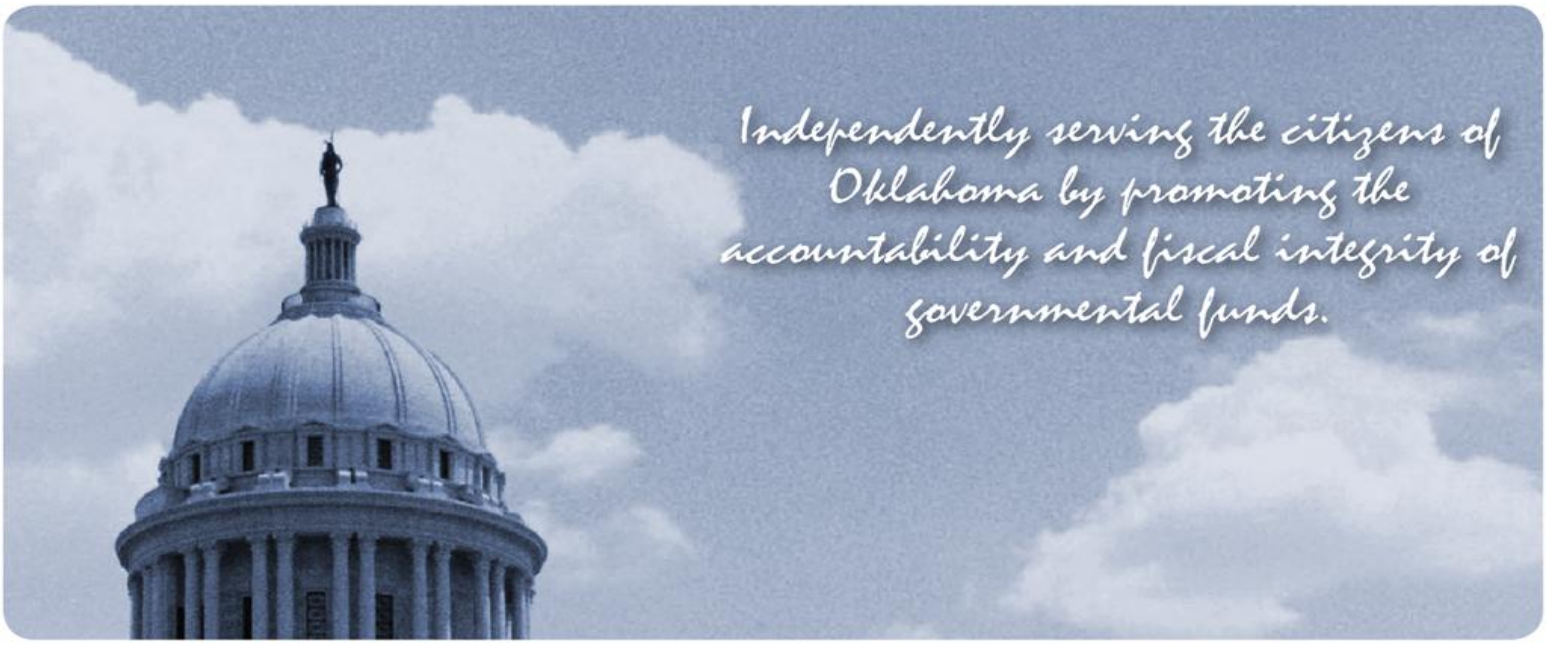
COUNTY AUDIT

# Creek County

For the fiscal year ended June 30, 2014




Oklahoma State
Auditor & Inspector
Gary A. Jones, CPA, CFE

**CREEK COUNTY, OKLAHOMA**
**FINANCIAL STATEMENT**
**AND INDEPENDENT AUDITOR'S REPORT**
**FOR THE FISCAL YEAR ENDED JUNE 30, 2014**

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Oklahoma State Auditor & Inspector

2300 N. Lincoln Blvd. • State Capitol, Room 100 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

February 29, 2016

TO THE CITIZENS OF
CREEK COUNTY, OKLAHOMA

Transmitted herewith is the audit of Creek County, Oklahoma for the fiscal year ended June 30, 2014. The audit was conducted in accordance with 19 O.S. § 171.

A report of this type can be critical in nature. Failure to report commendable features in the accounting and operating procedures of the entity should not be interpreted to mean that they do not exist.

The goal of the State Auditor and Inspector is to promote accountability and fiscal integrity in state and local government. Maintaining our independence as we provide this service to the taxpayers of Oklahoma is of utmost importance.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during our engagement.

