cumulative Totals Due to System Limitation in Recording Cash Receipt Adjustments (Control Finding)	45
Finding No. 17 – Inaccurate Cashiering System Cumulative Totals Due to Inadequate Testing and Review of System Fixes (Control Finding)	46
Finding No. 18 – Misclassification of Some Revenue Transfers (Control Finding)	47
Finding No. 19 – Process Improvement Recommendation (Control Finding)	48
ATTACHMENT A: Report Item Classifications	50
ATTACHMENT B: Fund 12D Revenue by Sub-Fund	51
ATTACHMENT C: Fund 12D Operating and Revenue Transfers	52
ATTACHMENT D: Fund 12D Estimated Fund Balance by Sub-Fund	53
ATTACHMENT E: Fund 12D Fee Allocations	54
ATTACHMENT F: Fund 12D Pertinent California Statutes (Excerpts)	57
ATTACHMENT G: Clerk-Recorder Responses	61



Audit No. 1159-B

October 11, 2013

TO: Hugh Nguyen
Clerk-Recorder

FROM: Dr. Peter Hughes, CPA, Director
Internal Audit Department

SUBJECT: AOC Special Request: Review of Clerk-Recorder Fund 12D
Revenue Sources, Expenditures, and Related Accounting
Practices

Audit Highlight

Our audit found the former Clerk-Recorder's Office did not maintain sufficient supporting records for the Fund 12D expenditures, to the extent that the records were inadequate for the purpose of readily determining whether Fund 12D monies were expended in compliance with statutory requirements.

We identified **twelve (12) Critical Control Weaknesses, three (3) Significant Control Weaknesses, and four (4) Control Findings** with the overarching goal of establishing accountability and oversight over statutorily-restricted Fund 12D.

OBJECTIVES

This report is in response to an Audit Oversight Committee (AOC) request for the Internal Audit Department (IAD) to review the Clerk-Recorder's Special Revenue Fund 12D, as directed at its March 15, 2012 meeting. The objectives of our review were to:

1. Determine whether the acquisition of real property for about \$2.1 million located at 433 Civic Center Drive West in March 2008 was a permissible use of the Special Revenue Fund 12D monies.
2. Review selected Fund 12D transactions to gain an understanding of the revenue sources, expenditures, and related accounting practices.

Note: We initially expected this to be a quick turn-around audit. However, due to the numerous critical issues we initially identified in the former Clerk-Recorder Office's oversight and accounting for Fund 12D activities, we performed additional audit work to ensure the issues were fully understood, examined, and quickly remedied where possible. The additional audit work included development of meaningful and effective recommendations to assist the Clerk-Recorder's Office in addressing and correcting the critical and significant issues we found in its oversight and accounting for Fund 12D activities.

RESULTS

Objective No. 1: Determine whether the acquisition of real property for about \$2.1 million located at 433 Civic Center Drive West in March 2008 was a permissible use of the Special Revenue Fund 12D monies.

Results: Objective No. 1 was addressed in our audit report issued February 21, 2013, titled AOC Special Request #1159-A: Review of County's Purchase of Real Property Using Clerk-Recorder Special Revenue Fund 12D. Our report concluded that the purchase of the specified real property in March 2008 was a permissible use of the Special Revenue Fund 12D monies, as long as the property is used to store the appropriate records.



Objective No. 2: Review selected Fund 12D transactions to gain an understanding of the revenue sources, expenditures, and related accounting practices.

Results: We found inadequate oversight and accounting by the former Clerk-Recorder's Office for the statutorily-restricted Fund 12D. We found that the former Clerk-Recorder Office's supporting records for Fund 12D revenues were generally sufficient; however, the former Clerk-Recorder's Office did not maintain sufficient records to clearly and readily support the Fund 12D expenditures during FY 10-11 and FY 11-12.

We also found that internal controls and processes need to be established and/or greatly improved to ensure Fund 12D monies are properly charged and distributed, adequately accounted for, and expended only for the restricted purposes allowed by statute.

Our audit identified **twelve (12) Critical Control Weaknesses, three (3) Significant Control Weaknesses, and four (4) Control Findings.** A summary of the findings is shown below on pages 4-6. See further discussion in the *Detailed Results, Findings, Recommendations and Management Responses* section of this report. See *Attachment A* for a description of Report Item Classifications.

BACKGROUND

Fund 12D Revenue Sources and Restricted Uses:

The Clerk-Recorder's Office Fund 12D is a Special Revenue Fund containing monies that have a restricted purpose or use as specified by statute. The four (4) primary restricted revenue sources are recorded in the following Fund 12D "sub-funds" as shown below:

1. Enhancement Fund (\$7.2M revenue during FY 10-11 and FY 11-12): A \$1 fee per page of certain real property documents recorded by the Clerk-Recorder or a \$2 total fee for certain recorded releases of liens/notices executed by governmental entities. Restricted Use: "...solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents."
2. Micrographics Fund (\$1.7M revenue during FY 10-11 and FY 11-12): A \$1 fee per first page (i.e. per recording) of real property documents recorded by the Clerk-Recorder. Restricted Use: To defray the cost of converting the Clerk-Recorder's document storage system of recorded real property documents to micrographics.
3. Local Vital & Health Statistics Trust Fund (\$463K revenue during FY 10-11 and FY 11-12): A fee of \$3 per certified copy of a vital record (birth, death, marriage, and marriage dissolution). The Clerk-Recorder retains \$1.65 or 55% of the \$3 fee. Restricted Use: defraying the administrative costs of collecting the fees, improving and modernizing vital records systems, and improving the collection and analysis of birth and death certificate information and other related community health data.
4. Security Measures (\$97K revenue during FY 10-11 and FY 11-12): A fee of \$1 per certified copy of a birth, death, or marriage record. The Clerk-Recorder retains \$0.35 of the \$1 fee. Restricted Use: defraying the costs of the additional security features required by Health and Safety Code (HSC) §103526 and §103526.5 to protect against fraudulent use of birth, death, and marriage records.



Special Revenue Fund:

The purpose of a Special Revenue fund is to establish accountability over restricted monies to help ensure the monies are expended only for statutory purposes and to prevent unused restricted monies from flowing into the general fund at year-end, where they would become general purpose or unrestricted monies.

Overview of Accounting Processes for Fund 12D During the Audit Period:

- **Revenues:** Fees are charged, recorded, and distributed per the various statutory requirements via the Clerk-Recorder's Office automated cashiering system. Daily deposits are made to Fund 12D and the Clerk-Recorder's Office operating Fund 059 per the distributions programmed in the cashiering system. During the audit period, we found that the cashiering system was programmed such that some fees were incorrectly charged or distributed and some Fund 12D monies were incorrectly deposited to Fund 059. Fund 12D revenue incorrectly deposited to Fund 059 amounted to **\$2.72 million** during FY 10-11 and FY 11-12. Details of revenue collected during the audit period can be found at the Schedule of Fund 12D Revenue by Sub-Fund at Attachment B. (See Findings No. 1, No. 3, and No. 10)
- **Expenditures:** All Fund 12D expenditures were recorded and commingled in the Clerk-Recorder's Office operating Fund 059, with no account coding used to segregate or identify the Fund 12D restricted expenditures from the unrestricted expenditures. Periodically, an operating transfer is made from Fund 12D to reimburse Fund 059 for the Fund 12D expenditures. The operating transfers did not identify which of the four (4) primary Fund 12D revenue sources the monies were being drawn from. Additionally, no supporting documentation was prepared or retained for the restricted expenditures being reimbursed by the Fund 12D operating transfer. After months of working with key Clerk-Recorder's Office staff, they were unsuccessful at retroactively gathering sufficient documentation to clearly and readily support the Fund 12D expenditures. The operating transfers made from Fund 12D to Fund 059 amounted to **\$4.07 million** during FY 10-11 and FY 11-12. Details of transfers processed during the audit period can be found at the Schedule of Fund 12D Transfers by Sub-Fund at Appendix C. (See Findings No. 1 and No. 2)
- **Fund Balance:** The CAPS+ general ledger reports show Fund 12D balance in total, not by sub-fund. In order to track fund balance by "sub-fund," the Clerk-Recorder's Office maintains a manual spreadsheet to monitor revenue and expense activity and fund balance by "sub-fund." The manual schedule contained errors, did not accurately reflect fund balance by sub-fund, and was not reconciled to the general ledger. Fund 12D total balance per the general ledger report was approximately **\$14.8M** at 6/30/12. Using the Clerk-Recorder's Office manual tracking schedule showing fund balance per sub-fund at 6/30/08, we estimated the sub-fund balances based on our review of the general ledger revenue and operating transfer activity which can be found at the Schedule of Fund 12D Estimated Fund Balance by Sub-Fund at Attachment D. (See Finding No. 8)

Clerk-Recorder Succession:

It should be noted that during our audit period the former Clerk-Recorder was in office. The former Clerk-Recorder was elected to that position in 2002, and re-elected in 2006 and 2010. On December 3, 2012, the former Clerk-Recorder resigned from the position. On April 2, 2013, the Board of Supervisors appointed Hugh Nguyen as Clerk-Recorder.



SUMMARY OF FINDINGS

We identified **twelve (12) Critical Control Weaknesses**, **three (3) Significant Control Weaknesses**, and **four (4) Control Findings** with the overarching goal of establishing accountability and oversight over statutorily restricted Fund 12D.

The **twelve (12) critical control weaknesses** identified are:

1. Inadequate Supporting Documentation for Fund 12D Expenditures (Finding No. 1, page 10):
 - a) No accounting coding, job numbers, or allocation methodology used to identify or document the expenditure as Fund 12D vs. Fund 059.
 - b) As an alternative to job numbers, documentation (such as an invoice) did not include a description or enough specificity to indicate a direct nexus of the expenditure to the Fund 12D restricted use.
 - c) No methodology for allocating shared costs (such as IT staff) between the restricted and unrestricted purposes.
 - d) No written policy describing or clarifying which expenditures qualify for Fund 12D use.
2. Lack of sufficient supporting records for some of the **\$4.07 million** in operating transfers from Fund 12D to Fund 059 to support that the underlying expenditures were made in accordance with Fund 12D restrictions. (Finding No. 2, page 14)
3. Lack of sufficient documentation to clearly and readily support qualifying expenditures of **\$2.72 million** for Fund 12D revenue incorrectly recorded to Fund 059. \$1.3 million of the \$2.72 million was for Micrographics revenue. (Finding No. 3, page 18)

Based on our familiarity with the pertinent legal statutes and relevant County policies, and after working extensively over many months with the Clerk-Recorder's Office to explore potential allowable expenditure types, accounting and record-keeping practices, and allocation methodologies, the Clerk-Recorder's Office **should** be able to develop a reasonable methodology/basis to support Fund 12D usage during the audit period, subject to our follow-up audit.

The Clerk-Recorder's Office should implement the recommendations made in Findings No. 1 through No. 4 and then re-evaluate their records for the audit period to determine whether there are sufficient allowable expenditures to support the usage of Fund 12D monies, subject to our follow-up audit.

4. Limited oversight and accountability for Fund 12D, including a lack of understanding of the importance of controlling and accounting for restricted monies and a lack of written policy governing the Fund 12D activities. (Finding No. 4, page 24)
5. Reevaluation required to support the reasonableness of transferring excess net county cost (\$4.9 million in FY 10-11 and FY 11-12) from the Clerk-Recorder's Office to the County General Fund at year end (flows into fund balance unassigned). If any of these monies are restricted, any unused portion at year-end should not be transferred to the General Fund at year-end. (Finding No. 5, page 28)
6. Inadequate accounting resources/staff, including lack of an experienced management-level accounting staff. (Finding No. 6, page 29)
7. Inadequate controls over setting and changing fees charged to the public via the automated cashiering system. The Clerk-Recorder's Office needs to begin maintaining readily available authoritative documents to support the amount of fees charged and the allocation/distribution basis programmed in its cashiering system. They should also develop



a documented quality control/review process for fee changes made to its cashiering system, along with an adequate audit trail of the changes made. The **\$2.72 million** of Fund 12D revenue incorrectly recorded in Fund 059 (see Finding No. 3 above) was incorrectly distributed/programmed in the cashiering system. (Finding No. 7, page 31)

8. Limited oversight was exercised regarding 12D fund balances (over \$14.8 million at June 30, 2012). Specifically, a manual schedule of ending fund balances for each of the four (4) primary revenue sources/restricted uses (sub-funds) contained many clerical errors, did not adequately account for reserves, and was not reconciled with the general ledger. (Finding No. 8, page 33)
9. No recent cost study performed to ensure those fees charged to the public on a cost recovery basis are recovering actual costs. The most significant cost recovery based fee is the base fee for recording real property documents. Effective January 1, 2010, the Government Code changed the base fee from a fixed fee to a cost of services fee, up to a maximum. The Clerk-Recorder's Office has not performed a cost study to determine whether the base fee it charges is appropriate as a result for the law change. (Finding No. 9, page 35)
10. Errors of approximately \$97,000 in fees charged during FY 10-11 and FY 11-12 for the government lien release fee and map filing fee for additional pages. (Finding No. 10, page 37)
11. Incomplete information regarding the use of Fund 12D monies on four (4) Agenda Staff Reports (ASR) submitted to BOS for approval. All Clerk-Recorder's Office expenses are made from Fund 059. However, if the expense will be reimbursed from Fund 12D, the ASR for the contract/agreement should explain the underlying source is Fund 12D, not Fund 059. (Finding No. 11, page 39)
12. Misclassification of over \$1 million annually in vital records fee revenue within Fund 059. (Finding No. 12, page 40)

The **three (3) Significant Control Weaknesses** are:

13. No strategic plan prepared for managing the \$14.8 million balance of Fund 12D monies (at 6/30/12), along with \$5 million of annual Fund 12D revenues. (Finding No. 13, page 41)
14. Reporting of Fund 12D fees and usage to the California Department of Public Health contained numerous errors. For example, the ending fund balance for one year was different than the beginning fund balance of the following year. The difference was over \$1 million, but the amounts should have been the same. (Finding No. 14, page 42)
15. \$78,000 in estimated annual interest earnings on Fund 12D credited to the County General Fund rather than Fund 12D. The Clerk-Recorder's Office should seek a County Counsel opinion regarding the crediting of interest earnings. (Finding No. 15, page 44)

The **four (4) Control Findings** are:

16. Inaccurate cashiering system cumulative totals due to system limitations in recording cash receipt adjustments. Manual adjustments are made to deposit reports. (Finding No. 16, page 45)
17. Inaccurate cashiering system cumulative totals due to inadequate testing and review of system fixes made by the vendor. (Finding No. 17, page 46)



18. Misclassification of approximately \$150,000 in revenue transfers to HCA. The transactions reclassified revenue rather than recording the amounts as an operating transfer to HCA. (Finding No. 18, page 47)
19. Evaluate whether the \$1 per recording Micrographics fee and/or the \$1 per page Enhancement fee could be reduced or possibly discontinued. (Finding No. 19, page 48)

SCOPE AND METHODOLOGY

Our scope was limited to reviewing selected Fund 12D transactions for the two-year period ending June 30, 2012 to gain an understanding of the revenue sources, expenditures, and accounting and record-keeping procedures related to Fund 12D.

Our audit involved discussions with the former and current Clerk-Recorder and key staff and review of relevant documentation including pertinent legal codes, legal opinions, analysis performed by other California counties, and other pertinent documentation supporting the use of the restricted Fund 12D monies. Our methodology included inquiry, auditor observation of pertinent documentation, and discussions with County Counsel.

SCOPE EXCLUSIONS

This audit did not include a review of transactions recorded in the Clerk-Recorder's Office operating fund (Fund 059) other than those expenditures specifically provided to us as supporting Fund 12D usage. This audit also did not include a review of Clerk-Recorder's Office fees and distribution of fees other than those specifically related to Fund 12D revenues. This audit also did not include a review of bankruptcy repayments, Electronic Recording Delivery System (ERDS) reimbursements, or revenues reclassified to HCA.

Management's Responsibilities for Internal Controls

In accordance with the Auditor-Controller's County Accounting Manual Section S-2 Internal Control Systems:

"All County departments/agencies shall maintain effective internal control systems as an integral part of their management practices. This is **because management has primary responsibility for establishing and maintaining the internal control system**. All levels of management must be involved in assessing and strengthening internal controls. Control systems shall be continuously evaluated by Management and weaknesses, when detected, must be promptly corrected."

The criteria for evaluating an entity's internal control structure is the Committee of Sponsoring Organizations (COSO) control framework. **Our audit enhances and complements, but does not substitute for, the Clerk-Recorder's continuing emphasis on control activities and self-assessment of control risks.**

Inherent Limitations in Any System of Internal Control

Because of inherent limitations in any system of internal controls, errors or irregularities may nevertheless occur and not be detected. Specific examples of limitations include, but are not limited to, resource constraints, unintentional errors, management override, circumvention by collusion, and poor judgment. Also, projection of any evaluation of the internal controls to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or the degree of compliance with the procedures may deteriorate. Accordingly, our audit would not necessarily disclose all weaknesses in Clerk-Recorder's operating procedures, internal controls, accounting practices, and compliance with County policy.



ACKNOWLEDGMENT

We appreciate the courtesy extended to us by the new Clerk-Recorder, Hugh Nguyen, and his key personnel during the final stages of this audit. If we can be of further assistance, please contact me directly or Alan Marcum, Senior Audit Manager at 834-4119.

ATTACHMENTS

Distribution Pursuant to Audit Oversight Committee Procedure No. 1:

- Members, Board of Supervisors
- Members, Audit Oversight Committee
- Mike B. Giancola, County Executive Officer
- Mark Denny, Chief Operating Officer
- Frank Kim, Chief Financial Officer
- Dana Ohanesian, Accounting Manager, Clerk-Recorder
- Paul Lanning, Administrative Services Manager, Clerk-Recorder
- Jean Pasco, Director OC Archives, Clerk-Recorder
- Ann Fletcher, Supervising Deputy, County Counsel
- Foreperson, Grand Jury
- Susan Novak, Clerk of the Board of Supervisors
- Macias Gini & O'Connell, LLP, County External Auditor



Objective No. 2: Review selected Fund 12D transactions to gain an understanding of the revenue sources, expenditures, and related accounting practices.

AUDIT STEPS

To accomplish this objective, we performed the following audit steps:

- ✓ Held meetings with the former and current Clerk-Recorder and key staff to obtain an understanding of the revenue sources, expenditures, and restricted uses of Fund 12D monies and the related accounting practices used.
- ✓ Reviewed relevant legal codes, legal opinions, and analysis performed by other California County Clerk-Recorders, as provided by the Clerk-Recorder's Office, to gain a broader understanding of the California legal statute requirements.
- ✓ Held discussions with County Counsel staff and reviewed prior and current legal opinions to gain a legal perspective on the allowable uses of Fund 12D monies.
- ✓ Reviewed selected Fund 12D transactions, records, and other pertinent documentation provided by the Clerk-Recorder's Office to determine accountability and oversight for Fund 12D monies.
- ✓ Reviewed pertinent documentation supporting Fund 12D expenditures to determine compliance with restricted use pursuant to applicable laws and statutes.

DIFFICULTIES ENCOUNTERED WHEN PERFORMING THE AUDIT

- **Lack of Segregated Accounting for Fund 12D Sub-Accounts:**
The Clerk-Recorder's Office did not maintain separate accounting records for the sub-funds (Enhancement, Micrographics, Health Fund, and Security Measures) to ensure proper usage and auditability of monies, including the revenue, transfers out, costs allocated, and ending fund balances. Each of the Fund 12D sub-funds has a California Government Code mandated revenue source and restricted use that are different and should be separately accounted for. (Findings No. 1 and No. 2)
- **\$2.72 million of Fund 12D Revenues Recorded in Fund 059:**
Of the approximately \$10 million of Fund 12D fee revenue collected during the audit period for the two years ended 6/30/12 (\$4.97 million in FY 11/12 and \$4.96 million in FY 10/11), \$2.72 million of Fund 12D fee revenue was misallocated in the cashiering system, resulting in the revenue being deposited to the Clerk-Recorder's Office general operating Fund 059. The Clerk-Recorder's Office has taken appropriate steps to correct the misallocation in the cashiering system on a go-forward basis. (Findings No. 1 and No. 3)

Given the California Government Code restrictions, these monies may need to be returned to Fund 12D unless the Clerk-Recorder's Office could provide sufficient records to show that these monies were used to reimburse Fund 059 for Fund 12D qualifying expenditures. (Findings No. 1 and No. 2)



- **Fund 12D Commingled Expenses Commingled with Fund 059 Expenses**

The Clerk-Recorder's Office records all expenditures in their general operating fund (Fund 059), including expenditures related to Fund 12D. The Fund 12D expenditures are commingled with Fund 059 expenditures, with no account coding used to segregate or identify the Fund 12D restricted expenditures. Periodically, an operating transfer is made from Fund 12D to reimburse Fund 059 for the Fund 12D expenditures. The operating transfers did not identify which Fund 12D revenue source (of the four primary types) the monies were being drawn from. (Findings No. 1 and No. 2)

- **Inadequate Supporting Documentation for Expenditures:**

The Clerk-Recorder's Office was unable to readily provide sufficient supporting records for us to determine whether Fund 12D monies were used in compliance with the restricted purposes. (Finding No. 1 and No. 2)

At our request, the Clerk-Recorder's Office retroactively gathered and compiled documentation to support \$4.07 million in operating transfers out of Fund 12D made during the audit period (\$1.35 million in FY 10/11 and \$2.72 million in FY 11/12). The Clerk-Recorder's Office took several months to provide the requested documentation for our review.