Sincerely,

GARY A. JONES, CPA, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

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INTERNAL CONTROL AND COMPLIANCE SECTION



APPENDICES



ITEM OF INTEREST

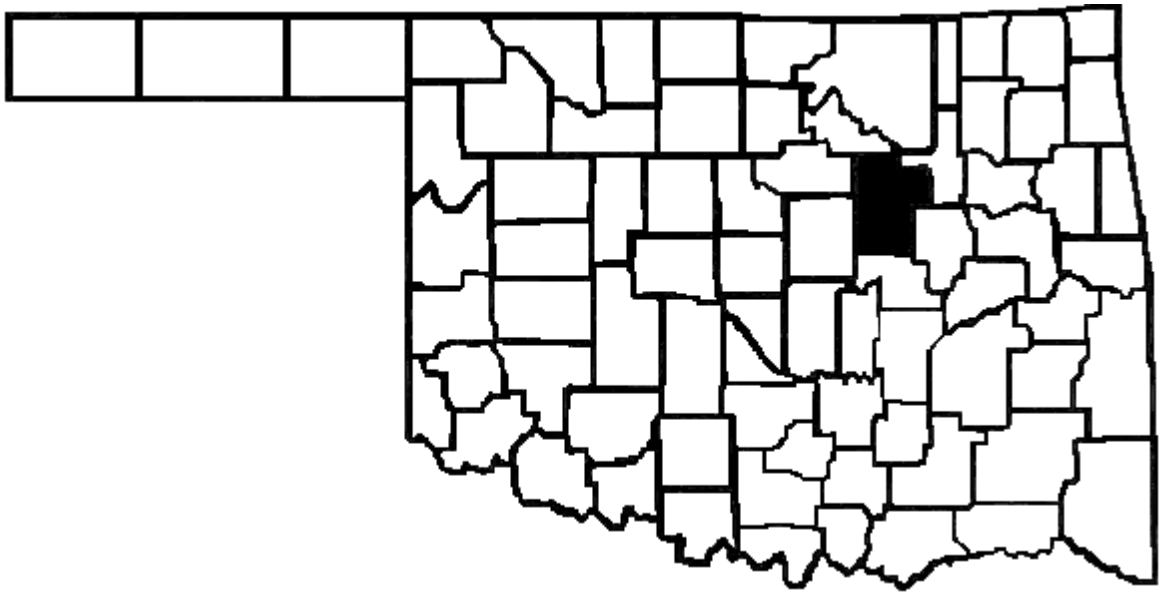
**Finding 2014-1 - Property Taken by Eminent Domain Levied Against Taxpayers and Noncompliance of Open Meeting Laws (Repeat Finding)**

The Board of County Commissioners obtained through eminent domain approximately 226 acres and paid the landowner $1,125,000. The County could not provide sufficient documentation to determine that this procedure was done in accordance with state statutes and the Oklahoma Constitution. According to court records the property was obtained for the purpose of economic development which is constitutionally and statutorily prohibited. Further, minutes of the Board of County Commissioners executive session in which this discussion was held were not retained by the Chairman.

The County could not provide documentation of an offer or any negotiations being made to the landowner prior to the condemnation in court. Further, the County could not provide documentation of funds being available to purchase the land if a price was negotiated. No appraisal was obtained.

As a result of the above actions, a judgment was levied against the County and the property taxes increased for taxpayers. Further, the judgment was not timely filed and the County paid an additional $73,302.23 in interest to the landowner for the error. **(Pg. 22)**

**INTRODUCTORY SECTION**
**UNAUDITED INFORMATION ON PAGES iii - ix**
**PRESENTED FOR INFORMATIONAL PURPOSES ONLY**



Located in east central Oklahoma, Creek County was created at statehood. Sapulpa, the county seat, was named for Sus pul ber, a Creek leader. It was so designated following an election by county residents August 12, 1908, after statehood and reaffirmed by a United States Supreme Court decision August 1, 1913.

The discovery of oil at the Red Fork Field in 1901 marked the beginning of boom times for Creek County, yet they were not to last. As oil production began to subside following World War I, economic hard times became more and more a reality and were intensified with the advent of the Great Depression and Dust Bowl eras.

For decades Creek County and Sapulpa were known across the country and the world as the home of Frankhoma Pottery. The factory, which utilized clay deposits from local Sugar Loaf Hill, manufactured dinnerware and art objects that are still sought by collectors and treasured by aficionados. Today, Frankhoma is no longer located in Creek County, but it survives as an online business in the Tulsa area.

County Seat – Sapulpa

Area – 969.77 Square Miles

County Population – 70,651
(2012 est.)

Farms – 1,900

Land in Farms – 377,437 Acres

Primary Source: Oklahoma Almanac 2013-2014

## Board of County Commissioners

District 1 – Newt Stephens
District 2 – Rick Stewart
District 3 – Danny Gann

## County Assessor

JaNell Enlow

## County Clerk

Jennifer Mortazavi

## County Sheriff

John Davis

## County Treasurer

Byron Davis

## Court Clerk

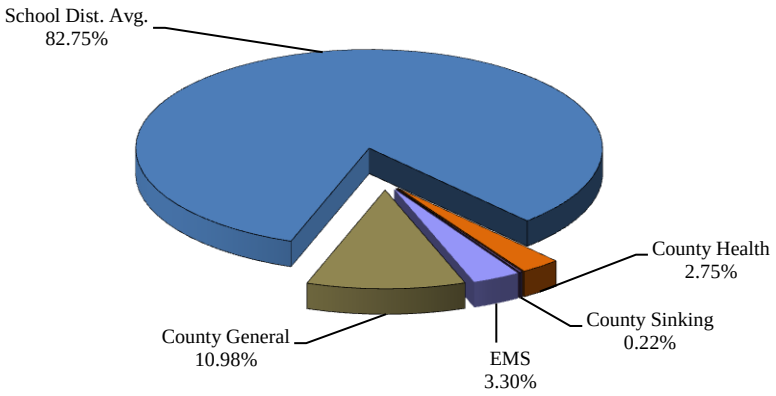
Amanda VanOrsdol

## District Attorney

Max Cook

**CREEK COUNTY, OKLAHOMA**
**AD VALOREM TAX DISTRIBUTION**
**SHARE OF THE AVERAGE MILLAGE**
**FOR THE FISCAL YEAR ENDED JUNE 30, 2014**

Property taxes are calculated by applying a millage rate to the assessed valuation of property. Millage rates are established by the Oklahoma Constitution. One mill equals one-thousandth of a dollar. For example, if the assessed value of a property is $1,000.00 and the millage rate is 1.00, then the tax on that property is $1.00. This chart shows the different entities of the County and their share of the various millages as authorized by the Constitution.




County-Wide Millages

| | |
|---|---|
| County General | 10.26 |
| County Health | 2.57 |
| Sinking | 0.21 |
| EMS | 3.08 |

Cities & Towns

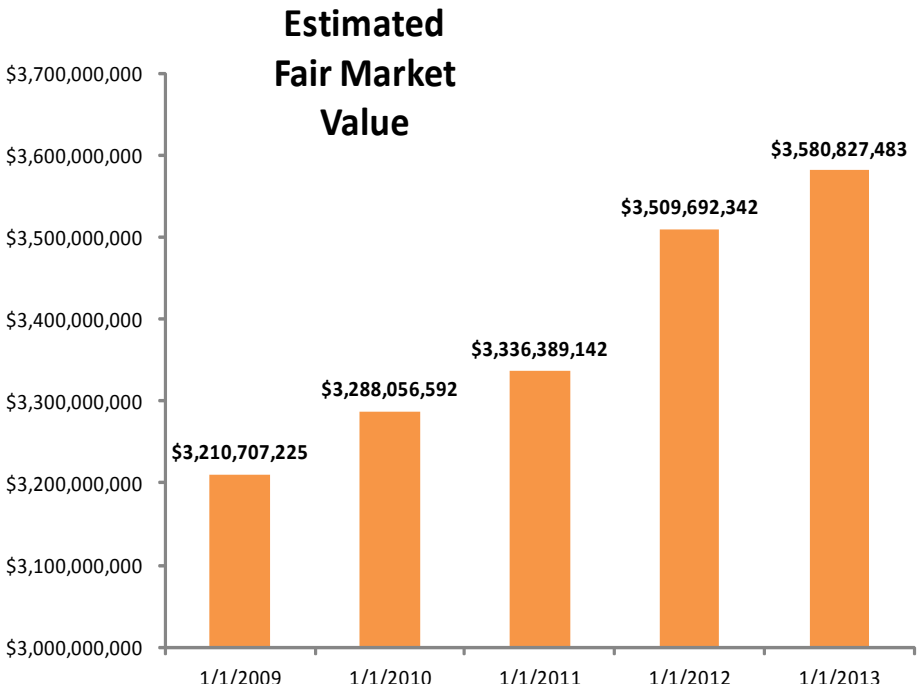
| | |
|---|---|
| Kiefer | 5.13 |
| Sapulpa | 10.24 |

School District Millages

| | | Gen. | Bldg. | Skg. | Career Tech | Bldg. Fund | Common | Total |
|---|---|---|---|---|---|---|---|---|
| Milfay | D-1 | 35.49 | 5.07 | 1.97 | 10.26 | 3.00 | 4.10 | 59.89 |
| Bristow | I-2 | 36.00 | 5.14 | 20.12 | 10.26 | 3.00 | 4.10 | 78.62 |
| Mannford | I-3 | 36.02 | 5.15 | 21.12 | 10.26 | 3.00 | 4.10 | 79.65 |
| Pawnee | JT-3 | 36.55 | 5.22 | 21.12 | 10.45 | 3.14 | 4.10 | 80.58 |
| Mounds | I-5 | 36.26 | 5.18 | 27.30 | 10.26 | 3.00 | 4.10 | 86.10 |
| Okmulgee | JT-5 | 35.70 | 5.10 | 27.30 | 10.20 | 3.06 | 4.10 | 85.46 |
| Lone Star | D-8 | 36.40 | 5.20 | 20.70 | 10.26 | 3.00 | 4.10 | 79.66 |
| Gypsy | D-12 | 36.24 | 5.18 | 15.62 | 10.26 | 3.00 | 4.10 | 74.40 |
| Olive | I-17 | 36.38 | 5.20 | - | 10.26 | 3.00 | 4.10 | 58.94 |
| Kiefer | I-18 | 35.83 | 5.12 | 18.04 | 10.26 | 3.00 | 4.10 | 76.35 |
| Oilton | I-20 | 35.96 | 5.14 | 22.06 | 10.26 | 3.00 | 4.10 | 80.52 |
| Payne | JT-20 | 38.21 | 5.46 | 22.06 | 10.17 | 3.05 | 4.10 | 83.05 |
| Depew | I-21 | 35.57 | 5.08 | 11.31 | 10.26 | 3.00 | 4.10 | 69.32 |
| Kellyville | I-31 | 36.15 | 5.16 | 18.78 | 10.26 | 3.00 | 4.10 | 77.45 |
| Sapulpa | I-33 | 35.78 | 5.11 | 26.50 | 10.26 | 3.00 | 4.10 | 84.75 |
| Pretty Water | D-34 | 36.79 | 5.26 | 7.29 | 10.26 | 3.00 | 4.10 | 66.70 |
| Allen Bowden | D-35 | 36.11 | 5.16 | 6.32 | 10.26 | 3.00 | 4.10 | 64.95 |
| Drumright | I-39 | 35.66 | 5.09 | 34.31 | 10.26 | 3.00 | 4.10 | 92.42 |
| Payne | J-39 | 36.12 | 5.16 | 34.31 | 10.17 | 3.05 | 4.10 | 92.91 |
| Okfuskee | I-14 | 35.50 | 5.07 | 4.53 | 10.11 | 5.06 | 4.10 | 64.37 |
| Pawnee Co | D-2 | 36.55 | 5.22 | 21.12 | 10.45 | 3.14 | 4.10 | 80.58 |
| Pawnee Co | I-6 | 36.14 | 5.16 | 23.68 | 10.26 | 3.00 | 4.10 | 82.34 |
| Tulsa Co Jt | I-1 | 35.04 | 5.01 | 23.71 | 8.06 | 5.10 | 4.10 | 81.02 |
| Tulsa Co Jt | I-5 | 36.79 | 5.26 | 33.73 | 8.06 | 5.10 | 4.10 | 93.04 |
| Tulsa Co Jt | D-15 | 35.98 | 5.14 | 2.22 | 8.06 | 5.10 | 4.10 | 60.60 |