Based on our review of this supporting documentation provided by the Clerk-Recorder's Office, we determined that the documentation consisted primarily of summary schedules of salary and benefit expenses (without any supporting detail), purchasing card expenditures, and copies of vendor invoices for various services and supplies expenditures.

We worked extensively over many months with the Clerk-Recorder's Office to explore potential qualifying expenditure types that might meet the restricted purpose of the Fund 12D. We provided our insights and our knowledge of County accounting policies and best practices to assist the Clerk-Recorder's Office in identifying sound accounting and record-keeping practices to establish internal control and accountability over Fund 12D monies. We further assisted the Clerk-Recorder's Office in exploring potential allocation methodologies for allocating shared costs.

AUDITOR'S CONCLUSION

Based on our review of selected Fund 12D transactions for the two years ended 6/30/12, the former Clerk-Recorder's Office did not maintain sufficient supporting records for the Fund 12D expenditures, to the extent that the records were inadequate for the purpose of clearly and readily determining whether Fund 12D monies were expended in compliance with statutory requirements.

However, the current Clerk-Recorder's Office, upon implementation of the recommendations included in this report and subsequent re-evaluation of their records, should be able to develop a reasonable methodology/basis to support Fund 12D usage during the audit period, subject to our follow-up audit.

Detailed Results, Findings, Recommendations and Management Responses



Finding No. 1 – Lack of Sufficient Supporting Records for Some of the Fund 12D Expenditures (Critical Control Weakness)

Summary

The Clerk-Recorder's Office did not maintain sufficient supporting records for the Fund 12D expenditures, to the extent that the records were inadequate for the purpose of clearly and readily determining whether approximately \$6.79 million of restricted Fund 12D monies were used for an allowable purpose in compliance with applicable legal statute. (See related Findings No. 2 and No. 3)

However, the Clerk-Recorder's Office, upon implementation of the recommendations included in this report and subsequent re-evaluation of their records, should be able to develop a reasonable methodology/basis to support Fund 12D usage during the audit period, subject to our follow-up audit.

Criteria

County of Orange Accounting Manual, Number S-2, *Internal Control Systems*, Policy states: "Management has primary responsibility for establishing and maintaining the internal control system."

County of Orange Accounting Manual, Number S-2, *Internal Control Systems*, Section 1.3.1, Internal Control, states: "Internal Control" is a process "designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- a) Effectiveness and efficiency of operations
- b) Reliability of financial reporting
- c) Compliance with applicable laws and regulations"

County of Orange Accounting Manual, Number S-2, *Internal Control Systems*, Section 3.3, Authorization, Execution, and Recording of Transactions, states:

"A system of authorization and record-keeping procedures is needed to provide effective accounting control over assets, liabilities, revenues, and expenditures.

- Independent evidence shall be maintained to document that authorizations are issued by persons acting within the scope of their authority and that transactions conform with the terms of the authorizations.
- Documentation shall provide an adequate audit trail.
- Transactions shall be accurate, timely, properly recorded, and properly classified.
- Computer system controls should be utilized to safeguard records and preserve data integrity."

Details

Clerk-Recorder's Office Fund 12D was established to account for and monitor restricted fees charged for the recording of real property documents and for providing copies of vital records. The use of these monies is restricted, as specified by applicable Government and Health & Safety Codes. These restricted revenues are recorded in Special Revenue Fund 12D to establish accountability over the fees and to help ensure the monies are used as intended.



The Clerk-Recorder's Office records all expenditures in their general operating fund (Fund 059), including expenditures related to Fund 12D restricted purposes. Operating transfers (journal vouchers) are periodically processed to transfer monies from Fund 12D to Fund 059 to cover Fund 12D-related expenditures. While this practice is not prohibited, the failures noted in a) through d) below made the records inadequate for the purpose of determining whether Fund 12D monies were expended in compliance with statutory requirements:

a) Expenditures Not Identified as Fund 12D When Made

Clerk-Recorder's Office did not have procedures in place to identify which expenditures were related to Fund 12D at the time the expenditure is made. Since all Clerk-Recorder's Office expenditures are commingled in the operating Fund 059, allowable expenditures should be identified as Fund 12D at the time of payment, not retroactively. See further details at Finding No. 2.

Services, Supplies, and Capital Assets: To properly account for Fund 12D related expenditures, services, supplies, and capital asset expenditures should be coded and recorded as direct expenditures to Fund 12D rather than the operating Fund 059.

Alternatively, job numbers could be applied to the expenditures and periodic reports could be generated to support an operating transfer out. Supporting documentation should clearly identify the purpose of the expenditure and how it relates to the restricted uses of Fund 12D (see b) below).

Salaries & Benefits: Expenditures for salaries and benefits will likely continue to be budgeted and recorded directly in Fund 059; therefore, the costs should be allocated to Fund 12D in a systematic and rational manner that can be audited. To properly account for Fund 12D expenditures for salaries and benefits, the Clerk-Recorder's Office could implement VTI/Job Costing to allocate staff salaries and benefits to Fund 12D in accordance with a documented allocation methodology.

Alternatively, the Clerk-Recorder's Office could perform a formal time study of staff time spent on Fund 12D related activities and develop a formal justification and methodology for allocating and documenting the salary and benefit expenditures to the Fund 12D sub-funds (see c) below).

Recommendation No. 1.a: We recommend the Clerk-Recorder develop a methodology, such as job costing or time study, for identifying expenditures as Fund 12D at the time the expenditures are made that would provide for costs to be allocated in a systematic and rational manner that can be audited.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder has developed a methodology for identifying qualifying expenditures for each Fund 12D special revenue category, based on the percentage of 12D qualifying activities/transactions to overall Department activities/transactions. Applying this methodology to Department expenditures, and using any additional qualifying expenses identified by the cost allocation study, the Department believes that it can support a significant portion of the operating transfers from 12D.



The Department also created a Policy & Procedure which established guidelines for developing these methodologies, and it provides specific instructions for calculating annual reimbursement percentages from 12D for qualifying expenses.

In addition, the Clerk-Recorder has created job numbers for each special revenue category within Fund 12D. These job numbers will be used to code labor hours on employees' timesheets when they work on 12D qualifying activities. Job numbers will also be used to code invoices for qualifying 12D expenditures.

The Department has developed the recommended methodology and is implementing the actions described in this recommendation in consultation with County Counsel.

b) Compliance with 12D Usage Requirements Not Clearly Documented

Clerk-Recorder's Office was unable to provide sufficient documentation to support the operating transfers made during the audit period to clearly indicate the purpose and how the underlying expenditures specifically complied with Fund 12D usage requirements. In other words, the documentation did not demonstrate a clear connection to the Fund 12D – Enhancement sub-fund allowed uses. For example:

- Some invoices had descriptions indicating a purpose without a clear connection to the allowed uses, such as credit card fees.
- Some invoices did not have enough specificity to clearly determine whether or not there was a purpose that would comply with usage requirements, such as a server or printer without further explanation.

Documentation should sufficiently identify the purpose or use of the expenditure and how it relates to the specific use requirements of the Fund 12D sub-fund, especially when the expenditures are made out of Fund 059 and are commingled with general operating expenses. See further details at Finding No. 2.

Recommendation No. 1.b: We recommend the Clerk-Recorder clearly document on the invoice the purpose and how the expense specifically complies with the Fund 12D usage requirements.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder will document the following information on all invoices that qualify as special revenue expenses: the corresponding special revenue job number, a description of the expense, and how the expense meets the usage requirements. These activities and procedures have been incorporated into a Department Policy & Procedure which is currently being implemented by accounting staff.

c) No Documented Methodology for Allocating Shared Costs

Clerk-Recorder's Office did not have a documented methodology for allocating shared costs to Fund 12D. In some instances, 100% of certain expenditure types were allocated to Fund 12D, whereas a more appropriate allocation method would be that only a percentage of the expenditures would be allowable.



For example, 100% of IT staff salaries/benefits were allocated to the 12D Enhancement sub-fund (related to Recorder's duties/systems). It would appear that some of the IT salaries/benefits are related to the Clerk's systems/duties (vital records, fictitious business name, etc.) that are not allowed uses of Fund 12D Enhancement, which is specific to recorded real property documents establishing ownership.

For any shared costs between operating Fund 059 and Fund 12D, the Clerk-Recorder's Office should develop and document a formal methodology for allocating the costs between Fund 059 and Fund 12D in a systematic and rational manner that can be audited. See further details at Findings No. 2 and No. 4.

Recommendation No. 1.c: We recommend the Clerk-Recorder develop and document a formal methodology for allocating shared costs between the operating Fund 059 and Fund 12D in a systematic and rational manner that can be audited.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder has developed two formal documents that will help the Department accurately charge expenses that are shared between Fund 059 and Fund 12D. These documents are the "12D Modernization Reimbursement Methodology Worksheet" and the "Special Revenue Allowable Uses and Expenditures List." The "12D Modernization Reimbursement Methodology Worksheet" identifies the allocation percentage of Fund 12D qualifying expenses/activities. The "Special Revenue Allowable Uses and Expenditures List" lists specific qualifying expenditures for each special revenue category.

The Department will use these documents, as well as recommendations from a pending cost allocation study, to support use of the 12D operating transfers and other special revenue funds.

d) No Documented Policy for the Determination of Qualifying Fund 12D Expenditures

Clerk-Recorder's Office did not have a written policy for the determination of Fund 12D qualifying expenditures and allowed uses. Without clearly defined criteria for what is an allowable Fund 12D expense, we were unable to determine which expenditures were allowable uses of Fund 12D monies.

Since each of the four primary Fund 12D revenue sources has a specifically restricted use pursuant to the applicable legal statute, the Clerk-Recorder's Office should have clearly defined policy and procedures for determining the allowable usage and qualifying expenditures for each "sub-fund." The policy should include directions or examples of allowed versus not allowed uses. See further details and related recommendation at Finding No. 4.

Recommendation No. 1.d: We recommend that the Clerk-Recorder develop clearly defined policy and procedures for determining allowable usage of Fund 12D monies, including a methodology for allocating 12D qualifying expenses that is supportable and auditable, and consider consulting with County Counsel in determining what are qualifying expenditures for 12D.



Clerk-Recorder Management Response:

Concur

The Clerk-Recorder has developed a Policy & Procedure which includes procedures for identifying allowable expenditures (and usage) of special revenue monies. The P&P also includes a methodology for allocating shared qualifying special revenue expenses as well as procedures for accounting, auditing and documenting 12D expenditures and transfers. The Department will also incorporate recommendations from a pending cost allocation study to identify all allowable 12D expenditures, and thus may be able to develop a basis to support the majority of 12D funds used during the audit period.

The Department has developed the recommended Policies and Procedures and is implementing the actions described in this recommendation in consultation with County Counsel.

Finding No. 2 – Lack of Sufficient Supporting Records for Some of the Operating Transfers From Fund 12D to Fund 059 (Critical Control Weakness)

Summary

The Clerk-Recorder's Office did not maintain sufficient supporting records for the Fund 12D expenditures underlying approximately \$4.07 million in operating transfers made during the audit period from Fund 12D to Fund 059, to the extent that the records were inadequate for the purpose of readily determining whether Fund 12D monies were expended in compliance with statutory requirements.

In addition, documentation supporting the operating transfers was inadequate and did not comply with County policy.

However, the Clerk-Recorder's Office, upon implementation of the recommendations included in this report and subsequent re-evaluation of their records, should be able to develop a reasonable methodology/basis to support Fund 12D usage during the audit period, subject to our follow-up audit.

Criteria

County of Orange Accounting Manual, Number J-3, *Journal Voucher Preparation and Review*, Section 2.2, Preparation of Journal Voucher Form, states:

"It is the responsibility of the department/agency staff preparing and authorizing the Journal Voucher to insure that the transaction being recorded is:

- Legal
- Budgeted
- Adequately supported by auditable documentation"

"The Journal Voucher form must be filled out completely and ...a detailed description of the purpose of the Journal Voucher must be included in the 'Explanation' section of the form."

"Back-up documentation must be attached to the Journal Voucher to support the amounts included on the form. If the documentation is too voluminous, a reference must be included in the 'Explanation' section indicating that back-up for the Journal Voucher is available at the preparing department and referencing the files containing the documentation."

Detailed Results, Findings, Recommendations and Management Responses



Details

The Clerk-Recorder's Office records all expenditures in their operating Fund 059, including expenditures related to Fund 12D restricted purposes. Operating transfers are periodically processed to transfer monies from Fund 12D to Fund 059 to reimburse the operating fund for Fund 12D-related expenditures.

The Clerk-Recorder's Office processed operating transfers of \$1.35 million in FY 10/11 and approximately \$2.72 million in FY 11/12.

Fund 12D Sub-Fund	FY 10/11	FY 11/12	Total
Enhancement Sub-Fund	\$1,350,000	\$2,719,939	\$4,069,939
Totals	\$1,350,000	\$2,719,939	\$4,069,939

Original Documentation:

Documentation supporting the use of the above operating transfers and how they complied with the restricted purpose of Fund 12D was not readily available. The operating transfer journal vouchers (JVs) submitted to the Auditor-Controller's Office for processing had no or inadequate supporting documentation:

- No summary or detailed schedules were prepared to identify the expenditures being reimbursed;
- If the supporting documentation was maintained in the Clerk-Recorder's Office, the JV did not reference this;
- The JV did not indicate which Fund 12D "Sub-Fund" the monies were being deducted from. However, Clerk-Recorder's Office informed us that the total amount of \$4.07 million in operating transfers processed during the audit period was intended to come from the Fund 12D Enhancement Sub-Fund.

Supporting Documentation Requested:

It is important to note that the Clerk-Recorder's Office was not able to validate or substantiate the expenditures of Fund 12D with sufficient supporting records upon the initiation of our audit. At our request, the Clerk-Recorder's Office retroactively compiled documentation for our review. As such, the Clerk-Recorder's Office worked to construct the support in the course of our audit. The Clerk-Recorder's Office took several months to provide the requested documentation.

Based on our review of initial supporting documentation provided by the Clerk-Recorder's Office, we determined the documentation consisted primarily of vendor invoice copies for services and supplies and the following summary schedules, with no supporting detail:

- Salary and benefit summary schedules;
- Purchasing Card expenditures (primarily summary schedules with no support);
- Merchant Fees summary schedules.

Detailed Results, Findings, Recommendations and Management Responses



We reviewed the supporting documentation provided to determine the description and purpose of the expenditure. We scheduled out the expenditure by category type based on the limited information provided. Based on our review, we made the following observations:

- a. Initials and date of the preparer and reviewer were not documented on the schedules supporting Fund 12D expenditures. The documentation should contain evidence of who prepared the supporting documentation and that it was reviewed for accuracy, completeness, and compliance with the restricted purposes of Fund 12D.
- b. The dollar amount of the support did not match the JV amount. The support generally exceeded the amount of the JV. These amounts should agree.
- c. Some invoices had descriptions indicating a purpose that may comply with the Fund 12D – Enhancement sub-fund requirements. However, the Clerk-Recorder’s Office does not have a documented policy for determining allowable uses of Fund 12D monies (see Findings No. 1 and No. 4).
- d. Some invoices had descriptions indicating a purpose that was a less clear connection to the Fund 12D – Enhancement allowed uses (such as credit card fees).
- e. Some invoices did not have enough specificity to determine whether or not there was a purpose that would comply with Fund 12D – Enhancement requirements (such as a server or printer without further explanation).
- f. In some instances, 100% of certain expenditure types were allocated to Fund 12D, whereas a more reasonable expectation would be that only a percentage of the expenditure would be allowable. The Clerk-Recorder’s Office needs to develop a methodology for allocating shared costs (see Finding No. 1 and No. 4).
- g. In some instances, there was inconsistency between the fiscal years as to the types of costs allocated to Fund 12D – Enhancement (such as building rent and Xerox leases in FY 11/12 only).
- h. In some instances, some of the expenditures applied to the Fund 12D – Enhancement Sub-Fund were not for recorded real property documents and therefore, not allowed uses of Fund 12D – Enhancement (such as costs to convert death and marriage records to digital format, hotel, airfare, cell phones, monument signage).
- i. Some of the costs allocated in FY 11/12 were for encumbrances. Only actual costs should be allocated to Fund 12D.

We worked extensively over many months with the Clerk-Recorder’s Office to explore potential qualifying expenditure types that might meet the restricted purpose of the Fund 12D. We provided our insights and our knowledge of County accounting policies and best practices to assist the Clerk-Recorder’s Office in identifying sound accounting and record-keeping practices to establish internal control and accountability over Fund 12D monies. We further assisted the Clerk-Recorder’s Office in exploring potential allocation methodologies for allocating shared costs.

Much of the additional expenditure information provided by the Clerk-Recorder’s Office was not supported by actual invoices. Additionally, the assumptions made in determining allocation percentages and methodologies for allocating shared costs to Fund 12D were based on the “best estimate” of the Clerk-Recorder’s Office and were not supported by any auditable justification or documentation.

Detailed Results, Findings, Recommendations and Management Responses



Due to the issues noted in Finding No. 1, and the reasons noted above, the Clerk-Recorder's Office did not maintain sufficient supporting records for the Fund 12D underlying expenditures, to the extent that the records were inadequate for the purpose of readily determining whether Fund 12D monies were expended in compliance with statutory requirements.

However, based on our familiarity with the pertinent legal statutes and relevant County policies, and after working extensively over many months with the Clerk-Recorder's Office to explore potential allowable expenditure types, accounting and record-keeping practices, and allocation methodologies, the Clerk-Recorder's Office should be able to develop a reasonable methodology/basis to support Fund 12D usage during the audit period, subject to our follow-up audit.

The Clerk-Recorder's Office should implement the recommendations made in Findings No. 1 through No. 4 and then re-evaluate their records for the audit period to determine whether there are sufficient allowable expenditures to support the usage of Fund 12D monies, subject to our follow-up audit.

In addition, the Clerk-Recorder's Office should ensure that documentation supporting Fund 12D operating transfers: 1) clearly identifies the sub-fund where the monies are coming from; 2) is complete and accurate and agrees to the JV total; 3) includes the initial/date of both the preparer and reviewer; and 4) clearly indicates how the expenditure complies with the Fund 12D restricted usage.

Recommendation No. 2.a: We recommend that the Clerk-Recorder implement the recommendations made in Findings No. 1 through No. 4 and then re-evaluate their records for the audit period to determine whether there are sufficient allowable expenditures to support the usage of Fund 12D monies underlying \$4.07 million in operating transfers made in FY 10/11 and FY 11/12, subject to our follow-up audit.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder is in the process of implementing recommendations in Findings No. 1 through No. 4, and staff is currently reviewing accounting records, identifying qualifying expenditures, and will apply recommendations from a cost allocation study to determine if there were sufficient allowable expenditures to support operating transfers in the amount of \$4.07 million from Fund 12D to Fund 059 during FY 10/11 and FY 11/12.

Recommendation No. 2.b: We recommended that the Clerk-Recorder ensure supporting documentation for Fund 12D operating transfers: 1) clearly identifies the sub-fund where the monies are coming from; 2) is complete and accurate and agrees to the JV total; 3) includes the initial/date of both the preparer and reviewer; and 4) clearly indicates how the expenditure complies with the Fund 12D restricted usage.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder will ensure all supporting documentation for Fund 12D transfers include the specific "sub-fund" from which expenses are being paid; that the transfer amount matches the supporting documentation amount; fund transfers include the name and date of the preparer and reviewer, and an explanation or comment of how the expenditures comply with special revenue use restrictions.

Detailed Results, Findings, Recommendations and Management Responses



Recommendation No. 2.c: We recommended that the Clerk-Recorder consult with County Counsel to determine whether it is necessary to retroactively evaluate the adequacy of documentation to support Fund 12D operating transfers made prior to the audit period.

Clerk-Recorder Management Response:

Concur

The Department is implementing the actions described in this recommendation in consultation with County Counsel.

Finding No. 3 – Some of the Fund 12D Fee Revenue Incorrectly Recorded (Critical Control Weakness)

Summary

The Clerk-Recorder's Office Cashiering System was programmed incorrectly resulting in the incorrect recording of approximately \$2.72 million of restricted Fund 12D fee revenue directly to operating Fund 059 during FY 10/11 & FY 11/12.