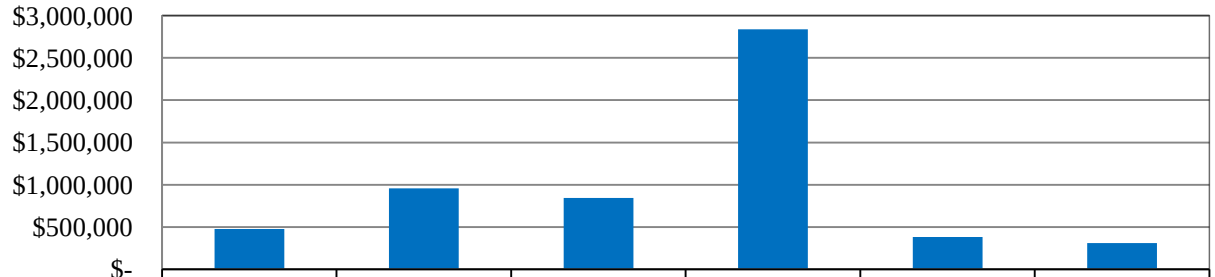
**CREEK COUNTY, OKLAHOMA**
**ASSESSED VALUE OF PROPERTY**
**TREND ANALYSIS**
**FOR THE FISCAL YEAR ENDED JUNE 30, 2014**

| Valuation Date | Personal | Public Service | Real Estate | Homestead Exemption | Net Value | Estimated Fair Market Value |
|---|---|---|---|---|---|---|
| 1/1/2013 | $79,340,782 | $56,117,152 | $313,623,021 | $19,381,657 | $429,699,298 | $3,580,827,483 |
| 1/1/2012 | $79,166,507 | $58,266,130 | $303,133,897 | $19,403,453 | $421,163,081 | $3,509,692,342 |
| 1/1/2011 | $70,854,129 | $56,771,630 | $291,659,772 | $18,918,834 | $400,366,697 | $3,336,389,142 |
| 1/1/2010 | $73,258,032 | $56,802,025 | $283,004,183 | $18,497,449 | $394,566,791 | $3,288,056,592 |
| 1/1/2009 | $73,708,797 | $57,879,740 | $271,834,934 | $18,138,604 | $385,284,867 | $3,210,707,225 |



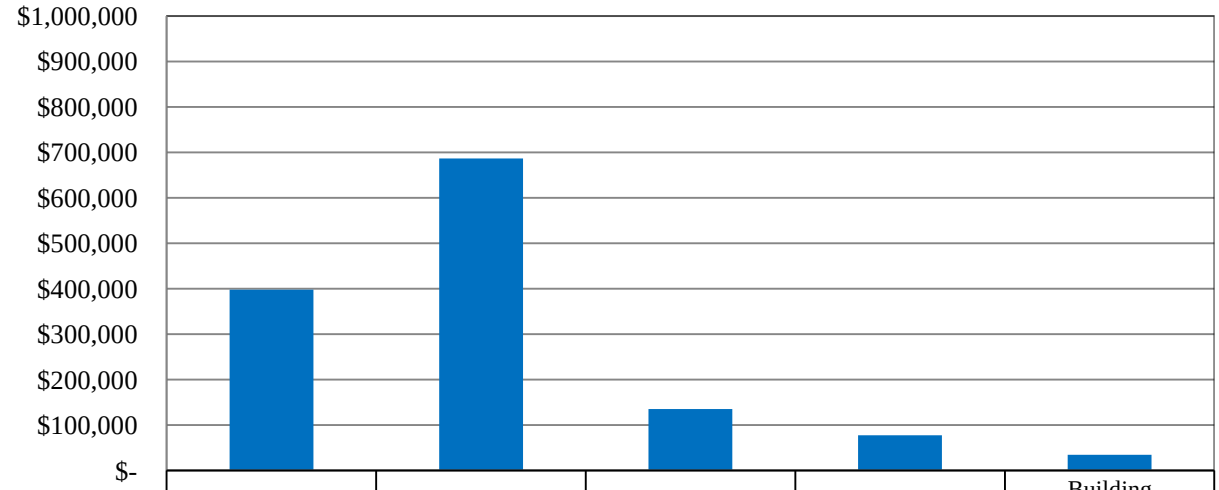
County officers' salaries are based upon the assessed valuation and population of the counties. State statutes provide guidelines for establishing elected officers' salaries. The Board of County Commissioners sets the salaries for all elected county officials within the limits set by the statutes. The designated deputy or assistant's salary cannot exceed the principal officer's salary. Salaries for other deputies or assistants cannot exceed the principal officer's salary. The information presented below is for the fiscal year ended June 30, 2014.