Due to the issues noted in Findings No. 1 and No. 2, the Clerk-Recorder's Office did not maintain sufficient supporting records for the Fund 12D expenditures, to the extent that the records were inadequate for the purpose of determining whether Fund 12D monies were expended in compliance with statutory requirements.

However, based on our familiarity with the pertinent legal statutes and relevant County policies, and after working extensively over many months with the Clerk-Recorder's Office to explore potential allowable expenditure types, accounting and record-keeping practices, and allocation methodologies, the Clerk-Recorder's Office should be able to develop a reasonable methodology/basis to support Fund 059 usage.

However, the Clerk-Recorder's Office may not have enough allowable expenditures to support all of the Micrographics and Security Measures Sub-Fund monies incorrectly recorded directly to Fund 059 during the audit period.

The Clerk-Recorder's Office should implement the recommendations made in Findings No. 1 through No. 4 and then re-evaluate their records for the audit period to determine whether there are sufficient allowable expenditures to support the usage of Fund 12D monies, subject to our follow-up audit. If it is determined after our follow-up audit there is insufficient allowable expenditures to support Fund 12D monies incorrectly recorded directly to operating Fund 059 in FY 10/11 and FY 11/12, the unsupported amount may need to be returned to Fund 12D; accordingly, we recommend the Clerk-Recorder's Office seek guidance from County Counsel.

Criteria

Government Accounting Standards Board (GASB) Statement 54, Fund Balance Reporting and Governmental Fund Type Definitions, defines Special Revenue Funds as "used to account for and report the proceeds of specific revenue resources that are restricted or committed to expenditure for specified purposes..."



GASB 54 further states: “Those specific restricted or committed revenues may be initially received in another fund and subsequently distributed to a special revenue fund. Those amounts should not be recognized as revenue in the fund initially receiving them; however, those inflows should be recognized as revenue in the special revenue fund in which they will be expended in accordance with specified purposes.”

In other words, if the fee revenue is initially received in another fund (such as Fund 059, a general fund), the revenue would need to be subsequently transferred to Fund 12D to properly account for the fee revenue in the special revenue fund to comply with GASB. The fee revenue would need to be monitored and quantified, and an operating transfer from Fund 059 to Fund 12D would be necessary to properly transfer the revenue back to Fund 12D. Those transfers were not done during the two years ended 6/30/12; therefore, the fee revenue was recognized in the general fund, not special revenue.

Details

The Clerk-Recorder’s Office collects fees for recording documents and for providing copies of vital records. A portion of fees charged for each recorded document and for copies of vital records are to be used for restricted purposes, as specified by applicable Government and Health & Safety Codes. Fees that have a restricted purpose or use as specified by statute should be recorded in a Special Revenue Fund to establish accountability and to help ensure the monies are monitored and used as intended. See Attachments for Schedule of the Fee Distribution and applicable California Codes.

Fee Revenue Incorrectly Recorded to the Clerk-Recorder’s Office Operating Fund (Fund 059)

The Clerk-Recorder’s Office Cashiering System was programmed incorrectly to record certain recording fees and vital record copy fees directly to the Clerk-Recorder’s Office operating Fund 059 instead of to the appropriate Fund 12D Sub-Fund.

The following incorrect fee code allocation was identified and corrected by the Clerk-Recorder’s Office prior to the audit period:

1. Beginning sometime in FY 98/99, the Clerk-Recorder’s Office stopped recording the \$1 per filing fee (Fee Code 24) to the Fund 12D - Micrographics Sub-Fund (pursuant to GC 27361.4(a)) and the \$1 per first page fee to the Fund 12D - Enhancement Sub-Fund (pursuant to GC 27361(c)) and instead incorrectly recorded those fees to Fund 059. The Cashiering System Fee Distribution was reprogrammed in September 2011 to begin properly recording these fees to Fund 12D - Micrographics Sub-Fund (9/16/11) and to Fund 12D - Enhancement Sub-Fund (9/19/11).

The following incorrect fee code allocations were identified during the audit. We validated that these fee code allocations were corrected by the Clerk-Recorder’s Office during the audit:

2. Beginning in March 2009 (Fee Code 64), the Clerk-Recorder’s Office did not record \$1 per filing fee to the Fund 12D - Micrographics Sub-Fund (pursuant to GC 27361.4(a)) and the \$1 per first page fee to the Fund 12D - Enhancement Sub-Fund (pursuant to GC 27361(c)) and instead incorrectly recorded those fees to Fund 059. The Cashiering System Fee Distribution was reprogrammed on September 25, 2012 to begin properly recording these fees to Fund 12D - Micrographics Sub-Fund and to Fund 12D - Enhancement Sub-Fund.

Detailed Results, Findings, Recommendations and Management Responses



3. Beginning prior to FY 02/03, \$1 of the \$7 Maps Filing Fee - First Page (Fee Code 05) was incorrectly recorded to Fund 059 and should have been recorded to the Fund 12D - Micrographics Sub-Fund (pursuant to GC 27361.4(a)). The Cashiering System Fee Distribution was reprogrammed on September 25, 2012 to begin properly recording the \$1 fee to the Fund 12D - Micrographics Sub-Fund.
4. Beginning prior to 1/1/98, two dollars (\$2) of the \$8 Government Lien Release Fee (Fee Code 03) was incorrectly recorded to Fund 059 and should have been recorded in the Fund 12D - Enhancement Sub-Fund (pursuant to GC 27361.3). The Cashiering System Fee Distribution was reprogrammed on 9/25/12 to begin properly recording the fee to the Fund 12D - Enhancement Sub-Fund. However, the allocation was changed in error on 11/16/12 back to Fund 059. The Cashiering System Fee Distribution was revised on 1/28/13 to properly record the \$2 to the Fund 12D - Enhancement Sub-Fund.
5. Beginning prior to FY 02/03, the \$3 Non-Standard Document Fee (Fee Code 30) was incorrectly recorded to Fund 059 and should have been recorded to Fund 12D - Enhancement Sub-Fund, (pursuant to GC 27361(a)(2)). The Cashiering System Fee Distribution was reprogrammed on 9/25/12 to begin properly recording this fee to the Enhancement Sub-Fund.
6. Beginning 1/1/10, the \$0.35 fee for marriage record certified copies and searches (Fee Codes 105, 107, 111, 144, 147) was incorrectly recorded to Fund 059 and should have been recorded to Fund 12D - Security Measures Sub-Fund (pursuant to HSC 103525.5). The Cashiering System Fee Distribution was reprogrammed in October 2012 to begin properly recording these fees to the Fund 12D - Security Measures Sub-Fund.

During the audit period of FY 10/11 and FY 11/12, we estimated the following Fund 12D fee revenue was incorrectly recorded directly to Fund 059 instead of the appropriate Fund 12D Sub-Fund:

FY 10/11

Fee Code/Description	Enhancement	Micrographics	Security Measures	FY 10/11 Total
Recording Fees:				
#64 Real Estate Fraud Recording	\$473,034	\$473,034		\$946,068
#24 Recording Fees (1 st Page)	\$246,332	\$246,332		\$492,664
#03 Government Lien Release	\$44,906			\$44,906
#30 Non-Standard Document Recording	\$21,060			\$21,060
#05 Maps Filing Fees (1 st Page)		\$292		\$292
Vital Records Fees:				
#105 Marriage Certified Copy-Regular			\$14,068	\$14,068
#107 Marriage Certified Copy-Government			\$8	\$8
#111 No Record of Marriage			\$321	\$321
#147 Marriage Record Search-Regular			\$69	\$69
FY 10/11 Totals	\$785,332	\$719,658	\$14,466	\$1,519,456

Detailed Results, Findings, Recommendations and Management Responses



FY 11/12

Fee Code/Description	Enhancement	Micrographics	Security Measures	FY 11/12 Total
Recording Fees:				
#64 Real Estate Fraud Recording	\$509,158	\$509,158		\$1,018,316
#24 Recording Fees (1 st Page)	\$49,116	\$49,116		\$98,232
#03 Government Lien Release	\$50,864			\$50,864
#30 Non-Standard Document Recording	\$14,511			\$14,511
#05 Maps Filing Fees (1 st Page)		\$270		\$270
Vital Records Fees:				
#105 Marriage Certified Copy-Regular			\$14,894	\$14,894
#107 Marriage Certified Copy-Government			\$5	\$5
#111 No Record of Marriage			\$312	\$312
#144 Marriage Record Search-Government			\$1	\$1
#147 Marriage Record Search-Regular			\$55	\$55
FY 11/12 Totals	\$623,649	\$558,544	\$15,267	\$1,197,460

Since the above Fund 12D fee revenue was incorrectly recorded in Fund 059 during the audit period, Fund 12D revenue was understated by approximately \$2.72 million (\$1.52 million in FY 10/11 and \$1.2 million in FY 11/12). Therefore, some fee revenue may need to be returned to Fund 12D if sufficient allowable expenditures cannot be identified to support the usage of Fund 12D monies in compliance with legal restrictions. We recommend that the Clerk-Recorder's Office seek guidance from County Counsel.

Due to the issues noted in Findings No. 1 and No. 2, the Clerk-Recorder's Office did not maintain sufficient supporting records for the Fund 12D expenditures made from operating Fund 059, to the extent that the records were inadequate for the purpose of determining whether Fund 12D monies were expended in compliance with statutory requirements.

However, based on our familiarity with the pertinent legal statutes and relevant County policies, and after working extensively over many months with the Clerk-Recorder's Office to explore potential allowable expenditure types, accounting and record-keeping practices, and allocation methodologies, the Clerk-Recorder's Office should be able to develop a reasonable methodology/basis to support the majority of the approximately \$1.4 million in Enhancement Sub-Fund monies incorrectly recorded to Fund 059 (\$785,332 in FY 10/11 and \$623,649 in FY 11/12).

However, the Clerk-Recorder's Office may not have enough allowable expenditures to support all of the Micrographics Sub-Fund monies (\$719,658 in FY 10/11 and \$558,544 in FY 11/12) or over \$29,000 in Security Measures Sub-Fund monies (\$14,466 in FY 10/11 and \$15,267 in FY 11/12) incorrectly recorded directly to Fund 059 during the audit period.

The Clerk-Recorder's Office should implement the recommendations made in Findings No. 1 through No. 4 and then re-evaluate their records for the audit period to determine whether there are sufficient allowable expenditures to support the usage of Fund 12D monies, subject to our follow-up audit. If it is determined after our follow-up audit there is insufficient allowable expenditures to support the \$2.72 million Fund 12D monies incorrectly recorded directly to operating Fund 059 in FY 10/11 and FY 11/12, the unsupported amount may need to be returned to Fund 12D; accordingly, we recommend the Clerk-Recorder's Office seek guidance from County Counsel.



Recommendation No. 3.a: We recommend that the Clerk-Recorder implement the recommendations made in Findings No. 1 through No. 4 and then re-evaluate their records for the audit period to determine whether there are sufficient allowable expenditures to support the usage of \$2.72 million Fund 12D monies incorrectly recorded directly to operating Fund 059 in FY 10/11 and FY 11/12, subject to our follow-up audit. If it is determined after our follow-up audit there is insufficient allowable expenditures to support the \$2.72 million Fund 12D usage, the unsupported amount may need to be returned to Fund 12D; accordingly, we recommend that Clerk-Recorder seek guidance from Orange County County Counsel.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder is in the process of implementing recommendations in Findings No. 1 through No. 4, and staff is currently reviewing records to determine if there were sufficient allowable expenditures to cover the amount of special revenue money improperly deposited directly into Fund 059 during FY 10/11 and FY 11/12. The Department has developed a reasonable methodology for identifying qualifying 12D expenditures, and it is hiring a consultant to conduct a cost allocation study, which may support the majority of the 12D monies recorded directly in Fund 059. However, if there were not enough allowable expenditures during those fiscal years to cover those special revenue amounts, the Clerk-Recorder will consult County Counsel as to whether that money needs to be reimbursed to Fund 12D.

The Department is implementing the actions described in this recommendation in consultation with County Counsel.

Recommendation No. 3.b: We recommend that the Clerk-Recorder determine the amount of fee revenue incorrectly recorded for the period subsequent to our audit period through the date of correction, and make the necessary adjustments to record the fee revenue in the appropriate Fund 12D – sub-fund.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder is currently reviewing records to determine the amount of special revenue monies incorrectly deposited directly into Fund 059 after the audit period until the situation was corrected in September 2012 (July 1, 2012 until September 25, 2012). If there are insufficient allowable expenses to cover the amount of funds incorrectly deposited in Fund 059, after applying a reasonable qualifying expense methodology and recommendations from the cost allocation study, those monies will be reimbursed to the appropriate Fund 12D sub-funds.

Recommendation No. 3.c: We recommend that the Clerk-Recorder consult with County Counsel to determine whether it is necessary to quantify the amount of fee revenue incorrectly recorded to Fund 059 for periods prior to the audit period, and whether a portion or all of those monies should be returned to Fund 12D.

Clerk-Recorder Management Response:

Concur

The Department is implementing the actions described in this recommendation in consultation with County Counsel.

Detailed Results, Findings, Recommendations and Management Responses



Fee Revenue Incorrectly Recorded to Fund 12D - Health Sub-Fund

Beginning 1/1/03, the \$0.65 per copy fee of certified birth & death records (pursuant to HSC 103525.5) restricted for the use of Security Measures was incorrectly recorded in the Fund 12D - Health Sub-Fund, which is restricted for a different purpose. Effective 1/1/06, the fee was reduced to \$0.35 per copy. In October 2012, the Clerk-Recorder's Office created a new Fund 12D sub-fund to properly account for Security Measures fees.

During our audit period of FY 10/11 and FY 11/12, we estimated the following fees were incorrectly recorded to the Health Sub-Fund instead of the Security Measures Sub-Fund:

Fee Code/Description	Incorrectly Recorded to Health Sub-Fund instead of Security Measures Sub-Fund		
	FY 10/11	FY 11/12	Total
Vital Records Fees:			
#103 Birth Certified Copy-Regular	\$29,391	\$28,776	\$58,167
#104 Birth Certified Copy-Government	\$443	\$356	\$799
#106 Birth Record Search-Government	\$12	\$6	\$18
#108 Death Certified Copy-Regular	\$3,588	\$4,006	\$7,594
#109 Death Certified Copy-Government	\$19	\$14	\$33
#141 Birth Certificate of No Record	\$174	\$125	\$299
#142 Death Certificate of No Record	\$97	\$92	\$189
#143 Death Record Search-Government	\$1	\$2	\$3
#145 Birth Record Search-Regular	\$0	\$2	\$2
#146 Death Record Search-Regular	\$3	\$2	\$5
Totals	\$33,728	\$33,381	\$67,109

The Clerk-Recorder's Office should make the necessary adjustment to transfer a total of \$67,109 (\$33,728 for FY 10/11 and \$33,381 for FY 11/12) from the Health Sub-Fund to the Security Measures Sub-Fund to ensure the monies are appropriately accounted for and used for the intended purpose.

We verified that the Clerk-Recorder's Office has made the necessary programming changes to the Cashiering System Fee Distribution to correctly allocate the fees to the appropriate 12D Sub-Fund on a go-forward basis. The Clerk-Recorder's Office should ensure that the Fee Distribution is maintained in the future to correctly allocate fees to the appropriate fund account in accordance with Government Code specified use. (See Finding No. 7)

Recommendation No. 3.d: We recommend the Clerk-Recorder transfer fee revenue of \$67,109 (\$33,728 for FY 10/11 and \$33,381 for FY 11/12) from the Fund 12D - Health Sub-Fund to the Fund 12D - Security Measures Sub-Fund.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder is in the process of transferring \$67,109 from Fund 12D Health Statistics sub-fund to Fund 12D Security Measures sub-fund.



Recommendation No. 3.e: We recommend the Clerk-Recorder determine the amount of Fund 12D fees incorrectly recorded prior to the audit period, from the time of inception 1/1/03, through 6/30/2010, and subsequent to the audit period and make the necessary adjustments to record the fee revenue in the Fund 12D –Security Measures Sub-Fund.

Clerk-Recorder Management Response:

Concur

The Department is conducting and implementing the actions described in this recommendation in consultation with County Counsel.

The Department is in the process of determining the amount of Security Measures fees incorrectly recorded to the Health Statistics sub-fund after FY 11/12 until the problem was corrected in September 2012. That money will be transferred from the Health Statistics sub-fund to the Security Measures sub-fund.

Finding No. 4 – Limited Oversight and Accountability Over Fund 12D (Critical Control Weakness)

Summary

The Clerk-Recorder’s Office did not have a written policy for the governance of Fund 12D, including the determination of Fund 12D qualifying expenditures and allowed uses.

Criteria

County of Orange Accounting Manual, Number S-2, *Internal Control Systems*, Section 3.4, Documentation of System, states: “All departments/agencies should have an established system of policies and procedures to be followed in the performance of duties and functions. Such a system shall include, but not be limited to, documentation of internal controls, accountability for resources and recording of financial transactions, and such documentation shall be communicated and made available to all employees and auditors.”

Details

Based on our interviews with the Clerk-Recorder’s Office key staff, we noted a lack of understanding of the importance of the restricted nature and the statutory requirements over Fund 12D.

The Clerk-Recorder’s Office should develop a comprehensive policy and procedure for each of the sub-funds within Fund 12D. The policies should emphasize the importance of keeping the sub-funds separately accounted for and ensuring only compliant expenditures are allowed. The policies/procedures should also include:

1. Authority including relevant California legal codes and County policies.
2. Detailed description and procedures for determining allowable uses including examples of allowed and unallowed uses.
3. Allocation methodologies such as actual hours worked, number of employees, number of transactions, number of megabytes storage, etc. for shared costs.



4. Documented justification and methodology, including detailed time studies for IT staff and other staff whose salaries and benefits are charged to Fund 12D.
5. The nature and sufficiency of written comments to be added to invoices regarding the purpose and allowed use if the invoice description is not specific (i.e. invoice for a server, but doesn't specify the Secure system).
6. Accounting, monitoring, and reconciling including ending fund balance with the general ledger.
7. Where supervisory reviews are required and approvals should be documented.

The development and use of policy and procedural manuals are an integral part of a successful quality assurance system as it provides personnel with the information to perform their duties properly, facilitates consistency in the quality and integrity of an end-result, and ensures compliance with governing documentation.

In our opinion, development of and adherence to comprehensive policy and procedures will significantly improve the Clerk-Recorder's Office oversight and accountability of Fund 12D restricted monies.

Allowed Fund 12D Usage

The Clerk-Recorder's Office Fund 12D is a Special Revenue Fund established to account for certain fee revenues which have a restricted purpose or use as specified by the applicable legal statute. The policies and procedures should include clearly defined criteria for determining the allowable usage and qualifying expenditures for each "sub-fund." The policy should include directions or examples of allowed versus not allowed uses.

There are four primary restricted revenue sources for Fund 12D that are recorded in "sub-funds" as shown below:

1. Enhancement Fund:

Pursuant to Government Code (GC) §27361(a), the Clerk-Recorder charges a fee of \$1 per each first page and \$1 per each additional page for the "*recording and indexing every instrument, paper, or notice required or permitted by law to be recorded.*" GC 27279 states that an "instrument" means "*a written page signed by a person or persons transferring the title to, or giving a lien on real property, or giving the right to a debt or duty.*"

Pursuant to GC §27361.3, the Clerk-Recorder charges a fee of \$2 for recording every release of lien, encumbrance, or notice executed by the state, or any municipality, county city, district or other political subdivision.

Restricted Use: Per to GC §27361(c) and GC §27361.3, the use of the monies collected pursuant to GC §27361(a) and GC §27361.3 is restricted "*...solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents.*" Recorded documents means documents which serve to establish the ownership of real property located within the County.

Detailed Results, Findings, Recommendations and Management Responses



2. Micrographics Fund:

Pursuant to GC §27361.4, the Clerk-Recorder charges a fee of \$1 per each recording (or first page) for real property recordings (see further definition above in item 1).

Restricted Use: Per GC §27361.4, the use of the monies collected pursuant to GC §27361.4 is restricted to defray the cost of converting the Clerk-Recorder's document storage system of recorded real property documents to micrographics.

3. Local Vital & Health Statistics Trust Fund:

Pursuant to Health and Safety Code (HSC) §103625(f), the Clerk-Recorder charges a fee of \$3 per certified copy of a vital record (birth, death, marriage, and marriage dissolution). Per HSC §103625(g)(2), the Clerk-Recorder retains \$1.65 or 55% of the \$3 fee.

Restricted Use: Per to HSC §103625(h), the use of the monies collected pursuant to HSC §103625(f) and §103625(g)(2) is restricted to defraying the administrative costs of collecting the fees, improving and modernizing vital records systems, and improving the collection and analysis of birth and death certificate information and other related community health data.

4. Security Measures:

Pursuant to HSC §103525.5(a)(1) and (2), the Clerk-Recorder charges a fee of \$1 per certified copy of a birth, death or marriage record. Per HSC §103525.5(c), the Clerk-Recorder retains \$0.35 of the \$1 fee.

Restricted Use: Per to HSC §103525.5(c), the use of the monies collected pursuant to §103525.5(a)(1), §103525.5(a)(2), and §103525.5(c) is restricted to defraying the costs of the additional security features required by HSC §103526 and §103526.5 to protect against fraudulent use of birth, death, and marriage records.

To gain a better understanding of the legal requirements and restricted uses of Fund 12D monies, we reviewed relevant CA legal codes, legal opinions, and analysis performed by other California County Clerk-Recorders as provided to us by the Clerk-Recorder's Office. Based on our research, we encountered challenges in determining exactly what are considered qualifying expenditures since the relevant CA legal codes are ambiguous and allowable usage is difficult to interpret. We found varying interpretations of the usage statewide by other CA counties.

Per Clerk-Recorder management, the operating transfers made during the audit period from Fund 12D were entirely from the Fund 12D - Enhancement "Sub-Fund". Government Code (GC) §27361 specifies that use of Fund 12D - Enhancement Fund monies is restricted to "...solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents."

One challenge in our analysis was how conservatively or broadly to interpret the legislative intent of GC §27361(c). A very conservative interpretation of GC §27361(c) would be that the restricted use has a technological component due to the words "modernized" and "system." Other interpretations of the legislative intent would allow for a broader use as long as there is a sufficiently close nexus or connection between the use of the funds and the legislative intent. According to Webster's New Collegiate Dictionary, the contemporary definition of "modern" is "involving recent techniques, methods, or ideas" and "modernize" is "to make modern in taste, style, or usage." The word "system" has several meanings and uses such as "a set or arrangement of things so related or connected as to form a unity or whole" and "an organization of hardware and software, often together with personnel, that function together as a unit."

Detailed Results, Findings, Recommendations and Management Responses



It appears those improvements that directly result in a “better” collection of records, “better” preservation or security, or “better” availability to the public could be a defensible use of the Fund 12D - Enhancement Fund monies pursuant to GC §27361(c).

Since each revenue source has a specifically restricted use pursuant to the applicable legal statute, the Clerk-Recorder’s Office should have clearly defined policy and procedures for determining the allowable usage and qualifying expenditures for each “sub-fund.” The policy should include directions or examples of allowed versus not allowed uses.

The Clerk-Recorder’s Office should also clarify and document microfilm costs that are applicable to the Micrographics Sub-Fund versus the Enhancement Sub-Fund. For example, converting paper to microfilm (original intent of the legislation), converting analog microfilm images to digital microfilm, converting microfilm to polyester film, indexing, and mandated redaction of social security numbers.

In addition, the Clerk-Recorder’s Office should evaluate whether County overhead charges (CWCAP) could be considered an allowable use of Fund 12D monies.

Due to the challenges noted above in determining the intent of the relevant statutes regarding allowable usage of Fund 12D monies, the Clerk-Recorder’s Office should consider consulting with County Counsel in determining what are considered qualifying expenditures for 12D, then develop a methodology/policy for allocating 12D qualifying expenses that is supportable and auditable. This policy should be documented and made available to key department staff responsible for the governing and accountability of Fund 12D. The policy should be applied when the expenditure is being made, not retroactively (see related Findings No. 1 and No. 2 regarding accounting treatment at time expenditure is made; i.e. job costing).

Recommendation No. 4.a: We recommend that the Clerk-Recorder develop policy and procedures to be followed for the governance of Fund 12D. The policy should include clearly defined procedures for determining allowable usage of Fund 12D monies, including a methodology for allocating 12D qualifying expenses that is supportable and auditable. The policy should also include clearly defined criteria for identifying microfilm costs that are applicable to the Micrographics Sub-Fund versus the Enhancement Sub-Fund. Documented policy and procedures should be reviewed and approved by management and current versions need to be readily accessible for reference by personnel responsible for Fund 12D.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder is in the process of preparing a Fund 12D Accounting Policy & Procedure that identifies specific allowable use of special revenue funds. The P&P also establishes a methodology for accurately allocating shared costs to the appropriate special revenue sub-funds. The Department has drafted a “Special Revenue Allowable Uses and Expenditures” list, which identifies specific qualifying expenditures and uses for each special revenue category including the Micrographics and Modernization sub-funds. The Special Revenue Allowable Uses and Expenditures List will be reviewed and updated annually by management; and current versions of the document will be readily accessible to staff responsible for 12D activity.

Detailed Results, Findings, Recommendations and Management Responses



Recommendation No. 4.b: We further recommend that the Clerk-Recorder consider consulting with County Counsel in determining what are considered qualifying expenditures for Fund 12D usage, including County overhead charges (CWCAP).

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder is examining the appropriateness of the department's Special Revenue Allowable Uses and Expenditures List in consultation with County Counsel; as well as the anticipated report(s) developed by the cost allocation consultant, which the Clerk-Recorder is in the process of selecting.

Finding No. 5 – Reasonableness of Transferring Funds from the Clerk-Recorder's Office to the County General Fund in Net County Cost Contributions (Critical Control Weakness)

Summary

The Clerk-Recorder's Office should review and evaluate the propriety of transferring approximately \$4.9 million from the Clerk-Recorder's Office to the County General Fund during the audit period. The source of the \$4.9 million could be from a number of Clerk and Recorder activities/fees, both restricted and unrestricted monies.

Criteria

Per California Code of Regulations 2 CCR, *Accounting Procedures for Counties* - Section 921. Funds:

- Special Revenue Funds – are used to account for the proceeds of specific revenue sources (other than special assessments, expendable trusts, or for major capital projects) that are legally restricted to expenditures for specified purposes.
- General Funds – are available for any authorized purpose and which is, therefore, used to account for all revenues and all expenditures not provided for in other funds.

GASB 54, effective for reporting periods after June 15, 2010, states that: "Special Revenue funds are used to account for the proceeds of resources that are restricted or committed for purposes other than debt service or capital projects."

Details

The Clerk-Recorder's Office operating Fund 059 is a "general fund" within the County General Fund 100. For funds within the County General Fund, any revenues in excess of expenditures at the end of the fiscal year are transferred to the County General Fund (flows into fund balance unassigned). This is referred to as "net county cost contributions." If any of these monies are restricted, any unused portion at year-end should not be transferred to the General Fund at year-end.

During the audit period, approximately \$4.9 million in excess revenue in Fund 059 was contributed back to the county general fund as "net county cost contributions" (\$2.8 million in FY 11/12 and \$2.1 million in FY 10/11).



Although our audit did not include a review of Fund 059 revenues and expenditures, our audit found that:

1. All the Clerk-Recorder's Office expenditures, including Fund 12D-related expenditures, are made from Clerk-Recorder's Office operating Fund 059.
2. Approximately \$4.07 million in Fund 12D revenue was transferred to the Clerk-Recorder's Office operating Fund 059 during the audit period to reimburse Fund 059 for Fund 12D-related expenditures. (Finding No. 2)
3. Approximately \$2.72 million in Fund 12D restricted revenue was incorrectly recorded in the Clerk-Recorder's Office operating Fund 059 during the audit period. (Finding No. 3)
4. The Clerk-Recorder's Office accounting records supporting Fund 12D expenditures (supporting usage out of Fund 059) were inadequate for the purpose of determining whether Fund 12D monies were expended in compliance with statutory requirements. (Finding No. 1)

As a result, there was insufficient auditable documentation for us to determine whether any portion of the \$4.9 million in excess revenue transferred back to the County General Fund during the audit period was restricted Fund 12D monies (part of the \$6.79 million in restricted Fund 12D monies transferred to or incorrectly deposited into Fund 059).

Recommendation No. 5: We recommend that Clerk-Recorder review and evaluate the propriety of transferring approximately \$4.9 million in excess revenues (net county cost contributions) from Clerk-Recorder to the County General Fund during the audit period, to ensure those monies were not restricted Fund 12D monies.

Clerk-Recorder Management Response:

Concur

The Department is in the process of determining how much qualifying Fund 12D expenditures can be matched against the \$4.9 million that was transferred from Fund 12D to Fund 059 during FY 2010/11 and FY 2011/12. The Department is in the process of retaining a cost allocation consultant to assist in this effort.

Finding No. 6 – Inadequate Accounting Support Staff (Critical Control Weakness)

Summary

The Clerk-Recorder's Office lacked adequate permanent, full-time accounting support including adequate supervision and staff with appropriate accounting skills and technical training.

Criteria

County of Orange Accounting Manual, Number S-2, *Internal Control Systems*, Section 3.5, Integrity and Competent Personnel, states: "Key personnel should have high standards of integrity, and be competent through education, training, or experience to accomplish their assigned duties."

Details

Based on review of budgetary documents, at the time of our audit the accounting staff consisted of: 1 Senior Accounting Office Supervisor; 2 Accounting Technicians (1 extra-help); 1 Accounting Assistant; 1 Staff Specialist; and 2 Office Specialists (1 extra-help).

Detailed Results, Findings, Recommendations and Management Responses



The following positions are unfilled: 1 Financial Services Administrative Manager I; 1 Senior Accounting Assistant; and 1 Senior Accountant.

The formal educational background of the accounting staff included:

1. Office Specialist with a four year degree in Business Administration (BA), concentration in finance;
2. Office Specialist (extra-help) with a Bachelor of Arts degree (BA), concentration in accounting, and California CPA (license inactive).

During the course of our audit, we identified numerous examples of accounting issues that led us to conclude that the Clerk-Recorder's Office lacked adequate accounting support. We noted accounting errors and inconsistencies in various schedules and reports provided to us:

1. Documentation provided to us to support operating transfer journal vouchers made out of Fund 12D during the audit period was inadequate (see Finding No. 2):
 - Did not contain initials/date of preparer and reviewer.
 - Did not agree to the journal voucher total; the support generally exceeded the total (the amounts should agree).
 - Invoices for services and supplies often did not indicate the purpose of the expense to show that it complied with Fund 12D restricted use. The detail should be written on the invoice by Clerk-Recorder staff.
 - Expenditures were commingled with Fund 059 expenditures. The expenditures were not identified as Fund 12D at time of the expense.
2. Fund 12D Activity Summary Schedule prepared monthly by Clerk-Recorder's Office staff to monitor and track \$15 million in Fund 12D activity and balance by sub-fund contained errors and did not properly reflect fund balance by sub-fund (see Finding No. 8):
 - The schedule contained errors and did not appear that it was reconciled to the general ledger balance.
 - The schedule did not include ending fund balance by sub-fund. This is needed to monitor how much money is available to be spent for each restricted purpose.
 - The schedules for FY 10/11 and FY 11/12 did not show allocation of the reserved fund balance by sub-fund. Increases or decreases to the reserves should be shown by sub-fund.
 - It appeared that the schedule was not reviewed by a supervisor for accuracy.
3. Health Statistics Trust Fund Reporting was inaccurate (see Finding No. 14):
 - For calendar years 2008 through 2011, there was inaccurate annual reporting of the Health Statistics Trust Fund (Fund 12D – Health Sub-Fund).
 - Beginning trust fund balance reported did not agree to prior year ending trust fund balance reported for the years 2009, 2010, and 2011, with differences noted up to \$1 million.
 - The annual ending fund balances did not agree to the general ledger balances.

Detailed Results, Findings, Recommendations and Management Responses



- Revenue and expense activity did not agree to the general ledger, with differences ranging from \$1,140 to \$591,338.
 - It appeared that the report was not reviewed by a supervisor for accuracy.
4. Journal Voucher to transfer revenue from Fund 12D to Health Care Agency was prepared incorrectly (see Finding No. 18):
- The journal vouchers used to transfer Fund 12D - Health Sub-Fund fee revenue to Health Care Agency incorrectly recorded a reclassification of revenue instead of an operating transfer.

Recommendation No. 6: We recommend that the Clerk-Recorder hire a permanent, full-time experienced accounting manager to implement proper accounting processes and controls, perform quality assurance reviews of accounting transactions, run the day-to-day accounting operations, and provide needed supervision and training to the accounting staff.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder has hired a permanent, full-time Financial Services Manager (Admin II) to oversee the Department's financial and accounting activities, and to implement appropriate department accounting procedures and controls. In addition, the department is hiring a full-time accounting manager (Admin I) to provide needed supervision and training to the Department's accounting staff. This manager position will also provide another level of quality assurance and review of department accounting transactions and activities.

Finding No. 7 – Inadequate Controls Over Setting and Changing Certain Fees (Critical Control Weakness)

Summary

The Clerk-Recorder's Office did not have an adequate quality assurance process in place to ensure correct fee amounts are charged and allocated in accordance with statutory requirements and that changes made to the fee amounts and allocations are properly authorized, made correctly and completely, and are properly supported by adequate documentation. Over \$41 million in fee revenue was collected by the Clerk-Recorder's Office in 2011 per the Cashiering System reports.

Criteria

County of Orange Accounting Manual, Number S-2, *Internal Control Systems*, Section 3.3, Authorization, Execution, and Recording of Transactions, states: "A system of authorization and record-keeping procedures is needed to provide effective accounting control over assets, liabilities, revenues, and expenditures. Independent evidence shall be maintained to document that authorizations are issued by persons acting within the scope of their authority and that transactions conform with the terms of the authorizations. Documentation shall provide an adequate audit trail. Transactions shall be accurate, timely, properly recorded, and properly classified. Computer system controls should be utilized to safeguard records and preserve data integrity."

Detailed Results, Findings, Recommendations and Management Responses



Details

The Clerk-Recorder's Office Fund 12D is a Special Revenue Fund established to account for specific fee revenue generated from recording documents and providing copies of vital records for the public. These fees are set by statute and have a restricted purpose or use as specified by the applicable legal statute.

The Clerk-Recorder's Office programs the Cashiering System Fee Distribution Table to charge fees to the public and allocate those fees collected to the appropriate general ledger fund in accordance with legal statutes and County policy. The Fee Distribution Report, generated by the Cashiering System, is a print out of the Fee Distribution Table which details the specific fees charged and their allocation.

To gain a broader understanding of the legal requirements and restricted uses of Fund 12D related fees, we interviewed key Clerk-Recorder's Office staff and reviewed relevant California legal codes, legal opinions, and analysis performed by other California County Recorders.

Based on our review of the Cashiering System Fee Distribution Report and our understanding of the applicable legal requirements, the following internal control weaknesses were identified over the setting and changing of Fund 12D related fees charged to the public:

1. The Clerk-Recorder's Office was unable to readily provide adequate documentation to support the amount of fees charged to the public or the basis for how the fees were allocated in the Cashiering System.
2. \$2.72 million in fees were incorrectly recorded to Fund 059 in the Cashiering System in FY 10/11 through FY 11/12 (see Finding No. 3).
3. Incorrect fee amounts were charged for two fees, resulting in approximately \$97,000 in fees overcharged to the public in FY 10/11 through FY 11/12 (see Finding No. 10).
4. We identified several instances where updates to the Fee Distribution Table for fee amounts and/or fee allocations were inaccurately made.
5. No history (audit trail) of changes made to the Fee Distribution Table is maintained. Changes made to the Fee Distribution Table overwrite the prior Table.

To ensure the correct fee amounts are charged to the public and the fees are allocated in accordance with statutory requirements, the Clerk-Recorder's Office should maintain a chronological history of authoritative and other relevant documentation to support the amount of fees charged to the public and to support the basis for the way the fees are allocated in the Cashiering System. This documentation should include relevant statutes, legal opinions, County ordinances or resolutions authorizing imposition of fees, research and analysis of other county treatment, etc.

The Clerk-Recorder's Office should also implement procedures to ensure they are aware of all future legislative changes impacting the fee amounts charged and/or the allocation basis.

To ensure subsequent changes made to the Fee Distribution Table are authorized and documented, the Clerk-Recorder's Office should maintain a record of the change request (such as an email) and a before/after copy of the Fee Distribution Report to evidence that the change was made correctly. Changes should be reviewed by an independent person to ensure all changes are made accurately and completely.



Recommendation No. 7.a: We recommend that the Clerk-Recorder maintain adequate authoritative documentation to support the amount of fees charged to the public and the basis for the fee allocation in the Cashiering System.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder is in the process of compiling binders containing a chronological history of all Department fees, including state mandates, Government Code section, Board action, ordinances, cost allocation studies and other relevant documentation supporting the amount of each fee in the department's current fee schedule and fees within the department's cashiering system. In addition, the Clerk-Recorder is in the process of hiring a consultant to conduct a cost allocation study for those fees that are based on cost recovery.

Recommendation No. 7.b: We recommend the Clerk-Recorder implement internal controls to ensure that correct fee amounts are charged to the public and that future changes to fee amounts and fee allocations in the Cashiering System are properly authorized, made correctly, and are adequately supported with appropriate documentation.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder is in the process of drafting two Policy & Procedures which will require the annual review (and updates if necessary) of Department fees by the respective section managers. The P&P also requires documentation and Department Head approval of any proposed fee changes. New department policy requires Department Head approval prior to any Cashiering System changes, as well as testing and confirmation that the desired changes are correct. Additionally, Information Systems staff will maintain a log of all Cashiering System changes.

Finding No. 8 – Limited Oversight Regarding Fund 12D Balance (Critical Control Weakness)

Summary

The Clerk-Recorder's Office did not properly and accurately monitor Fund 12D fund balance by sub-fund. At 6/30/12, the total balance in Fund 12D was over \$14.8 million.

Criteria

County of Orange Accounting Manual, Number S-2, *Internal Control Systems*, Section 3.3, Authorization, Execution, and Recording of Transactions, states: "A system of authorization and record-keeping procedures is needed to provide effective accounting control over assets, liabilities, revenues, and expenditures. Independent evidence shall be maintained to document that authorizations are issued by persons acting within the scope of their authority and that transactions conform with the terms of the authorizations. Documentation shall provide an adequate audit trail. Transactions shall be accurate, timely, properly recorded, and properly classified. Computer system controls should be utilized to safeguard records and preserve data integrity."



Details

The Clerk-Recorder's Office uses Fund 12D to account for multiple restricted uses, each with a unique sub-fund. Revenues are recorded in Fund 12D by sub-fund on the general ledger. However, the general ledger does not report fund balance at the sub-fund level; only at the overall fund level (Fund 12D in total). In order to track fund balance by sub-fund, the Clerk-Recorder's Office created a manual schedule, the Fund 12D Activity Summary Schedule, to monitor transaction activity and fund balance. We found that the manual Fund 12D Activity Summary Schedule contained errors and did not accurately reflect the fund balance per sub-fund.

We reviewed the Clerk-Recorder's Office Fund 12D Activity Summary Schedule for FY 08/09 through FY 11/12 and noted the following issues:

1. The schedule contained many errors. Example: the ending Total Fund Balance for the Health Sub-Fund in FY 9/10 was shown as \$1,792,963; however, the beginning balance for FY 10/11 was shown as \$2,531,171.
2. The schedules for FY 10/11 and 11/12 do not show allocation of the reserved fund balance by sub-fund. Increases or decreases to the reserves should be shown on the schedule by sub-fund.
3. The schedules were not reconciled with the general ledger. The monthly schedule should include an ending fund balance by sub-fund, and the total of all sub-funds should be reconciled with the General Ledger. Example: the Ending Total Fund Balance for Fund 12D in FY 11/12 was shown as \$14,759,105; however, the fund balance per the general ledger was \$14,842,782 (a difference of \$83,677).

It is important that the Fund 12D Activity Summary Schedule is accurate and reflects the correct transaction activity and fund balance by sub-fund so the Clerk-Recorder's Office adequately accounts for how much money is available for each restricted purpose.

Recommendation No. 8: We recommend that the Clerk-Recorder establish internal controls to ensure that the Fund 12D Activity Summary Schedule is prepared accurately, reconciled to the general ledger, and reflects total fund balance (both reserved and unreserved) by sub-fund.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder has implemented various accounting procedures and controls to insure the accuracy of Fund 12D sub-fund balances. These controls include a new Policy & Procedure detailing documentation and accounting for all Fund 12D expenditures; monthly reconciliation of all Fund 12D sub-funds to the General Ledger, establishment of separate job numbers for each Fund 12D sub-fund, and establishment of "Department Balance Sheet Accounts" within Fund 12D to separate the four sub-funds.



Finding No. 9 – Update Required to Ensure Certain Fees Charged Recover Actual Costs (Critical Control Weakness)

Summary

Certain fees charged to the public that include a cost recovery component have not been evaluated and updated timely to ensure that actual costs are recovered as required by Government Code (GC) and County Policy.