## Payroll Expenditures by Department




| | District 1 | District 2 | District 3 | County Sheriff | County Treasurer | County Clerk |
|---|---|---|---|---|---|---|
| Payroll Dollars | $476,701 | $956,133 | $843,031 | $2,839,697 | $383,260 | $308,900 |

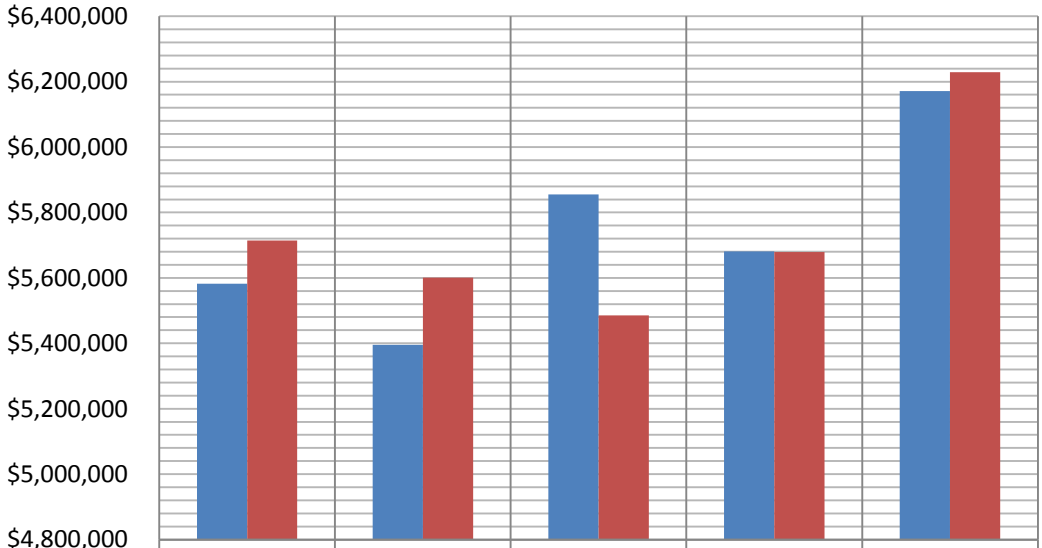
## Payroll Expenditures by Department




| | Court Clerk | County Assessor | Election Board | Free Fair | Building Maintenance |
|---|---|---|---|---|---|
| Payroll Dollars | $397,775 | $686,624 | $135,015 | $77,523 | $34,629 |

# County General Fund

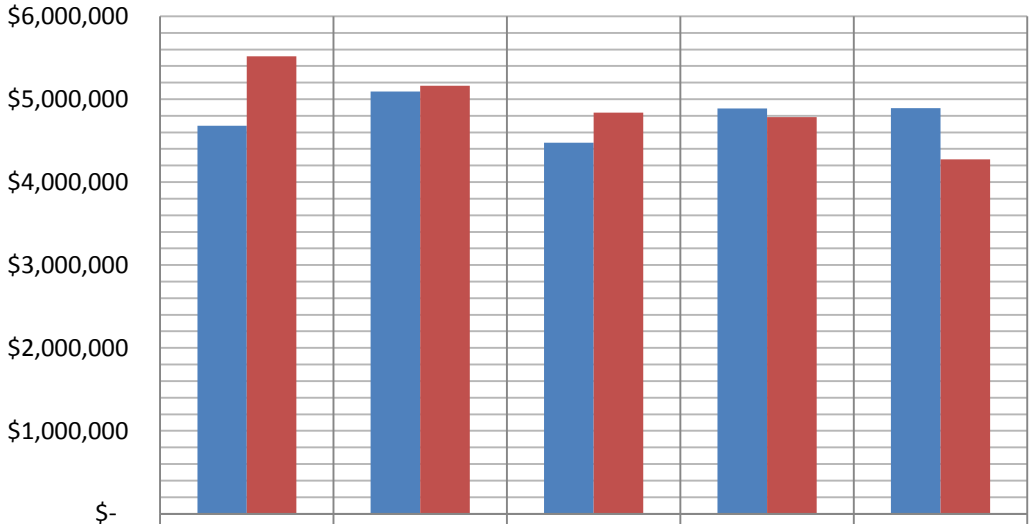
The Oklahoma Constitution and the Oklahoma Statutes authorize counties to create a County General Fund, which is the county's primary source of operating revenue. The County General Fund is typically used for county employees' salaries plus many expenses for county maintenance and operation. It also provides revenue for various budget accounts and accounts that support special services and programs. The Board of County Commissioners must review and approve all expenditures made from the County General Fund. The primary revenue source for the County General Fund is usually the county's ad valorem tax collected on real, personal (if applicable), and public service property. Smaller amounts of revenue can come from other sources such as fees, sales tax, use tax, state transfer payments, in-lieu taxes, and reimbursements. The chart below summarizes receipts and disbursements of the County's General Fund for the last five fiscal years.




| | FYE 2010 | FYE 2011 | FYE 2012 | FYE 2013 | FYE 2014 |
|---|---|---|---|---|---|
| Receipts Apportioned | $5,581,964 | $5,394,976 | $5,855,075 | $5,680,779 | $6,171,349 |
| Disbursements | $5,714,524 | $5,600,862 | $5,485,122 | $5,679,096 | $6,229,030 |

# County Highway Fund

The County receives major funding for roads and highways from a state imposed fuel tax. Taxes are collected by the Oklahoma Tax Commission. Taxes are imposed on all gasoline, diesel, and special fuel sales statewide. The County's share is determined on formulas based on the County population, road miles, and land area and is remitted to the County monthly. These funds are earmarked for roads and highways only and are accounted for in the County Highway Fund. The chart below summarizes receipts and disbursements of the County's Highway Fund for the last five fiscal years.




| | FYE 2010 | FYE 2011 | FYE 2012 | FYE 2013 | FYE 2014 |
|---|---|---|---|---|---|
| Receipts Apportioned | $4,679,370 | $5,091,622 | $4,473,742 | $4,889,837 | $4,893,173 |
| Disbursements | $5,517,890 | $5,160,732 | $4,835,940 | $4,784,060 | $4,272,902 |

# FINANCIAL SECTION

Oklahoma State Auditor & Inspector

2300 N. Lincoln Blvd. • State Capitol, Room 100 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

**Independent Auditor's Report**

TO THE OFFICERS OF
CREEK COUNTY, OKLAHOMA

***Report on the Financial Statement***

We have audited the combined total—all county funds on the accompanying regulatory basis Statement of Receipts, Disbursements, and Changes in Cash Balances of Creek County, Oklahoma, as of and for the year ended June 30, 2014, and the related notes to the financial statement, which collectively comprise the County's basic financial statement as listed in the table of contents.

***Management's Responsibility for the Financial Statement***

Management is responsible for the preparation and fair presentation of this financial statement in accordance with the regulatory basis of accounting described in Note 1, and for determining that the regulatory basis of accounting is an acceptable basis for the preparation of the financial statement in the circumstances. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

***Auditor's Responsibility***

Our responsibility is to express an opinion on the financial statement based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statement. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statement.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

***Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles***

As described in Note 1 of the financial statement, the financial statement is prepared by Creek County using accounting practices prescribed or permitted by Oklahoma state law, which is a basis of accounting other than accounting principles generally accepted in the United States of America. The effects on the financial statements of the variances between the regulatory basis of accounting described in Note 1 and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

***Adverse Opinion on U.S. Generally Accepted Accounting Principles***

In our opinion, because of the significance of the matter discussed in the "Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles" paragraph, the financial statement referred to above does not present fairly, in accordance with accounting principles generally accepted in the United States of America, the financial position of Creek County as of June 30, 2014, or changes in its financial position for the year then ended.

***Opinion on Regulatory Basis of Accounting***

In our opinion, the financial statement referred to above presents fairly, in all material respects, the combined total of receipts, disbursements, and changes in cash balances for all county funds of Creek County, for the year ended June 30, 2014 in accordance with the basis of accounting described in Note 1.

***Other Matters***

*Other Information*

Our audit was conducted for the purpose of forming an opinion on the combined total of all county funds on the financial statement. The accompanying Schedule of Expenditures of Federal Awards, as required by U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, and the remaining Other Supplementary Information, as listed in the table of contents, are presented for purposes of additional analysis and are not a required part of the financial statement.

The Schedule of Expenditures of Federal Awards and the Other Supplementary Information, as listed in the table of contents, is the responsibility of management and was derived from and related directly to the underlying accounting and other records used to prepare the financial statement. Such information has been subjected to the auditing procedures applied in the audit of the financial statement and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statement or to the financial statement itself, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the Schedule of Expenditures of Federal Awards and the Other Supplementary Information, as listed in the table of contents, is fairly stated, in all material respects, in relation to the combined total—all county funds.

Creek County has not presented the budgetary comparison information for the Comparative Schedule of Receipts, Expenditures, and Changes in Cash Balances—Budget and Actual—Budgetary Basis—General Fund or County Health Fund. Although not a part of the financial statement, such information is an integral part of the regulatory presentation for county government.

The information listed in the table of contents under Introductory Section has not been subjected to the auditing procedures applied in the audit of the financial statement, and accordingly, we do not express an opinion or provide any assurance on it.

***Other Reporting Required by Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated February 26, 2016, on our consideration of Creek County's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and in considering Creek County's internal control over financial reporting and compliance.