Criteria

County of Orange Accounting Manual, Number R-3, *Revenue Policy, Requirements & Responsibilities*, requires county departments to generate revenue from non-property tax sources whenever possible which “shall be reasonably related to services provided.” The policy states that “no fee or service charge may exceed the estimated amount required to provide the service for which the fee or charge is levied.” The policy also states “all fee schedules, except fees fixed by statute, shall be subject to approval by the BOS.”

County of Orange Accounting Manual, Number R-3, *Revenue Policy, Requirements & Responsibilities*, Section 2.1, Frequency of Cost Recovery Rate Updates, states: “all cost recovery revenue rates shall be updated at least once each year to reflect current costs. When the cost associated with making this annual determination appears to be excessive, with the approval of CEO and the Auditor-Controller, a complete update shall be made no later than every third year.”

County of Orange Accounting Manual, Number R-3, *Revenue Policy, Requirements & Responsibilities*, Section 3.1.5, Revenue Sources, states that each department is responsible for “updating of existing revenue rates to ensure full cost recovery, with the assistance of the Auditor-Controller, consistent with BOS policies.”

County of Orange Accounting Manual, Number R-3, *Revenue Policy, Requirements & Responsibilities*, Section 1.3.3, Full Cost Recovery, defines the concept that “all department/agency and County General (CWCAP) overhead costs are included in allocations of overhead to direct services so that fees, rates or charges include recovery of all County costs.”

Details

The following Fund 12D related fees appear to require a current cost study to determine actual costs are being recovered in accordance with statutory requirements and County policy:

1. Base Recording Fees (Fee Codes 024, 025, 064):
Government Code (GC) §27361(a) authorizes the Clerk-Recorder to charge a fee for recording and indexing every instrument, paper, or notice required or permitted by law to be recorded. SB 676, introduced in 2009 and effective 1/1/10, amended the language of GC §27361 to increase the base fee for the recording of the first page of a document from \$4 to “not to exceed \$10” and “\$3 for each additional page, to reimburse the county for the costs of services rendered pursuant to this subdivision.”

Detailed Results, Findings, Recommendations and Management Responses



The Kern County Assessor-Recorder sent a letter to the Kern County BOS, dated 4/12/11 stating: “The County Recorders’ Association of California has interpreted the revised language contained in Government Code §27361(a) to mean that a fee study should be done to determine the actual cost incurred by the County to perform the recording process.”

The Clerk-Recorder’s Office continues to charge the \$4 base recording fee that was established in 1985. The most recent fee schedule submitted by the Clerk-Recorder’s Office to the BOS for approval was over 12 years ago in April 2000; however, this study and related fee schedule only covered clerk fees, not recording fees.

2. Recording Fee and Real Estate Fraud Fee (Fee Code 064):

GC §27388(a) authorizes the Clerk-Recorder to charge a fee of \$3 for recording real estate instruments, paper, or notice required or permitted by law to be recorded within the county to be placed in the Real Estate Fraud Prosecution Trust Fund. GC §27388 allows the Clerk-Recorder to deduct from the \$3 fee any “actual and necessary administrative costs incurred by the county in carrying out this section.” The amount deducted for administrative costs shall not exceed 10 percent of the fees paid pursuant to this section.

The Clerk-Recorder’s Office currently retains 5% of the \$3 fee, or \$0.15 per filing, to cover administrative costs. The C-R began charging this fee 4/13/2009. A cost study was not conducted by the Clerk-Recorder’s Office in 2009, or since that time, to determine the actual and necessary administrative costs to be recovered.

3. Marriage Certified Copy Fees (Fee Codes 105, 111, 147):

Health and Safety Code (H&S) 103625(c) authorizes the Clerk-Recorder to charge a fee of \$4 included in the marriage certified copy fee to be transmitted to the State General Fund as provided by Section 1852 of the Family Code for deposit to the State Family Law Trust Fund. Family Code (FC) 1852 allows the Clerk-Recorder to retain a percentage of the funds collected in order to defray the costs of collection of these funds, not to exceed 10 percent of the fee payable to the state pursuant to H&S 103625(c), or 10% of \$4 (\$0.40) per certified copy.

The Clerk-Recorder’s Office currently retains 10% or \$0.40 per marriage certified copy. The most recent fee schedule submitted by the Clerk-Recorder’s Office to the BOS for approval was over 12 years ago in April 2000; however, this study did not appear to include marriage certified copy fees.

4. Birth Certified Copy Fees (Fee Codes 103, 141, 145):

Health and Safety Code (H&S) 103625(b) authorizes the Clerk-Recorder to charge a fee of \$4 included in the birth certified copy fee to be transmitted to the County Children’s Trust Fund. Welfare and Institution Code (WIC) 18966 allows the Clerk-Recorder to retain a percentage of the funds collected in order to defray the costs of collection of these funds, not to exceed 10 percent of the \$4 fee collected pursuant to H&S 103625(b), or 10% of \$4 (\$0.40) per certified copy.

The Clerk-Recorder’s Office currently retains 10% or \$0.40 per birth certified copy. The most recent fee schedule submitted by the Clerk-Recorder’s Office to the BOS for approval was over 12 years ago in April 2000; however, this study did not appear to include birth certified copy fees.



5. Death Certified Copy Fees (Fee Codes 108, 109, 142, 143, 146):

Penal Code (PC) 14251(a) authorizes the Clerk-Recorder to increase the fee charged for death certificate copy fee by \$2 to be transmitted to the Missing Persons DNA Database Fund. PC 14251(a) allows the Clerk-Recorder to retain a percentage of the funds collected for administrative costs, not to exceed 5 percent of the \$2 fee increase collected pursuant to this section, or 5% of \$2 (\$0.10) per certified copy.

The Clerk-Recorder's Office currently retains 5% or \$0.10 per death certified copy. The most recent fee schedule submitted by the Clerk-Recorder's Office to the BOS for approval was over 12 years ago in April 2000; however, this study did not appear to include death certified copy fees.

It appears that current fee studies are necessary to ensure the fees charged to the public recover the costs of providing the related services (without exceeding actual costs) in compliance with legal requirements and County policy.

The fee studies should consider whether departmental and/or County overhead costs (CWCAP) should be included in the fee calculation in compliance with the County policy requirement for full cost recovery. The cost studies should also take into consideration revenue offset from 12D and any other offsets.

This is important to ensure fees charged do not exceed the actual costs of providing the related services, which may contribute to excess net county costs being transferred back to the General Fund at year-end.

Recommendation No. 9: We recommend the Clerk-Recorder perform cost studies as required by legal statute and County policy, to ensure that fees charged to the public reflect actual costs.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder is in the process of hiring a consultant to conduct a "cost allocation" study for Department fees that are based on cost recovery to ensure fees charged do not reflect more than actual cost of providing the service.

Finding No. 10 – Errors Noted in Certain Fees Charged (Critical Control Weakness)

Summary

The Clerk-Recorder's Office charged in error approximately \$97,000 in fees to the public and other public entities during FY 10/11 and FY 11/12 for 1) Government Lien Release Fees and 2) Map Filing – Additional Page Fee.

Details

1) Government Lien Release Fee (Fee Code 003):

As a general rule, state and local municipalities are exempt from payment of official fees. However, there are exceptions to these governmental exemptions.



Criteria

Government Code (GC) §27383 specifically exempts state and local municipalities from payment of fees to a county recorder: “No fee shall be charged by the recorder for services rendered to the State, to any municipality, county in the State or other political subdivision thereof, except for making a copy of a paper or record.”

Government Code (GC) §27361.3 authorizes the Clerk-Recorder to charge a fee of \$8 for recording every release of lien, encumbrance, or notice executed by the state, or any municipality, county, city, district or other political subdivision (referred to as a government lien release).

Finding

During the audit period, the Clerk-Recorder’s Office charged a fee of \$10 for Government Lien Release (Fee Code 003). As noted above, GC §27361.3 authorizes the Clerk-Recorder to charge a fee of \$8. The Clerk-Recorder’s Office was unable to provide substantiation for why they charged an additional \$2, which was added sometime prior to January 1, 1998.

Approximately 22,453 government lien releases were recorded in FY 10/11 and approximately 25,432 in FY 11/12, for a total of 47,885 records resulting in fees of \$478,850. Therefore, approximately \$95,770 (47,885 x \$2) in fees was overcharged in FY 10/11 and FY 11/12.

The Fee Distribution Table was corrected on 1/28/13 to reduce the total fee to the correct amount of \$8. The Fee for Services Schedule (official price list) was updated in April 2013 to reflect the correct fee amount of \$8.

Recommendation No. 10.a: We recommend that the Clerk-Recorder consult with County Counsel in determining if further corrective action is required.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder is in the process of determining if any further action is required in consultation with County Counsel.

2) Map Filing – Additional Page Fee (Fee Code 088):

Criteria

GC §27372 states “The fee for recording or filing and indexing each map wherein land is subdivided in lots, tracts, or parcels is five dollars (\$5) for the first page and two dollars (\$2) for each additional page.”

Finding

During the audit period, the Clerk-Recorder’s Office charged \$3 for each additional page for recording or filing and indexing maps (Fee Code 088). However, the total allowable fee per GC §27372 is \$2, resulting in an overcharge of \$1 per filing. The additional \$1 was misallocated to Fund 12D – Enhancement Sub-Fund. The overcharged fee and misallocation has been in effect since at least 4/22/08 (prior to our audit period), with the additional \$1 being incorrectly added sometime after FY 02/03.



We estimated that approximately 615 additional map pages were recorded in FY 10/11 and 349 in FY 11/12, resulting in approximately \$964 in fees overcharged to the public (615 + 349 = 964 x \$1).

The Fee Distribution Table was updated on 1/28/13 to reduce the fee for map filing, additional pages to the correct fee amount of \$2. The Fee for Services Schedule (official price list) was updated in April 2013 to reflect the correct fee amount of \$2.

Recommendation No. 10.b: We recommend that the Clerk-Recorder consult with County Counsel in determining if any other corrective action is required.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder is in the process of determining if any further action is required in consultation with County Counsel.

Finding No. 11 – Incomplete Information Regarding the Use of Fund 12D Monies on Four (4) ASRs Submitted to BOS (Critical Control Weakness)

Summary

Four (4) Agenda Staff Reports (ASRs) submitted to the Board of Supervisors (BOS) for building rental and CoreLogic/Data Trace Fraud Prevention Courtesy Notices did not accurately or clearly disclose or explain in sufficient detail that: a) the underlying source of monies used to pay for these expenditures was restricted funds from Fund 12D, and b) how the intended use would comply with the funding restrictions.

Details

The Clerk-Recorder's Office indicated that the following expenditures were funded by Fund 12D versus Fund 059:

- In FY 11-12, rent expense for the satellite office locations was allocated to Fund 12D.
- In FY 10-11 and FY 11-12, the expenditures for the Fraud Prevention Courtesy Notices (sent to owners when grant deeds are recorded) were allocated to Fund 12D.

All Clerk-Recorder's Office expenses are made from their operating Fund 059. However, if the expense will be reimbursed from Fund 12D, the Agenda Staff Report (ASR) for the related contract should explain that the underlying source is Fund 12D, not Fund 059.

Four (4) ASRs submitted to the Board of Supervisors for approval of these contracts/agreements indicated Fund 059 (Clerk-Recorder Operating Fund) monies would be used as the funding source, not Fund 12D:

1. South County Branch Office Rent: ASR #10-001691 dated 12/14/10 noted Fund 059 as the funding source.
2. North County Branch Office Rent: ASR #08-001450 dated 6/24/08 noted 100% General Fund (i.e. Fund 059) as the funding source.
3. Fraud Prevention Courtesy Notices - Data Trace (CoreLogic): ASR 08-002100 dated 10/28/8 noted Fund 059 as the funding source.



4. Fraud Prevention Courtesy Notices - Data Trace (CoreLogic): ASR 06-002753 dated 5/15/07 noted Fund 059 as the funding source.

Recommendation No. 11: We recommend that the Clerk-Recorder ensure all future Agenda Staff Reports (ASRs) submitted to the Board of Supervisors for their approval of the use of Fund 12D monies adequately and clearly disclose the funding source as Fund 12D, including restrictions and compliance with restrictions.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder has created an "ASR Review Committee" comprised of section managers and the Department Head, who will review all Agenda Staff Reports to the Board to ensure accuracy of information. Additionally the committee will assure that the ASR clearly indicates any use of Department restricted funds and the justification for the expenditures. These ASR procedures have been incorporated into the Departments 12D Policy & Procedure.

Finding No. 12 – Misclassification of Vital Record Fee Revenue Within Fund 059 (Critical Control Weakness)

Summary

Certain fee codes for vital records fees related to birth, death, marriage, and marriage dissolution records were programmed incorrectly in the Clerk-Recorder's Office Cashiering System resulting in misclassification of over \$1 million in fee revenue annually within Fund 059, the Clerk-Recorder's Office general operating fund.

Criteria

County of Orange Accounting Manual, Number S-2, *Internal Control Systems*, Section 3.3, Authorization, Execution, and Recording of Transactions, states: "A system of authorization and record-keeping procedures is needed to provide effective accounting control over assets, liabilities, revenues, and expenditures. Independent evidence shall be maintained to document that authorizations are issued by persons acting within the scope of their authority and that transactions conform with the terms of the authorizations. Documentation shall provide an adequate audit trail. Transactions shall be accurate, timely, properly recorded, and properly classified. Computer system controls should be utilized to safeguard records and preserve data integrity."

Details

Some recording fees generated from vital record documents are combined in the same general ledger account as recording fees generated from real property documents. Example: Recording Fees - Title Fee (Fee Code 24) and Regular Certified Copy of Birth Certificate (Fee Code 103) are both recorded in Recording Fees-Regular - Account No. 100-059-9100-0000-7470.

Recording fees should be accounted for and classified separately to differentiate the revenue source (generated from real property recorded documents versus vital record documents). This information is necessary for the Clerk-Recorder's Office to accurately monitor fee revenue and to estimate costs used in preparation of cost studies.

Detailed Results, Findings, Recommendations and Management Responses



In addition, we noted that part of the fee from death record searches is classified to recording fees. However, similar fee codes for birth and marriage record searches do not classify any amount to recording fees. The Clerk-Recorder's Office was unable to readily determine the reason for the inconsistencies in how the vital record fees were being classified within Fund 059.

We estimated that in 2011 over \$1 million in vital record related fees were classified in the same general ledger account as real property record related fees.

The Clerk-Recorder's Office is currently in the process of reviewing and updating all the revenue codes in the cashiering system to ensure the fees are being classified to the appropriate general ledger accounts.

Recommendation No. 12.a: We recommend that the Clerk-Recorder create separate general ledger revenue account coding to differentiate fees generated from vital records documents from those fees generated from real property documents.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder is in the process of changing the revenue coding in the Department Cashiering System so that only "recorded" real property documents are coded as "Recording Fees" (7470). Other fees will be coded as "Other Charges for Services" (7590). This will eliminate the miscoding of non-real property transactions as "Recording Fees."

Recommendation No. 12.b: We recommend that the Clerk-Recorder ensure that fee code classifications in the cashiering system are correct and consistent.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder is in the process of correcting the fee codes in the cashiering system, so only recorded real property documents will be coded as "Recording Revenue." In addition, the Department is drafting a Policy & Procedure that requires an annual review of the cashiering system fee codes by section managers and accounting staff to insure fee codes are updated, consistent and correct.

Finding No. 13 – No Strategic Plan Prepared for Managing Fund 12D Monies (Significant Control Weakness)

Summary

The Clerk-Recorder's Office does not have a strategic plan for managing \$15 million in Fund 12D monies, including approximately \$5 million in annual revenues.

Criteria

County of Orange Accounting Manual, Number R-3, *Revenue Policy, Requirements & Responsibilities*, Section 3.1, Responsibilities of Departments, Agencies, Commissions, and Special Districts, states: "Each department, agency, commission, and special district is responsible for the management of its revenue sources." This includes revenue projections and revenue budgets.



Details

Fund 12D is a Special Revenue fund used to account for special fees permitted under the California Government Code to be used for specific restricted purposes. All Clerk-Recorder's Office expenditures are currently made out of Fund 059, which is the Department's main operating fund. Periodically, revenue transfers (operating transfer journal vouchers) are made from Fund 12D to reimburse Fund 059 for expenditures made out of the operating fund that support Fund 12D restricted purposes. As of 6/30/12, the balance in Fund 12D was approximately \$15 million and annual revenues during the audit period averaged close to \$5 million.

To ensure proper accountability for the Fund 12D special fees and related expenditures, the Clerk-Recorder's Office should have a strategic plan for managing Fund 12D monies. The Clerk-Recorder's Office should work with CEO/Budget staff regarding the population of Fund 12D qualifying expenditures versus Fund 059 expenditures and develop a strategic plan on how Fund 12D monies will be utilized. The Clerk-Recorder's Office should develop annual spending plans for the budgeted revenues and expenditures, as well as long-term spending plans for the accumulated special fees in Fund 12D. The Clerk-Recorder's Office should include Fund 12D collections, revenue transfers, expenditures, and balances in the annual County budget.

A strategic plan for Fund 12D will significantly improve the Department's annual budget document, visibility, oversight and accountability of the special restricted fees.

Recommendation No. 13: We recommend the Clerk-Recorder develop a strategic plan for managing and budgeting Fund 12D monies.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder is in the process of preparing a 5-Year Financial Plan for Fund 12D, which staff will update annually. The 5-Year Financial Plan will be a projection of annual revenues and expenditures, based on historical revenues and allowable 12D expenditures.

Finding No. 14 – Errors Made in Reporting of Fund 12D Fees and Usage to the California Department of Public Health (Significant Control Weakness)

Summary

The Clerk-Recorder's Office provided inaccurate reporting of vital and health statistics fee revenue and usage to the California Department of Public Health which is published in their annual California Department of Public Health Vital and Health Statistics Trust Fund Report. We identified errors in amounts reported of up to \$1 million.

Criteria

Health and Safety Code (HSC) §103625(f) requires the Clerk-Recorder to charge an additional fee of three dollars (\$3) for certified copies of birth, death, marriage, and dissolution of marriage records.

Detailed Results, Findings, Recommendations and Management Responses



HSC §103625(g) authorizes the Clerk-Recorder to create a local vital and health statistics trust fund (Fund 12D – Health Statistics Sub-Fund) and to distribute the \$3 fee as follows:

- 45% to the State ($\$3 \times 45\% = \1.35)
- 55% to the Local Vital & Health Statistics Trust Fund (Fund 12D – Health Sub-Fund) ($\$3 \times 55\% = \1.65)

HSC §103625(h) restricts the use of the fees stating that moneys in each local vital and health statistics trust fund shall be available:

- To defray the administrative costs of collecting and reporting with respect to those fees (collected pursuant to HSC §103625(f));
- Modernization of vital record operations, including improvement, automation, and technical support of vital record systems;
- Improvement in the collection and analysis of health-related birth and death certificate information, and other community health data collection and analysis, as appropriate.

HSC §103625(j) requires each county to annually submit a report to the State Registrar by March 1 containing information on the amount of revenues collected pursuant to subdivision (f) in the previous calendar year and on how the revenues were expended and for what purpose.

Note: This reporting requirement applies only to the portion of the fee deposited to the Clerk-Recorder's Office Fund 12D – Health Sub-Fund (\$1.65 per certified copy) and not to any portion of the fee distributed to the State (\$1.35 per copy).

Details

In compliance with this reporting requirement, the Clerk-Recorder's Office prepares the Vital and Health Statistics Trust Fund Report Form – Revenue and Expenditure Summary for each year ending December 31, which is due to the State Registrar by March 1 the following year. The State Registrar compiles these reports and publishes the results in their annual California Department of Public Health Vital and Health Statistics Trust Fund Report.

We reviewed the Clerk-Recorder's Office Vital and Health Statistics Trust Fund Report Forms for the years ended 2008 through 2011 and noted following discrepancies:

- A. The ending balance from the prior year did not agree to the beginning balance of the current year, differences ranging from \$8,253 to \$1,029,442. It does not appear that the current year ending balances were compared to the general ledger balances to detect any errors.
- B. Revenue and expense activity did not agree to the County general ledger, differences ranging from \$1,140 to \$591,338. It does not appear that the current year revenue and expense amounts were compared to the general ledger balances to detect any errors.

Recommendation No. 14: We recommend the Clerk-Recorder compare revenue and expense balances from the Vital and Health Statistics Trust Fund Report Form to the Fund 12D – Health Sub-Fund General Ledger balances to ensure the report is accurately prepared.



Clerk-Recorder Management Response:

Concur

The Clerk-Recorder will compare balances from the Vital and Health Statistics Trust Fund Report Form to the Fund 12D Health sub-fund General Ledger balance and make sure they match. If the two numbers do not match, accounting staff will document and correct any variance in the numbers. In addition, the accounting supervisor and the accounting manager will review all trust fund reports to ensure accuracy.

Finding No. 15 – Deposit of Annual Interest Earnings on Restricted Fund 12D Needs Re-evaluation (Significant Control Weakness)

Summary

Interest earned on monies recorded in Special Revenue Fund 12D was recorded directly in the County General Fund rather than Fund 12D, with no basis for such an allocation. We estimated that Fund 12D earned approximately \$78,000 in interest earnings in FY 11/12.

Details

The government codes do not specifically address where interest earned on the related fees should be recorded. However, other California counties have obtained legal opinions that conclude the interest should be recorded in the special revenue fund (Fund 12D):

- Solano County obtained a county counsel opinion, dated 4/2/91, which concluded that “the interest accruing on Micrographics and Modernization Trust Fund money must be paid into each respective trust fund to be used for trust fund purposes and not into the County General Fund.”
- The Solano opinion cited Attorney General’s opinion 59 Atty. Gen. Ops. 43 that stated “under the ‘general and common law rule’, interest is an accretion or increment to the principal fund earning it, and unless lawfully separated therefrom become a part thereof.”
- The Solano opinion reasoned that “the language in the statutes creating the Micrographics and Modernization Trust Funds restrict the use of the funds to the purposes for which the funds were created. Applying the logic of the Attorney General’s opinion, it would follow that interest accruing to the principals of the trust funds must be paid back into each respective trust fund.”

Recommendation No. 15: We recommend Clerk-Recorder seek a County Counsel opinion whether interest earned on monies recorded in Special Revenue Fund 12D should be recorded in Fund 12D.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder is in the process of determining if the interest earned by a special revenue fund should be recorded in that same fund in consultation with County Counsel.



Finding No. 16 – Inaccurate Cashiering System Cumulative Totals Due to System Limitation in Recording Cash Receipt Adjustments (Control Finding)

Summary

Adjustments to cash receipt transactions are documented manually on the daily cashiering reports rather than processed directly in the Cashiering System, resulting in inaccurate cumulative transaction and revenue totals in the Cashiering System reports.

Criteria

County of Orange Accounting Manual, Number S-2, *Internal Control Systems*, Section 3.3, Authorization, Execution, and Recording of Transactions, states: “A system of authorization and record-keeping procedures is needed to provide effective accounting control over assets, liabilities, revenues, and expenditures. Independent evidence shall be maintained to document that authorizations are issued by persons acting within the scope of their authority and that transactions conform with the terms of the authorizations. Documentation shall provide an adequate audit trail. Transactions shall be accurate, timely, properly recorded, and properly classified. Computer system controls should be utilized to safeguard records and preserve data integrity.”

Details

The Clerk-Recorder’s Office uses an application system (Cashiering System) to record daily cash receipt transactions. The system records the number of each transaction type processed and fees collected and stores the cumulative data by fee code.

Occasionally, minor adjustments to cash receipt transactions are necessary subsequent to the recording of the original transaction. We were informed by the Clerk-Recorder’s Office that due to system limitations, certain adjustments cannot be made through the Cashiering System but must be made manually on the Cashiering System Daily Tender Recap Report. The cash receipt transaction amounts are accurately reflected in the general ledger; however, the cumulative totals in the Cashiering System reports do not accurately reflect the cumulative transaction activity.

The Clerk-Recorder’s Office utilizes the Cashiering System to generate statistical information of transaction counts and fees collected by transaction type. This information is used by management for reporting purposes and for managing department revenue. If adjustments are not made directly in the Cashiering System, the statistical information and cumulative totals generated by the Cashiering System do not accurately reflect the transaction activity.

Recommendation No. 16: We recommend that the Clerk-Recorder work with the vendor to ensure adjustments to cash receipts transactions are processed in the Cashiering System to enable accurate transactional information.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder will work with the Department cashiering system’s software vendor to determine if any enhancements can be made to the system so that manual adjustments or corrections made after the close of business can be incorporated into the cashiering system’s transaction totals and reports.



Finding No. 17 – Inaccurate Cashiering System Cumulative Totals Due to Inadequate Testing and Review of System Fixes (Control Finding)

Summary

The Cashiering System Reports cumulative transaction counts and fee totals for certain fee codes were inaccurate.

Criteria

County of Orange Accounting Manual, Number S-2, *Internal Control Systems*, Section 3.3, Authorization, Execution, and Recording of Transactions, states: “A system of authorization and record-keeping procedures is needed to provide effective accounting control over assets, liabilities, revenues, and expenditures. Independent evidence shall be maintained to document that authorizations are issued by persons acting within the scope of their authority and that transactions conform with the terms of the authorizations. Documentation shall provide an adequate audit trail. Transactions shall be accurate, timely, properly recorded, and properly classified. Computer system controls should be utilized to safeguard records and preserve data integrity.”

Details

The cumulative transaction counts and fee totals for four (4) fee codes (003, 024, 025, and 064) were incorrect and did not accurately reflect the transaction totals or fee revenue amounts for the period of 6/30/10 through 12/31/10.

The Clerk-Recorder’s Office informed us there was a bug in the cashier system software that was not completely fixed back in 2010. The Clerk-Recorder’s Office immediately took the necessary steps to research and correct the cause of the discrepancies as soon as it was brought to their attention during our audit. The cashier system reports were rerun with the correct cumulative transaction counts and fee totals used in our audit testing.

Computer information systems, and changes to system software, should include appropriate internal controls so that accurate data is produced and fixes to the system are fully implemented.

Recommendation No. 17: We recommend that the Clerk-Recorder ensure their system testing is adequately reviewed to validate that fixes to the cashier system software are fully implemented.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder’s Information System staff will test the cashiering system after any fee changes have been made to ensure the fee changes are correct (and monies are going into the proper accounts). In addition, the affected section manager and the accounting manager will also verify the changes are correct in the cashiering system before implementing the change. These procedures have been incorporated into a new Fund 12D Policy & Procedure.



Finding No. 18 – Misclassification of Some Revenue Transfers (Control Finding)

Summary

The journal voucher to transfer Fund 12D - Health Sub-Fund fee revenue to the County Health Care Agency (HCA) was incorrectly recorded as a revenue reclassification instead of an operating transfer. The Clerk-Recorder's Office reclassified approximately \$150,000 in revenue from Fund 12D to HCA during the audit period.

Criteria

County of Orange Accounting Manual, Number S-2, *Internal Control Systems*, Section 3.3, Authorization, Execution, and Recording of Transactions, states: "A system of authorization and record-keeping procedures is needed to provide effective accounting control over assets, liabilities, revenues, and expenditures. Independent evidence shall be maintained to document that authorizations are issued by persons acting within the scope of their authority and that transactions conform with the terms of the authorizations. Documentation shall provide an adequate audit trail. Transactions shall be accurate, timely, properly recorded, and properly classified. Computer system controls should be utilized to safeguard records and preserve data integrity."

Government Accounting Standards Board (GASB) Statement 54, Fund Balance Reporting and Governmental Fund Type Definitions, defines Special Revenue Funds as "used to account for and report the proceeds of specific revenue resources that are restricted or committed to expenditure for specified purposes..."

GASB 54 states: "inflows should be recognized as revenue in the special revenue fund in which they will be expended in accordance with specified purposes."

Details

Health and Safety Code (HSC) §103625 authorizes the local registrar to charge a fee for certified copies of vital records. Health Care Agency (HCA) is the local registrar in Orange County of birth and death events occurring within 60 days of the event. HCA charges a fee to the public for certified copies of birth and death records within 60 days of the event. After 60 days of the event, the certified copy is obtained from the Clerk-Recorder.

The Clerk-Recorder's Office determined that HCA incurs expenditures that qualify for restricted use under HSC 103625. Use of the monies is restricted to defraying the administrative costs of collecting the fees, improving and modernizing vital records systems, and improving the collection and analysis of birth and death information and other related community health data.

To reimburse HCA for qualifying expenditures, the Clerk-Recorder's Office transferred \$52,670 in FY 10/11 and \$94,720 in FY 11/12 from the Fund 12D - Health Sub-Fund to HCA. The transfers were recorded on journal vouchers as a reclassification of revenue with a reduction of Fund 12D revenue and an increase in HCA revenue.

Detailed Results, Findings, Recommendations and Management Responses



However, the restricted revenue was originally earned as a result of 12D fees charged by the Clerk-Recorder's Office and not by HCA; therefore, the fees should be reflected as Fund 12D special revenue. To properly reflect the revenue in accordance with Generally Accepted Accounting Principles (GAAP), transfers should be recorded as an operating transfer journal voucher from Clerk-Recorder Fund 12D - Health Sub-Fund to HCA. We did not review the propriety of HCA expenditures supporting the \$150,000 in reclassified revenue as part of this audit.

Recommendation No. 18: We recommend that the Clerk-Recorder record future transfers of fee revenue from Fund 12D - Health Sub-Fund to Health Care Agency as an operating transfer journal voucher.

Clerk-Recorder Management Response:

Concur

The Department is now recording fee transfers from the Fund 12D Health Statistics sub-fund to the Health Care Agency as an operating transfer rather than revenue.

Finding No. 19 – Process Improvement Recommendation (Control Finding)

Summary

Legislative restrictions on Fund 12D usage make it difficult to find qualifying expenditures which may be contributing to an excess fund balance in Fund 12D. The Clerk-Recorder's Office should consider seeking a County Counsel opinion regarding whether the \$1 Enhancement Fee and/or the \$1 Micrographics Fee could be reduced or discontinued.

Details

The usage restrictions for the \$1 Enhancement Fee (GC §27361(c)) and the \$1 Micrographics Fee (GC §27361.4(a)) make it difficult to find qualifying expenditures. These restrictions on fund usage may be creating an excess in the 12D fund which must be monitored and tracked to ensure the monies are spent in compliance with restrictions.

The balance in Fund 12D at 6/30/12 was over \$14.8 Million:

- Enhancement Fee Sub-Fund \$7.8 Million
- Micrographics Fee Sub-Fund \$4.9 Million
- Health Fee Sub-Fund \$2.2 Million**

**Includes Fee Revenue for Security Measures

Enhancement Fee Revenue:

Pursuant to GC §27361(a), the base recording fee was set in 1985 at four dollars (\$4) for the first page and two dollars (\$2) for each additional page of the same document. The Clerk-Recorder's Office continues to charge this same \$4 base recording fee for the first page.

Of this base recording fee, pursuant to GC §27361(c): “\$1 for recording the first page and \$1 for each additional page shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents.” This fee is referred to as the Enhancement Fee.

Detailed Results, Findings, Recommendations and Management Responses



The Enhancement Fee is a mandatory fee allocation set by GC §27361(c) and is required to be allocated by the Clerk-Recorder on recordable documents. On 10/11/09, SB 676 was approved by the Governor of California which amended the language of GC §27361(a) by authorizing an increase in the base recording fee from \$4 to a maximum of \$10: “for recording and indexing every instrument, paper, or notice required or permitted by law to be recorded shall not exceed \$10 for recording the first page to reimburse the county for the costs of services rendered pursuant to this subdivision”.

In other words, the SB 676 legislation allows the Clerk-Recorder to raise the base recording fee from \$4 up to a maximum of \$10 to recover the costs of providing the service of recording and indexing documents, which is less restrictive usage than the current \$1 Enhancement Fee. If the Clerk-Recorder raised the base recording fee to recover their costs, the \$1 Enhancement Fee may not be needed.

However, since the \$1 Enhancement Fee is mandated by GC §27361(c), the Clerk-Recorder’s Office cannot stop allocating the fee without legislative relief. The Clerk-Recorder’s Office should consult with County Counsel to determine whether the \$1 Enhancement Fee (GC §27361(c)) could be reduced or discontinued and, if so, ensure recording fees are established to recover costs of performing the related services. This is an initiative that would benefit all California County Clerk-Recorder offices and as such should be coordinated through the County Recorders’ Association of California.

Micrographics Fee Revenue:

The Micrographics Fee is a voluntary fee authorized by GC §27361.4(a) which allows the Board of Supervisors of any county to “provide for an additional fee of one dollar (\$1) for filing every instrument, paper, or notice for record, in order to defray the cost of converting the county recorder’s document storage system to micrographics. Upon completion of the conversion and payment of the costs therefor, this additional fee shall no longer be imposed”. This law has been in effect over 30 years since 1/1/81.

The original intent of the micrographics law was to convert paper to microfilm, per a letter dated 5/4/81 from the bill author to Merced County. The letter stated “The only purpose for which a BOS of any County has the authority to impose an additional \$1 fee for document filings of any type is to pay for the costs of converting the County Recorder’s document storage system to a more efficient micrographics system.” The Clerk-Recorder’s Office should consult with County Counsel to determine whether there is a need to continue charging the Micrographics Fee.

Recommendation No. 19: We recommend the Clerk-Recorder consider consulting with County Counsel to determine whether the \$1 Enhancement Fee and/or the \$1 Micrographics Fee could be reduced or possibly discontinued.

Clerk-Recorder Management Response:

Concur

The Department believes that because the Modernization (Enhancement) portion of the basic recording fee is set by statute, it can only be reduced or discontinued by the State Legislature. However, the Department will conduct a “cost allocation” study, in consultation with County Counsel, to determine the actual cost of basic recording services, and will use the study’s conclusions to determine whether the basic recording fee, currently \$4, should be adjusted contingent with statutory authority to charge “up to \$10.”



ATTACHMENT A: Report Item Classifications

For purposes of reporting our audit observations and recommendations, we will classify audit report items into three distinct categories:

▶ **Critical Control Weaknesses:**

Audit findings or a combination of Significant Control Weaknesses that represent serious exceptions to the audit objective(s), policy and/or business goals. Management is expected to address Critical Control Weaknesses brought to their attention immediately.

▶ **Significant Control Weaknesses:**

Audit findings or a combination of Control Findings that represent a significant deficiency in the design or operation of internal controls. Significant Control Weaknesses require prompt corrective actions.

▶ **Control Findings:**

Audit findings concerning internal controls, compliance issues, or efficiency/effectiveness issues that require management's corrective action to implement or enhance processes and internal controls. Control Findings are expected to be addressed within our follow-up process of six months, but no later than twelve months.

Detailed Results, Findings, Recommendations and Management Responses



ATTACHMENT B: Fund 12D Revenue by Sub-Fund

Fund 12D revenues for the audit period were estimated as follows for each of the four (4) primary sub-funds:

Fund 12D Sub-Fund	FY 11/12 Recorded to Fund 12D Directly			Fees Incorrectly Recorded (Note 4)	FY 11/12 Fund 12D Revenues
	Fee Revenue	Bankruptcy Repayments (Note 1)	ERDS Reimburse (Note 2)		
1. Enhancement	\$2,825,431	\$61,890	\$335,000	\$623,649	\$3,845,970
2. Micrographics	\$193,665	\$95,344	\$0	\$558,544	\$847,553
3. Health	\$262,708	\$3,453	\$0	-\$33,381	\$232,780
4. Security Measures (Note 5)	\$0	\$0	\$0	\$48,647	\$48,647
Totals	\$3,281,804	\$160,687	\$335,000	\$1,197,459	\$4,974,950

Fund 12D Sub-Fund	FY 10/11 Recorded to Fund 12D Directly			Fees Incorrectly Recorded (Note 4)	FY 10/11 Fund 12D Revenues
	Fee Revenue	Bankruptcy Repayments (Note 1)	ERDS Reimburse (Note 2)		
1. Enhancement	\$2,385,260	\$56,966	\$642,570	\$785,332	\$3,870,128
2. Micrographics	\$0	\$87,759	\$0	\$719,658	\$807,417
3. Health (Note 3)	\$260,486	\$3,178	\$0	-\$33,728	\$229,936
4. Security Measures (Note 5)	\$0	\$0	\$0	\$48,194	\$48,194
Totals	\$2,645,746	\$147,903	\$642,570	\$1,519,456	\$4,955,675

Note 1: Bankruptcy Repayments resulting from the County bankruptcy. As of June 30, 2012, the County owes Fund 12D a remaining balance of \$1,688,616. We did not review bankruptcy repayments as part of this audit.

Note 2: Reimbursements from other counties for the Electronic Recording Delivery System (ERDS, also known as SECURE). Costs are shared equally by participating counties. We did not review ERDS reimbursement revenue as part of this audit.

Note 3: Includes fee revenue that was reclassified and transferred to Health Care Agency. See Operating Transfers (Attachment C, Note 2) and Finding No. 18.

Note 4: During our review, we found that some Fund 12D restricted fee revenue was incorrectly recorded to Fund 059 during the audit period and should have been recorded as Fund 12D special revenue in the appropriate sub-fund. See further details at Finding No. 3.

Note 5: The Clerk-Recorder's Office did not have a separate Fund 12D sub-fund established for Security Measures; therefore, these fees were incorrectly recorded in Fund 059 and Fund 12D – Health Sub-Fund. As a result of our audit, the Clerk-Recorder's Office created a separate "sub-fund" to properly account for Fund 12D - Security Measures fees. See further details at Finding No. 3.



ATTACHMENT C: Fund 12D Operating and Revenue Transfers

Operating and Revenue Transfers by Sub-Fund:

The Clerk-Recorder’s Office records all expenditures in their operating Fund 059, including expenditures related to Fund 12D restricted purposes. Operating transfer journal vouchers are periodically prepared by the Clerk-Recorder’s Office to transfer monies from Fund 12D to Fund 059 to reimburse the operating fund for Fund 12D-related expenditures.

Operating and Revenue Journal Voucher Transfers processed during the audit period were as follows:

Fund 12D Sub-Fund	FY 10/11	FY 11/12	Totals
Operating Transfers: Enhancement (Note 1)	\$1,350,000	\$2,719,939	\$4,069,939
Revenue Transfers: Health (Note 2)	\$52,670	\$94,720	\$147,390
Totals	\$1,402,670	\$2,814,659	\$4,217,329

Note 1: Based on our review of the operating transfer journal vouchers prepared by the Clerk-Recorder’s Office, the journal vouchers did not indicate the Fund 12D “sub-fund” from which the monies were being deducted. Per discussions with the Clerk-Recorder’s Office, they intended the \$4,069,939 in operating transfers to be entirely from the Enhancement Sub-Fund. See further details at Finding No. 2.

Note 2: During our review we noted the Clerk-Recorder’s Office transferred approximately \$147,390 in Fund 12D restricted revenue from the Health Sub-Fund to the Health Care Agency (HCA) for reimbursement of expenditures incurred by HCA that the Clerk-Recorder’s Office determined qualified for restricted use under Health & Safety Code 103625. The journal voucher prepared by the Clerk-Recorder’s Office to transfer the revenue was incorrectly recorded as a revenue reclassification instead of an operating transfer. See further details at Finding No. 18. We did not review the revenue that was reclassified to HCA as part of this audit.

Detailed Results, Findings, Recommendations and Management Responses



ATTACHMENT D: Fund 12D Estimated Fund Balance by Sub-Fund

Using the Clerk-Recorder's Office Fund 12D manual tracking schedule showing fund balance per sub-fund at 6/30/08, we estimated the sub-fund balances based on our review of the general ledger revenue and operating transfer activity.

It is important to note that we could not audit the beginning sub-fund balances at 6/30/08. Based on the errors identified in the Clerk-Recorder's Office manual schedule and some Fund 12D revenues were incorrectly recorded to Fund 059 during and prior to our audit period, the sub-fund balances on the manual schedule cannot be relied upon (see Findings No. 3 and No. 8). Therefore, the following sub-fund balances are estimates only and have not been audited:

Fund 12D Sub-Fund	6/30/08 (unaudited)	6/30/09 (unaudited)	6/30/10 (unaudited)	6/30/11 (unaudited) (Note 2)	6/30/12 (unaudited) (Note 2)
Enhancement	\$7,857,495	\$5,174,575	\$5,541,944	\$7,276,741	\$7,779,123
Micrographics	\$4,300,976	\$4,414,930	\$4,511,509	\$4,599,268	\$4,888,277
Health	\$1,223,564	\$1,521,889	\$1,792,948	\$2,003,941	\$2,175,382
Security Measures	\$0	\$0	\$0	\$0	\$0
Fund Balance Total (Note 1)	\$13,382,035	\$11,111,394	\$11,846,401	\$13,879,950	\$14,842,782

Note 1: The fund balance year-end totals were agreed to the general ledger reports for Fund 12D total fund balance amount.

Note 2: These amounts **do not include** fee revenue that we determined to be incorrectly recorded to Fund 059 (see further details in Finding No. 3).