GARY A. JONES, CPA, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

February 26, 2016

**REGULATORY BASIS FINANCIAL STATEMENT**

**CREEK COUNTY, OKLAHOMA**
**STATEMENT OF RECEIPTS, DISBURSEMENTS, AND**
**CHANGES IN CASH BALANCES—REGULATORY BASIS**
**(WITH COMBINING INFORMATION)—MAJOR FUNDS**
**FOR THE FISCAL YEAR ENDED JUNE 30, 2014**

| | Beginning Cash Balances July 1, 2013 | Receipts Apportioned | Disbursements | Ending Cash Balances June 30, 2014 |
|---|---|---|---|---|
| Combining Information: | | | | |
| Major Funds: | | | | |
| County General | $ 1,979,813 | $ 6,171,349 | $ 6,229,030 | $ 1,922,132 |
| Highway Cash | 1,135,474 | 4,893,173 | 4,272,902 | 1,755,745 |
| Highway Sales Tax | 1,502,359 | 1,950,373 | 2,335,238 | 1,117,494 |
| Sheriff Service Fee | 122,648 | 605,790 | 576,797 | 151,641 |
| County Health | 1,049,156 | 1,114,972 | 1,336,282 | 827,846 |
| General Administration | 914,656 | 395,106 | 455,110 | 854,652 |
| County Jail Sales Tax | 49,802 | - | - | 49,802 |
| County Jail Maintenance | 649,346 | 1,928,073 | 2,145,700 | 431,719 |
| Sheriff Board of Prisoners | 81,846 | 1,059,039 | 961,248 | 179,637 |
| Resale Property | 870,042 | 547,773 | 401,643 | 1,016,172 |
| County Sinking | 269,234 | 97,337 | 163,375 | 203,196 |
| CBRIF | 558,227 | 1,004,836 | 640,319 | 922,744 |
| CBRIF-105 | 638,738 | - | - | 638,738 |
| County Improvement Debt Service | 2,811,551 | 928,707 | 1,641,608 | 2,098,650 |
| WR-911 | 254,484 | 135,403 | 107,092 | 282,795 |
| E-911 Phase 2 | 732,556 | 141,610 | 347,393 | 526,773 |
| Creek County Civil Emergency | 38,188 | 479,183 | 485,941 | 31,430 |
| Juvenile Justice Center M&O | 440,975 | 1,814,869 | 647,856 | 1,607,988 |
| Federal Grant - HVAC | - | 401 | - | 401 |
| Remaining Aggregate Funds | 523,550 | 348,797 | 300,069 | 572,278 |
| **Combined Total - All County Funds** | $ 14,622,645 | $ 23,616,791 | $ 23,047,603 | $ 15,191,833 |

The notes to the financial statement are an integral part of this statement.

## 1. Summary of Significant Accounting Policies

### A. Reporting Entity

Creek County is a subdivision of the State of Oklahoma created by the Oklahoma Constitution and regulated by Oklahoma Statutes.

The accompanying financial statement presents the receipts, disbursements, and changes in cash balances of the total of all funds under the control of the primary government. The general fund is the county's general operating fund, accounting for all financial resources except those required to be accounted for in another fund, where its use is restricted for a specified purpose. Other funds established by statute and under the control of the primary government are also presented.

The County Treasurer collects and remits material amounts of intergovernmental revenues and ad valorem tax revenue for other budgetary entities, including emergency medical districts, school districts, and cities and towns. The cash receipts and disbursements attributable to those other entities do not appear in funds on the County's financial statement; those funds play no part in the County's operations. Any trust or agency funds maintained by the County are not included in this presentation.

### B. Fund Accounting

The County uses funds to report on receipts, disbursements, and changes in cash balances. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

Following are descriptions of the county funds included as combining information within the financial statement:

County General – accounts for the general operations of the government.

Highway Cash – accounts for state, local, and miscellaneous receipts and disbursements are for the purpose of constructing and maintaining county roads and bridges.

Highway Sales Tax – accounts for revenues from a county sales tax and disbursements are for the retirement of bonds issued to construct county roads and bridges.

Sheriff Service Fee – accounts for revenues from fees charged for serving summons and notices. Disbursements are for any lawful expense of the Sheriff's office.

County Health – accounts for monies collected on behalf of the county health department from ad valorem taxes and state and local revenues.

General Administration – accounts for revenues from a use tax charged to out-of-county vendors on in-county sales. Disbursements are for any legal expense of the County.

County Jail Sales Tax – accounts for revenues from a county sales tax. Disbursements are for the maintenance and operation of the county jail.

County Jail Maintenance – accounts for revenues from a county sales tax. Disbursements are for the maintenance of the county jail.

Sheriff Board of Prisoners – accounts for revenues from fees charged for boarding prisoners of non-county entities in the county jail. Disbursements are for feeding and housing inmates of the county jail.

Resale Property – accounts for revenues from interest and penalties on delinquent ad valorem taxes. Disbursements are to offset the expense of collecting delinquent ad valorem taxes.

County Sinking – accounts for debt service receipts derived generally from a special ad valorem tax levy and from interest earned on investments of cash not immediately required for debt service payments.

CBRIF – accounts for monies received from the State of Oklahoma and disbursements are for the purpose of constructing and maintaining county roads and bridges.

CBRIF-105 – accounts for monies received from the State of Oklahoma and disbursements are for the purpose of constructing and maintaining county roads and bridges.

County Improvement Debt Service – accounts for county sales tax monies to be disbursed for the payment of bond indebtedness.

WR-911 – accounts for revenues from 911 telephone service fees. Disbursements are for operating the 911 services.