Detailed Results, Findings, Recommendations and Management Responses



ATTACHMENT E: Fund 12D Fee Allocations

Fund 12D Real Property Recording Fee Allocation

Fee Code	Description	Fee	Allocation			Statute	Finding No.
			Amount	Fund	Account Description		
024	Recording Fee: Real Property (First Page)	\$6.00	\$3.00	059	Recording Fees – Regular (Base Fee)	GC 27361(a)	No. 3
			\$1.00	12D	Enhancement Fund (Base Fee)	GC 27361(c)	
			\$1.00	12D	Micrographics Fund	GC 27361.4(a)	
			\$1.00	059	Recording Fees – Regular (Business Days)	GC 27361.4(b)	
064	Recording Fee: Real Estate Fraud (First Page)	\$9.00	\$3.00	059	Recording Fees – Regular (Base Fee)	GC 27361(a)	No. 3
			\$1.00	12D	Enhancement Fund (Base Fee)	GC 27361(c)	
			\$1.00	12D	Micrographics Fund	GC 27361.4(a)	
			\$1.00	059	Recording Fees – Regular (Business Days)	GC 27361.4(b)	
			\$0.15	059	Recording Fees – Real Estate Fraud	GC 27388(a)	
\$2.85	12G	Real Estate Fraud Prosecution Trust Fund	GC 27388(a)				
025	Recording Fee: Real Property (Additional Page)	\$3.00	\$1.00	059	Recording Fees – Regular (Base Fee)	GC 27361(a)	
			\$1.00	12D	Enhancement Fund	GC 27361(c)	
			\$1.00	081	Trial Court Funding: County AB1301	GC 27361(b), GC 77205	
030	Non-Standard Document Fee	\$3.00	\$3.00	12D	Modernization Fund	GC 27361(a)(2)	No. 3
003	Government Lien Release Fee	\$8.00	\$6.00	059	Recording Fees – Regular (Base Fee)	GC 27361.3	No. 3 & No. 10
			\$2.00	12D	Enhancement Fund	GC 27361.3	
005	Map Filing Fees (First Page)	\$7.00	\$5.00	059	Recording Fees – Regular (Base Fee)	GC 27372	No. 3
			\$1.00	12D	Micrographics Fund	GC 27361.4(a)	
			\$1.00	059	Recording Fees – Regular (Business Days)	GC 27361.4(b)	
088	Map Filing Fees (Additional Page)	\$2.00	\$2.00	059	Recording Fees – Regular (Base Fee)	GC 27372	No. 10

Detailed Results, Findings, Recommendations and Management Responses



ATTACHMENT E: Fund 12D Fee Allocations (continued)

Fund 12D Vital Records Fee Allocation

Fee Code	Description	Fee	Allocation				Statute	Finding No.
			Amount	Fund	Description			
103 145 141	Birth Certificate/ General Public : • Certified Copy • Record Search • No Record of Birth	\$21.00	\$6.80	059	Base Fee (85% of \$8)	H&S 103625(b)(1) & (e)(2) H&S 103625(b)(1) & (e)(1) H&S 103625(f) & (g)(1) H&S 103625(f) & (g)(2) H&S 103525.5(a)(1) & (b) H&S 103525.5(a)(1) & (c) H&S 103625(b)(1), W&I 18966 H&S 103625(b)(1), W&I 18966 H&S 103625(b)(2) H&S 103625(b)(1)	No. 3 & No. 12	
			\$1.20	356	State Registrar (15% of \$8)			
			\$1.35	356	State Registrar-Vital & Health Statistics Trust (45% of \$3)			
			\$1.65	12D	County Health Statistics Fund (55% of \$3)			
			\$0.65	356	State Registrar –Safety & Security Measures (\$0.65 of \$1)			
			\$0.35	12D	County Vital Records Safety & Security Fund (\$0.35 of \$1)			
			\$3.60	12S	County Children’s Trust Fund (90% of \$4)			
			\$0.40	059	Defray collection costs: Children’s Trust Fund (10% of \$4)			
			\$3.00	12S	County Children’s Trust Fund			
\$2.00	356	Umbilical Cord Blood Collection Fund						
104 106	Birth Certificate/ Government: • Certified Copy • Record Search	\$12.00	\$6.80	059	Base Fee (85% of \$8)	H&S 103625(b)(1) & (e)(2) H&S 103625(b)(1) & (e)(1) H&S 103625(f) & (g)(1) H&S 103625(f) & (g)(2) H&S 103525.5(a)(1) & (b) H&S 103525.5(a)(1) & (c)	No. 3 & No. 12	
			\$1.20	356	State Registrar (15% of \$8)			
			\$1.35	356	State Registrar-Vital & Health Statistics Trust (45% of \$3)			
			\$1.65	12D	County Health Statistics Fund (55% of \$3)			
			\$0.65	356	State Registrar –Safety & Security Measures (\$0.65 of \$1)			
			\$0.35	12D	County Vital Records Safety & Security Fund (\$0.35 of \$1)			
108 146 142	Death Certificate/ General Public: • Certified Copy • Record Search • No Record of Death	\$14.00	\$6.80	059	Base Fee (85% of \$8)	H&S 103625(a) & (e)(2) H&S 103625(a) & (e)(1) H&S 103625(f) & (g)(1) H&S 103625(f) & (g)(2) H&S 103525.5(a)(1) & (b) H&S 103525.5(a)(1) & (c) PC 14251(a) PC 14251(a)	No. 3 & No. 12	
			\$1.20	356	State Registrar (15% of \$8)			
			\$1.35	356	State Registrar-Vital & Health Statistics Trust (45% of \$3)			
			\$1.65	12D	County Health Statistics Fund (55% of \$3)			
			\$0.65	356	State Registrar –Safety & Security Measures (\$0.65 of \$1)			
			\$0.35	12D	County Vital Records Safety & Security Fund (\$0.35 of \$1)			
			\$1.90	356	State Registrar-Missing Persons DNA Fund (95% of \$2)			
			\$0.10	059	Administrative costs: Missing Persons DNA Fund (5% of \$2)			
109 143	Death Certificate/ Government: • Certified Copy • Record Search	\$14.00	\$6.80	059	Base Fee (85% of \$8)	H&S 103625(a) & (e)(2) H&S 103625(a) & (e)(1) H&S 103625(f) & (g)(1) H&S 103625(f) & (g)(2) H&S 103525.5(a)(1) & (b) H&S 103525.5(a)(1) & (c) PC 14251(a) PC 14251(a)	No. 3 & No. 12	
			\$1.20	356	State Registrar (15% of \$8)			
			\$1.35	356	State Registrar-Vital & Health Statistics Trust (45% of \$3)			
			\$1.65	12D	County Health Statistics Fund (55% of \$3)			
			\$0.65	356	State Registrar –Safety & Security Measures (\$0.65 of \$1)			
			\$0.35	12D	County Vital Records Safety & Security Fund (\$0.35 of \$1)			
			\$1.90	356	State Registrar-Missing Persons DNA Fund (95% of \$2)			
			\$0.10	059	Administrative costs: Missing Persons DNA Fund (5% of \$2)			
179	Fetal Death/ General Public: • Certified Copy	\$11.00	\$6.80	059	Base Fee (85% of \$8)	H&S 103625(a) & (e)(2) H&S 103625(a) & (e)(1) H&S 103625(f) & (g)(1) H&S 103625(f) & (g)(2)	No. 12	
			\$1.20	356	State Registrar (15% of \$8)			
			\$1.35	356	State Registrar-Vital & Health Statistics Trust (45% of \$3)			
			\$1.65	12D	County Health Statistics Fund (55% of \$3)			

Detailed Results, Findings, Recommendations and Management Responses



ATTACHMENT E: Fund 12D Fee Allocations (continued)

Fee Code	Description	Fee	Allocation				Statute	Finding No.
			Amount	Fund	Description			
105 147 111	Marriage Certificate/ General Public: • Certified Copy • Record Search • No Record of Marriage	\$14.00	\$5.10	059	Base Fee (85% of \$6)	H&S 103625(c) & (e)(2) H&S 103625(c) & (e)(1) H&S 103625(f) & (g)(1) H&S 103625(f) & (g)(2) H&S 103525.5(a)(2)& (b) H&S 103525.5(a)(2)& (c) H&S 103625(c), FC1852 H&S 103625(c), FC1852	No. 3 & No. 12	
			\$0.90	356	State Registrar (15% of \$6)			
			\$1.35	356	State Registrar-Vital & Health Statistics Trust (45% of \$3)			
			\$1.65	12D	County Health Statistics Fund (55% of \$3)			
			\$0.65	356	State Registrar –Safety & Security Measures (\$0.65 of \$1)			
			\$0.35	12D	County Vital Records Safety & Security Fund (\$0.35 of \$1)			
			\$3.60	356	State Registrar-Family Law Trust Fund (90% of \$4)			
			\$0.40	059	Defray collection costs: Family Law Trust Fund (10% of \$4)			
107 144	Marriage Certificate/ Government: • Certified Copy • Record Search	\$10.00	\$5.10	059	Base Fee (85% of \$6)	H&S 103625(c) & (e)(2) H&S 103625(c) & (e)(1) H&S 103625(f) & (g)(1) H&S 103625(f) & (g)(2) H&S 103525.5(a)(2) & (b) H&S 103525.5(a)(2) & (c)	No. 3 & No. 12	
			\$0.90	356	State Registrar (15% of \$6)			
			\$1.35	356	State Registrar-Vital & Health Statistics Trust (45% of \$3)			
			\$1.65	12D	County Health Statistics Fund (55% of \$3)			
			\$0.65	356	State Registrar –Safety & Security Measures (\$0.65 of \$1)			
			\$0.35	12D	County Vital Records Safety & Security Fund (\$0.35 of \$1)			

Detailed Results, Findings, Recommendations and Management Responses



ATTACHMENT F: Fund 12D Pertinent California Statutes (Excerpts)

Fund 12D Real Property Recording Fees: Pertinent California Statutes (Excerpts)

Statute	Fee Description	Allocation Description	Statute Excerpt
GC 27361(a)	Recording Fees: Real Property (first & additional page), Real Estate Fraud	Base Recording Fee	The fee for recording and indexing every instrument, paper, or notice required or permitted by law to be recorded shall not exceed ten dollars (\$10) for recording the first page and three dollars (\$3) for each additional page, to reimburse the county for the costs of services rendered pursuant to this subdivision.
GC 27361(a)(2)	Non-Standard Document Fee	Modernization	If a page or sheet does not conform with the dimensions described in subdivision (a) of Section 27361.5, the recorder shall charge three dollars (\$3) extra per page or sheet of the document. The funds generated by the extra charge authorized under this paragraph shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents. Fees collected under this paragraph are not subject to subdivision (b) or (c).
GC 27361(b)	Recording Fees: Real Property (additional page)	Trial Court Funding: County AB1301	One dollar (\$1) of each three dollar (\$3) fee for each additional page shall be deposited in the county general fund.
GC 27361(c)	Recording Fees: Real Property (first & additional page), Map Filing (first & additional page), Real Estate Fraud Fee	Modernization	Notwithstanding Section 68085, one dollar (\$1) for recording the first page and one dollar (\$1) for each additional page shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents.
GC 27361.3	Lien Release Fee	Base Recording Fee & Modernization	Notwithstanding any contrary provision of the law, the fee for recording every release of lien, encumbrance, or notice executed by the state, or any municipality, county, city, district or other political subdivision shall be eight dollars (\$8) if the original lien, encumbrance, or notice was recorded without fee as provided by Section 27383 of the Government Code. Two dollars (\$2) for recording each release of lien pursuant to this section shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents.
GC 27361.4(a)	Recording Fees: Real Property (first page), Map Filing (first page), Real Estate Fraud	Micrographics	The board of supervisors of any county may provide for an additional fee of one dollar (\$1) for filing every instrument, paper, or notice for record, in order to defray the cost of converting the county recorder's document storage system to micrographics. Upon completion of the conversion and payment of the costs therefor, this additional fee shall no longer be imposed.
GC 27361.4(b)	Recording Fees: Real Property (first page), Map Filing (first page), Real Estate Fraud	Open Every Business Day	The board of supervisors of any county may provide for an additional fee, other than the fees authorized in subdivisions (a) and (c), of one dollar (\$1) for filing every instrument, paper, or notice for record provided that the resolution providing for the additional fee establishes the days of operation of the county recorder's offices as every business day except for legal holidays and those holidays designated as judicial holidays pursuant to Section 135 of the Code of Civil Procedure.

Detailed Results, Findings, Recommendations and Management Responses



ATTACHMENT F: Fund 12D Pertinent California Statutes (Excerpts) (continued)

Fund 12D Real Property Recording Fees: Pertinent California Statutes (Excerpts)

Statute	Fee Description	Allocation Description	Statute Excerpt
GC 27372	Map Filing Fees (first & additional page)	Base Recording Fee	The fee for recording or filing and indexing each map wherein land is subdivided in lots, tracts, or parcels is five dollars (\$5) for the first page and two dollars (\$2) for each additional page.
GC 27388(a)	Recording Fees: Real Estate Fraud	Real Estate Fraud Prosecution Fund & Related Administrative Costs	In addition to any other recording fees specified in this code, upon the adoption of a resolution by the county board of supervisors, a fee of up to three dollars (\$3) shall be paid at the time of recording of every real estate instrument, paper, or notice required or permitted by law to be recorded within that county, except those expressly exempted from payment of recording fees. "Real estate instrument" is defined for the purpose of this section as a deed of trust, an assignment of deed of trust, a reconveyance, a request for notice, a notice of default, a substitution of trustee, a notice of trustee sale, and a notice of rescission of declaration of default. "Real estate instrument" does not include any deed, instrument, or writing subject to the imposition of a documentary transfer tax, as defined in Section 11911 of the Revenue and Taxation Code, nor any document required to facilitate the transfer subject to the documentary transfer tax. The fees, after deduction of any actual and necessary administrative costs incurred by the county in carrying out this section, shall be paid quarterly to the county auditor or director of finance, to be placed in the Real Estate Fraud Prosecution Trust Fund. The amount deducted for administrative costs shall not exceed 10 percent of the fees paid pursuant to this section.
GC 54985	Map Filing (additional page)	Cost Recovery	(a) Notwithstanding any other provision of law that prescribes an amount or otherwise limits the amount of a fee or charge that may be levied by a county, a county service area, or a county waterworks district governed by a county board of supervisors, a county board of supervisors shall have the authority to increase or decrease the fee or charge, that is otherwise authorized to be levied by another provision of law, in the amount reasonably necessary to recover the cost of providing any product or service or the cost of enforcing any regulation for which the fee or charge is levied.
GC 77205	Recording Fees: Real Property (additional page)	Trial Court Funding: County AB1301	(a) Notwithstanding any other provision of law, in any year in which a county collects fee, fine, and forfeiture revenue for deposit into the county general fund pursuant to Sections 1463.001 and 1464 of the Penal Code, Sections 42007, 42007.1, and 42008 of the Vehicle Code, and Sections 27361 and 76000 of, and subdivision (f) of Section 29550 of, the Government Code that would have been deposited into the General Fund pursuant to these sections as they read on December 31, 1997, and pursuant to Section 1463.07 of the Penal Code, and that exceeds the amount specified in paragraph (2) of subdivision (b) of Section 77201 for the 1997-98 fiscal year, and paragraph (2) of subdivision (b) of Section 77201.1 for the 1998-99 fiscal year, and thereafter, the excess amount shall be divided between the county or city and county and the state, with 50 percent of the excess transferred to the state for deposit in the State Trial Court Improvement and Modernization Fund and 50 percent of the excess deposited into the county general fund.

Detailed Results, Findings, Recommendations and Management Responses



ATTACHMENT F: Fund 12D Pertinent California Statutes (Excerpts) (continued)

Statute	Fee Description	Statute Excerpt
HSC 103525.5	Vital Records: Safety & Security Features Fee	<p>(a) (1) Until January 1, 2006, in addition to the fees prescribed by Sections 103625 and 103626, an applicant for a certified copy of a birth or death record shall pay an additional fee of two dollars (\$2). Commencing January 1, 2006, this fee shall be reduced to one dollar (\$1). (2) Commencing January 1, 2010, in addition to the fees prescribed by Sections 103625 and 103626, an applicant for a certified copy of a marriage record shall pay an additional fee of one dollar (\$1).</p> <p>(b) Until January 1, 2006, each local registrar or county recorder collecting the fee pursuant to this section shall transmit one dollar and sixty-five cents (\$1.65) of the fee to the State Registrar by the 10th day of the month following the month in which the fee was received. Commencing January 1, 2006, each local registrar or county recorder collecting the fee pursuant to this section shall transmit sixty-five cents (\$.65) of the fee to the State Registrar by the 10th day of the month in which the fee was received. These funds, and fees collected by the State Registrar pursuant to this section, shall be used by the State Registrar, upon appropriation by the Legislature, to develop safety and security measures to protect against fraudulent use of birth, death, and marriage records, including, but not limited to, computerizing records, redacting and removing signatures as required by law, and electronically distributing redacted records to local registrars and county recorders for their use in complying with Sections 103526 and 103526.5.</p> <p>(c) Thirty-five cents (\$0.35) of the fee specified in subdivision (a) shall be retained by the public official charged with the collection of the fee to defray the costs of the additional security features required by Sections 103526 and 103526.5.</p>
HSC 103625(a)	Death Record: Certified Copy Fee	A fee of twelve dollars (\$12) shall be paid by the applicant for a certified copy of a fetal death or death record.
HSC 103625(b)(1)	Birth Record: Certified Copy Fee; County Children's Trust; Umbilical Cord Blood Collection Program	A fee of twelve dollars (\$12) shall be paid by a public agency or licensed private adoption agency applicant for a certified copy of a birth certificate that the agency is required to obtain in the ordinary course of business. A fee of eighteen dollars (\$18) shall be paid by any other applicant for a certified copy of a birth certificate. Four dollars (\$4) of any eighteen-dollar (\$18) fee is exempt from subdivision (e) and shall be paid either to a county children's trust fund or to the State Children's Trust Fund, in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code. Two dollars (\$2) of any eighteen-dollar (\$18) fee is exempt from subdivision (e) and shall be paid to the Umbilical Cord Blood Collection Program Fund in conformity with Section 1628.
HSC 103625(b)(2)	Birth Record: County Children's Trust Fund Additional Fee	The board of supervisors of any county that has established a county children's trust fund may increase the fee for a certified copy of a birth certificate by up to three dollars (\$3) for deposit in the county children's trust fund in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.
HSC 103625(c)	Marriage Record: Certified Copy Fee; Family Law Trust Fund Fee	A fee of three dollars (\$3) shall be paid by a public agency applicant for a certified copy of a marriage record, that has been filed with the county recorder or county clerk, that the agency is required to obtain in the ordinary course of business. A fee of six dollars (\$6) shall be paid by any other applicant for a certified copy of a marriage record that has been filed with the county recorder or county clerk. Three dollars (\$3) of any six-dollar (\$6) fee is exempt from subdivision (e) and shall be transmitted monthly by each local registrar, county recorder, and county clerk to the state for deposit into the General Fund as provided by Section 1852 of the Family Code.

Detailed Results, Findings, Recommendations and Management Responses



ATTACHMENT F: Fund 12D Pertinent California Statutes (Excerpts) (continued)

Statute	Fee Description	Statute Excerpt
HSC 103625(e)(1)&(2)	Vital Records Copy Fees Distribution	Each local registrar, county recorder, or county clerk collecting a fee pursuant to subdivisions (a) to (d), inclusive, shall do the following: (1) Transmit 15 percent of the fee for each certified copy to the State Registrar by the 10th day of the month following the month in which the fee was received. (2) Retain 85 percent of the fee for each certified copy solely to support the issuing agency for all activities related to the issuance of certified copies of records pursuant to subdivisions (a) to (d), inclusive.
HSC 103625(f)&(g)	Vital & Health Statistics Trust	(f) In addition to the fees prescribed pursuant to subdivisions (a) to (d), inclusive, all applicants for certified copies of the records described in those subdivisions shall pay an additional fee of three dollars (\$3), that shall be collected by the State Registrar, the local registrar, county recorder, or county clerk, as the case may be. (g) The local public official charged with the collection of the additional fee established pursuant to subdivision (f) may create a local vital and health statistics trust fund. The fees collected by local public officials pursuant to subdivision (f) shall be distributed as follows: (1) Forty-five percent of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar. (2) The remainder of the fee collected pursuant to subdivision (f) shall be deposited into the collecting agency's vital and health statistics trust fund, except that in any jurisdiction in which a local vital and health statistics trust fund has not been established, the entire amount of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.
WIC 18966	County Children's Trust Fund	When a county board of supervisors designates a commission pursuant to Section 18965, the board of supervisors shall establish a county children's trust fund. The children's trust fund shall consist of the fees for birth certificates, collected pursuant to Section 103625 of the Health and Safety Code, grants, gifts, or bequests from private sources to be used for child abuse and neglect prevention and intervention programs, any funds appropriated by local governmental entities to the trust fund, and any funds appropriated to the county for the trust fund by the Legislature. The local registrar or county recorder may, however, retain a percentage, not to exceed 10 percent, of the surcharge collectible pursuant to subdivision (b) of Section 103625 of the Health and Safety Code, in order to defray the costs of collection. The county treasurer shall transmit moneys collected from birth certificate fees for the county children's trust fund, pursuant to subdivision (b) of Section 103625 of the Health and Safety Code, collected with respect to the birth certificate of a child whose mother was a resident of another county at the time of the birth to the treasurer of the county of the mother's residence at the time of the birth if the county to receive the funds has established a program pursuant to Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code and does not have a licensed health facility that provides maternity services within its jurisdiction.
PC 14251(a)	Missing Persons DNA Database Fund	The "Missing Persons DNA Database" shall be funded by a two dollar (\$2) fee increase on death certificates issued by a local governmental agency or by the State of California. The issuing agencies may retain up to 5 percent of the funds from the fee increase for administrative costs.
FC 1852	Family Law Trust Fund	(b) Moneys collected by the state pursuant to subdivision (c) of Section 103625 of the Health and Safety Code, Section 70674 of the Government Code, and grants, gifts, or devises made to the state from private sources to be used for the purposes of this part shall be deposited into the Family Law Trust Fund. (g) In order to defray the costs of collection of these funds, pursuant to this section, the local registrar, county clerk, or county recorder may retain a percentage of the funds collected, not to exceed 10 percent of the fee payable to the state pursuant to subdivision (c) of Section 103625 of the Health and Safety Code.



ATTACHMENT G: Clerk-Recorder Responses



HUGH NGUYEN
CLERK-RECORDER

PROPERTY RECORDS
BIRTH AND DEATH RECORDS
MARRIAGE LICENSES/RECORDS
PASSPORTS
FICTITIOUS BUSINESS NAMES
NOTARY REGISTRATION
ORANGE COUNTY ARCHIVES

MEMORANDUM

TO: Dr. Peter Hughes, Director, Internal Audit October 7, 2014

FROM: Hugh Nguyen, Clerk Recorder *Hugh Nguyen*

SUBJECT: **Response to Draft Audit 1159B: "Review of Clerk Recorder Fund 12D: Revenue Sources, Expenditures, and Related Accounting Practices"**

Recommendation No. 1.a: We recommend the Clerk-Recorder develop a methodology, such as job costing or time study, for identifying expenditures as Fund 12D at the time the expenditures are made that would provide for costs to be allocated in a systematic and rational manner that can be audited.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder has developed a methodology for identifying qualifying expenditures for each Fund 12D special revenue category, based on the percentage of 12D qualifying activities/transactions to overall Department activities/transactions. Applying this methodology to Department expenditures, and using any additional qualifying expenses identified by the cost allocation study, the Department believes that it can support a significant portion of the operating transfers from 12D.

The Department also created a Policy & Procedure which established guidelines for developing these methodologies, and it provides specific instructions for calculating annual reimbursement percentages from 12D for qualifying expenses.

In addition, the Clerk-Recorder has created job numbers for each special revenue category within Fund 12D. These job numbers will be used to code labor hours on employees' timesheets when they work on 12D qualifying activities. Job numbers will also be used to code invoices for qualifying 12D expenditures.

The Department has developed the recommended methodology and is implementing the actions described in this recommendation in consultation with County Counsel.

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ATTACHMENT G: Clerk-Recorder Responses (continued)

Recommendation No. 1.b: We recommend the Clerk-Recorder clearly document on the invoice the purpose and how the expense specifically complies with the Fund 12D usage requirements.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder will document the following information on all invoices that qualify as special revenue expenses: the corresponding special revenue job number, a description of the expense, and how the expense meets the usage requirements. These activities and procedures have been incorporated into a Department Policy & Procedure which is currently being implemented by accounting staff.

Recommendation No. 1.c: We recommend the Clerk-Recorder develop and document a formal methodology for allocating shared costs between the operating Fund 059 and Fund 12D in a systematic and rational manner that can be audited.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder has developed two formal documents that will help the Department accurately charge expenses that are shared between Fund 059 and Fund 12D. These documents are the "12D Modernization Reimbursement Methodology Worksheet" and the "Special Revenue Allowable Uses and Expenditures List". The "12D Modernization Reimbursement Methodology Worksheet" identifies the allocation percentage of Fund 12D qualifying expenses/activities. The "Special Revenue Allowable Uses and Expenditures List" lists specific qualifying expenditures for each special revenue category.

The Department will use these documents, as well as recommendations from a pending cost allocation study, to support use of the 12D operating transfers and other special revenue funds.

Recommendation No. 1.d: We recommend that the Clerk-Recorder develop clearly defined policy and procedures for determining allowable usage of Fund 12D monies, including a methodology for allocating 12D qualifying expenses that is supportable and auditable, and consider consulting with County Counsel in determining what are qualifying expenditures for 12D.

Clerk-Recorder Management Response

Concur



ATTACHMENT G: Clerk-Recorder Responses (continued)

The Clerk-Recorder has developed a Policy & Procedure which includes procedures for identifying allowable expenditures (and usage) of special revenue monies. The P&P also includes a methodology for allocating shared qualifying special revenue expenses as well as procedures for accounting, auditing and documenting 12D expenditures and transfers. The Department will also incorporate recommendations from a pending cost allocation study to identify all allowable 12D expenditures, and thus may be able to develop a basis to support the majority of 12D funds used during the audit period.

The Department has developed the recommended Policies and Procedures and is implementing the actions described in this recommendation in consultation with County Counsel.

Recommendation No. 2.a: We recommend that the Clerk-Recorder implement the recommendations made in Findings No. 1 through No. 4 and then re-evaluate their records for the audit period to determine whether there are sufficient allowable expenditures to support the usage of Fund 12D monies underlying \$4.07 million in operating transfers made in FY 10/11 and FY 11/12, subject to our follow-up audit.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder is in the process of implementing recommendations in Findings No. 1 through No. 4, and staff is currently reviewing accounting records, identifying qualifying expenditures, and will apply recommendations from a cost allocation study to determine if there were sufficient allowable expenditures to support operating transfers in the amount of \$4.07 million from Fund 12D to Fund 059 during FY 10/11 and FY 11/12.

Recommendation No. 2.b: We recommended that the Clerk-Recorder ensure supporting documentation for Fund 12D operating transfers: 1) clearly identifies the sub-fund where the monies are coming from; 2) is complete and accurate and agrees to the JV total; 3) includes the initial/date of both the preparer and reviewer; and 4) clearly indicates how the expenditure complies with the Fund 12D restricted usage.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder will ensure all supporting documentation for Fund 12D transfers include the specific "sub-fund" from which expenses are being paid; that the transfer amount matches the supporting documentation amount; fund transfers include the name and date of the preparer and reviewer, and an explanation or comment of how the expenditures comply with special revenue use restrictions.



ATTACHMENT G: Clerk-Recorder Responses (continued)

Recommendation No. 2.c: We recommended that the Clerk-Recorder consult with County Counsel to determine whether it is necessary to retroactively evaluate the adequacy of documentation to support Fund 12D operating transfers made prior to the audit period.

Clerk-Recorder Management Response

Concur

The Department is implementing the actions described in this recommendation in consultation with County Counsel.

Recommendation No. 3.a: We recommend that the Clerk-Recorder implement the recommendations made in Findings No. 1 through No. 4 and then re-evaluate their records for the audit period to determine whether there are sufficient allowable expenditures to support the usage of \$2.72 million Fund 12D monies improperly recorded directly to operating Fund 059 in FY 10/11 and FY 11/12, subject to our follow-up audit. If it is determined after our follow-up audit there is insufficient allowable expenditures to support the \$2.72 million Fund 12D usage, **the unsupported amount may need to be returned to Fund 12D; accordingly, we recommend that Clerk-Recorder seek guidance from Orange County County Counsel.**

Clerk-Recorder Management Response

Concur

The Clerk-Recorder is in the process of implementing recommendations in Findings No. 1 through No. 4, and staff is currently reviewing records to determine if there were sufficient allowable expenditures to cover the amount of special revenue money improperly deposited directly into Fund 059 during FY 10/11 and FY 11/12. The Department has developed a reasonable methodology for identifying qualifying 12D expenditures, and it is hiring a consultant to conduct a cost allocation study, which may support the majority of the 12D monies recorded directly in Fund 059. However, if there were not enough allowable expenditures during those fiscal years to cover those special revenue amounts, the Clerk-Recorder will consult County Counsel as to whether that money needs to be reimbursed to Fund 12D.

The Department is implementing the actions described in this recommendation in consultation with County Counsel.

Recommendation No. 3.b: We recommend that the Clerk-Recorder determine the amount of fee revenue improperly recorded for the period subsequent to our audit period through the date of correction, and make the necessary adjustments to record the fee revenue in the appropriate Fund 12D – sub-fund.

Clerk-Recorder Management Response



ATTACHMENT G: Clerk-Recorder Responses (continued)

Concur

The Clerk-Recorder is currently reviewing records to determine the amount of special revenue monies incorrectly deposited directly into Fund 059 after the audit period until the situation was corrected in September 2012 (July 1, 2012 until September 25, 2012). If there are insufficient allowable expenses to cover the amount of funds incorrectly deposited in Fund 059, after applying a reasonable qualifying expense methodology and recommendations from the cost allocation study, those monies will be reimbursed to the appropriate Fund 12D sub-funds.

Recommendation No. 3.c: We recommend that the Clerk-Recorder consult with County Counsel to determine whether it is necessary to quantify the amount of fee revenue improperly recorded to Fund 059 for periods prior to the audit period, and whether a portion or all of those monies should be returned to Fund 12D.

Clerk-Recorder Management Response

Concur

The Department is implementing the actions described in this recommendation in consultation with County Counsel.

Recommendation No. 3.d: We recommend the Clerk-Recorder transfer fee revenue of \$67,109 (\$33,728 for FY 10/11 and \$33,381 for FY 11/12) from the Fund 12D - Health Sub-Fund to the Fund 12D - Security Measures Sub-Fund.

Clerk-Recorder Management Response:

Concur

The Clerk-Recorder is in the process of transferring \$67,109 from Fund 12D Health Statistics sub-fund to Fund 12D Security Measures sub-fund.

Recommendation No. 3.e: We recommend the Clerk-Recorder determine the amount of Fund 12D fees improperly recorded prior to the audit period, from the time of inception 1/1/03, through 6/30/2010, and subsequent to the audit period and make the necessary adjustments to record the fee revenue in the Fund 12D - Security Measures Sub-Fund.

Clerk-Recorder Management Response

Concur

The Department is conducting and implementing the actions described in this recommendation in consultation with County Counsel.



ATTACHMENT G: Clerk-Recorder Responses (continued)

The Department is in the process of determining the amount of Security Measures fees incorrectly recorded to the Health Statistics sub-fund after FY 11/12 until the problem was corrected in September 2012. That money will be transferred from the Health Statistics sub-fund to the Security Measures sub-fund.

Recommendation No. 4.a: We recommend that the Clerk-Recorder develop policy and procedures to be followed for the governance of Fund 12D. The policy should include clearly defined procedures for determining allowable usage of Fund 12D monies, including a methodology for allocating 12D qualifying expenses that is supportable and auditable. The policy should also include clearly defined criteria for identifying microfilm costs that are applicable to the Micrographics Sub-Fund versus the Enhancement Sub-Fund. Documented policy and procedures should be reviewed and approved by management and current versions need to be readily accessible for reference by personnel responsible for Fund 12D.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder is in the process of preparing a Fund 12D Accounting Policy & Procedure that identifies specific allowable use of special revenue funds. The P&P also establishes a methodology for accurately allocating shared costs to the appropriate special revenue sub-funds. The Department has drafted a "Special Revenue Allowable Uses and Expenditures" list, which identifies specific qualifying expenditures and uses for each special revenue category including the Micrographics and Modernization sub-funds. The Special Revenue Allowable Uses and Expenditures List will be reviewed and updated annually by management; and current versions of the document will be readily accessible to staff responsible for 12D activity.

Recommendation No. 4.b: We further recommend that the Clerk-Recorder consider consulting with County Counsel in determining what are considered qualifying expenditures for Fund 12D usage, including County overhead charges (CWCAP).

Clerk-Recorder Management Response

Concur

The Clerk-Recorder is examining the appropriateness of the department's Special Revenue Allowable Uses and Expenditures List in consultation with County Counsel; as well as the anticipated report(s) developed by the cost allocation consultant, which the Clerk-Recorder is in the process of selecting.

Recommendation No. 5: We recommend that Clerk-Recorder review and evaluate the propriety of transferring approximately \$4.9 million in excess revenues (net county cost contributions) from Clerk-Recorder to the County General Fund during the audit period, to ensure those monies were not restricted Fund 12D monies.



ATTACHMENT G: Clerk-Recorder Responses (continued)

Clerk-Recorder Management Response

Concur

The Department is in the process of determining how much qualifying Fund 12D expenditures can be matched against the \$4.9 million that was transferred from Fund 12D to Fund 059 during FY 2010/11 and FY 2011/12. The Department is in the process of retaining a cost allocation consultant to assist in this effort.

Recommendation No. 6: We recommend that the Clerk-Recorder hire a permanent, full-time experienced accounting manager to implement proper accounting processes and controls, perform quality assurance reviews of accounting transactions, run the day-to-day accounting operations, and provide needed supervision and training to the accounting staff.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder has hired a permanent, full-time Financial Services Manager (Admin II) to oversee the Department's financial and accounting activities, and to implement appropriate department accounting procedures and controls. In addition, the department is hiring a full-time accounting manager (Admin I) to provide needed supervision and training to the Department's accounting staff. This manager position will also provide another level of quality assurance and review of department accounting transactions and activities.

Recommendation No. 7.a: We recommend that the Clerk-Recorder maintain adequate authoritative documentation to support the amount of fees charged to the public and the basis for the fee allocation in the Cashiering System.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder is in the process of compiling binders containing a chronological history of all Department fees, including state mandates, Government Code section, Board action, ordinances, cost allocation studies and other relevant documentation supporting the amount of each fee in the department's current fee schedule and fees within the department's cashiering system. In addition, the Clerk-Recorder is in the process of hiring a consultant to conduct a cost allocation study for those fees that are based on cost recovery.

Recommendation No. 7.b: We recommend the Clerk-Recorder implement internal controls to ensure that correct fee amounts are charged to the public and that future changes to fee amounts and fee allocations in the Cashiering System are properly authorized, made correctly, and are adequately supported with appropriate documentation.



ATTACHMENT G: Clerk-Recorder Responses (continued)

Clerk-Recorder Management Response

Concur

The Clerk-Recorder is in the process of drafting two Policy & Procedures which will require the annual review (and updates if necessary) of Department fees by the respective section managers. The P&P also requires documentation and Department Head approval of any proposed fee changes. New department policy requires Department Head approval prior to any Cashiering System changes, as well as testing and confirmation that the desired changes are correct. Additionally, Information Systems staff will maintain a log of all Cashiering System changes.

Recommendation No. 8: We recommend that the Clerk-Recorder establish internal controls to ensure that the Fund 12D Activity Summary Schedule is prepared accurately, reconciled to the general ledger, and reflects total fund balance (both reserved and unreserved) by sub-fund.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder has implemented various accounting procedures and controls to insure the accuracy of Fund 12D sub-fund balances. These controls include a new Policy & Procedure detailing documentation and accounting for all Fund 12D expenditures; monthly reconciliation of all Fund 12D sub-funds to the General Ledger, establishment of separate job numbers for each Fund 12D sub-fund, and establishment of "Department Balance Sheet Accounts" within Fund 12D to separate the four sub-funds.

Recommendation No. 9: We recommend the Clerk-Recorder perform cost studies as required by legal statute and County policy, to ensure that fees charged to the public reflect actual costs.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder is in the process of hiring a consultant to conduct a "cost allocation" study for Department fees that are based on cost recovery to ensure fees charged do not reflect more than actual cost of providing the service.

Recommendation No. 10.a: We recommend that the Clerk-Recorder consult with County Counsel in determining if further corrective action is required.

Clerk-Recorder Management Response



ATTACHMENT G: Clerk-Recorder Responses (continued)

Concur

The Clerk-Recorder is in the process of determining if any further action is required in consultation with County Counsel.

Recommendation No. 10.b: We recommend that the Clerk-Recorder consult with County Counsel in determining if any other corrective action is required.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder is in the process of determining if any further action is required in consultation with County Counsel.

Recommendation No. 11: We recommend that the Clerk-Recorder ensure all future Agenda Staff Reports (ASRs) submitted to the Board of Supervisors for their approval of the use of Fund 12D monies adequately and clearly disclose the funding source as Fund 12D, including restrictions and compliance with restrictions.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder has created an “ASR Review Committee” comprised of section managers and the Department Head, who will review all Agenda Staff Reports to the Board to ensure accuracy of information. Additionally the committee will assure that the ASR clearly indicates any use of Department restricted funds and the justification for the expenditures. These ASR procedures have been incorporated into the Departments 12D Policy & Procedure.

Recommendation No. 12.a: We recommend that the Clerk-Recorder create separate general ledger revenue account coding to differentiate fees generated from vital records documents from those fees generated from real property documents.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder is in the process of changing the revenue coding in the Department Cashiering System so that only “recorded” real property documents are coded as “Recording Fees” (7470). Other fees will be coded as “Other Charges for Services” (7590). This will eliminate the miscoding of non-real property transactions as “Recording Fees”.



ATTACHMENT G: Clerk-Recorder Responses (continued)

Recommendation No. 12.b: We recommend that the Clerk-Recorder ensure that fee code classifications in the cashiering system are correct and consistent.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder is in the process of correcting the fee codes in the cashiering system, so only recorded real property documents will be coded as "Recording Revenue." In addition, the Department is drafting a Policy & Procedure that requires an annual review of the cashiering system fee codes by section managers and accounting staff to insure fee codes are updated, consistent and correct.

Recommendation No. 13: We recommend the Clerk-Recorder develop a strategic plan for managing and budgeting Fund 12D monies.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder is in the process of preparing a 5-Year Financial Plan for Fund 12D, which staff will update annually. The 5-Year Financial Plan will be a projection of annual revenues and expenditures, based on historical revenues and allowable 12D expenditures.

Recommendation No. 14: We recommend the Clerk-Recorder compare revenue and expense balances from the Vital and Health Statistics Trust Fund Report Form to the Fund 12D – Health Sub-Fund General Ledger balances to ensure the report is accurately prepared.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder will compare balances from the Vital and Health Statistics Trust Fund Report Form to the Fund 12D Health sub-fund General Ledger balance and make sure they match. If the two numbers do not match, accounting staff will document and correct any variance in the numbers. In addition, the accounting supervisor and the accounting manager will review all trust fund reports to ensure accuracy.

Recommendation No. 15: We recommend Clerk-Recorder seek a County Counsel opinion whether interest earned on monies recorded in Special Revenue Fund 12D should be recorded in Fund 12D.

Clerk-Recorder Management Response



ATTACHMENT G: Clerk-Recorder Responses (continued)

Concur

The Clerk-Recorder is in the process of determining if the interest earned by a special revenue fund should be recorded in that same fund in consultation with County Counsel.

Recommendation No. 16: We recommend that the Clerk-Recorder work with the vendor to ensure adjustments to cash receipts transactions are processed in the Cashiering System to enable accurate transactional information.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder will work with the Department cashiering system's software vendor to determine if any enhancements can be made to the system so that manual adjustments or corrections made after the close of business can be incorporated into the cashiering system's transaction totals and reports.

Recommendation No. 17: We recommend that the Clerk-Recorder ensure their system testing is adequately reviewed to validate that fixes to the cashier system software are fully implemented.

Clerk-Recorder Management Response

Concur

The Clerk-Recorder's Information System staff will test the cashiering system after any fee changes have been made to ensure the fee changes are correct (and monies are going into the proper accounts). In addition, the affected section manager and the accounting manager will also verify the changes are correct in the cashiering system before implementing the change. These procedures have been incorporated into a new Fund 12D Policy & Procedure.

Recommendation No. 18: We recommend that the Clerk-Recorder record future transfers of fee revenue from Fund 12D - Health Sub-Fund to Health Care Agency as an operating transfer journal voucher.

Clerk-Recorder Management Response

Concur

The Department is now recording fee transfers from the Fund 12D Health Statistics sub-fund to the Health Care Agency as an operating transfer rather than revenue.



ATTACHMENT G: Clerk-Recorder Responses (continued)

Recommendation No. 19: We recommend the Clerk-Recorder consider consulting with County Counsel to determine whether the \$1 Enhancement Fee and/or the \$1 Micrographics Fee could be reduced or possibly discontinued.

Clerk-Recorder Management Response

Concur

The Department believes that because the Modernization (Enhancement) portion of the basic recording fee is set by statute, it can only be reduced or discontinued by the State Legislature. However, the Department will conduct a “cost allocation” study, in consultation with County Counsel, to determine the actual cost of basic recording services, and will use the study’s conclusions to determine whether the basic recording fee, currently \$4, should be adjusted contingent with statutory authority to charge “up to \$10.”