E-911 Phase 2 – accounts for revenues from Indian Nations Council of Governments (INCOG). Disbursements are for operating the 911 services.

Creek County Civil Emergency – accounts for the collection of grant monies to be disbursed for the purpose of county-wide emergency management.

Juvenile Justice Center M&O – accounts for county sales tax monies to be disbursed for the purpose of Juvenile Justice Center maintenance and operations.

Federal Grant - HVAC – accounts for grant monies to be disbursed for the purpose of replacing heating, ventilating & air conditioning.

## C. Basis of Accounting

The financial statement is prepared on a basis of accounting wherein amounts are recognized when received or disbursed. This basis of accounting differs from accounting principles generally accepted in the United States of America, which require revenues to be recognized when they become available and measurable or when they are earned, and expenditures or expenses to be recognized when the related liabilities are incurred. This regulatory basis financial presentation is not a comprehensive measure of economic condition or changes therein.

Title 19 O.S. § 171 specifies the format and presentation for Oklahoma counties to present their financial statement in accordance with accounting principles generally accepted in the United States of America (U.S. GAAP) or on a regulatory basis. The County has elected to present their financial statement on a regulatory basis in conformity with Title 19 O.S. § 171. County governments (primary only) are required to present their financial statements on a fund basis format with, at a minimum, the general fund and all other county funds, which represent ten percent or greater of total county revenue. All other funds included in the audit shall be presented in the aggregate in a combining statement.

## D. Budget

Under current Oklahoma Statutes, a general fund and a county health department fund are the only funds required to adopt a formal budget. On or before the first Monday in July of each year, each officer or department head submits an estimate of needs to the governing body. The budget is approved for the respective fund by office, or department and object. The County Board of Commissioners may approve changes of appropriations within the fund by office or department and object. To increase or decrease the budget by fund requires approval by the County Excise Board.

## E. Cash and Investments

For the purposes of financial reporting, "Ending Cash Balances, June 30" includes cash and cash equivalents and investments as allowed by statutes. The County pools the cash of its various funds in maintaining its bank accounts. However, cash applicable to a particular fund is readily identifiable on the County's books. The balance in the pooled cash accounts is available to meet current operating requirements.

State statutes require financial institutions with which the County maintains funds to deposit collateral securities to secure the County's deposits. The amount of collateral securities to be pledged is established by the County Treasurer; this amount must be at least the amount of the deposit to be secured, less the amount insured (by, for example, the FDIC).

The County Treasurer has been authorized by the County's governing board to make investments. Allowable investments are outlined in statutes 62 O.S. § 348.1 and § 348.3.

All investments must be backed by the full faith and credit of the United States Government, the Oklahoma State Government, fully collateralized, or fully insured. All investments as classified by state statute are nonnegotiable certificates of deposit. Nonnegotiable certificates of deposit are not subject to interest rate risk or credit risk.

## 2. Ad Valorem Tax

The County's property tax is levied each October 1 on the assessed value listed as of January 1 of the same year for all real and personal property located in the County, except certain exempt property. Assessed values are established by the County Assessor within the prescribed guidelines established by the Oklahoma Tax Commission and the State Equalization Board. Title 68 O.S. § 2820.A. states, ". . . Each assessor shall thereafter maintain an active and systematic program of visual inspection on a continuous basis and shall establish an inspection schedule which will result in the individual visual inspection of all taxable property within the county at least once each four (4) years."

Taxes are due on November 1 following the levy date, although they may be paid in two equal installments. If the first half is paid prior to January 1, the second half is not delinquent until April 1. Unpaid real property taxes become a lien upon said property on October 1 of each year.

## 3. Other Information

### A. Pension Plan

Plan Description. The County contributes to the Oklahoma Public Employees Retirement Plan (the Plan), a cost-sharing, multiple-employer defined benefit pension plan administered by the Oklahoma Public Employees Retirement System (OPERS). Benefit provisions are established and amended by the Oklahoma Legislature. The Plan provides retirement, disability, and death benefits to Plan members and beneficiaries. Title 74, Sections 901 through 943, as amended, establishes the provisions of the Plan. OPERS issues a publicly available financial report that includes financial statements and supplementary information. That report may be obtained by writing OPERS, P.O. Box 53007, Oklahoma City, Oklahoma 73105 or by calling 1-800-733-9008.

Funding Policy. The contribution rates for each member category are established by the Oklahoma Legislature and are based on an actuarial calculation which is performed to determine the adequacy of contribution rates.

## B. Other Post Employment Benefits (OPEB)

In addition to the pension benefits described in the Pension Plan note, OPERS provides post-retirement health care benefits of up to $105 each for retirees who are members of an eligible group plan. These benefits are funded on a pay-as-you-go basis as part of the overall retirement benefit. OPEB expenditure and participant information is available for the state as a whole; however, information specific to the County is not available nor can it be reasonably estimated.

## C. Contingent Liabilities

Amounts received or receivable from grantor agencies are subject to audit and adjustment by grantor agencies, primarily the federal government. Any disallowed claims, including amounts already collected, may constitute a liability of the applicable fund. The amount, if any, of expenditures which may be disallowed by the grantor cannot be determined at this time; although, the County expects such amounts, if any, to be immaterial.

As of the end of the fiscal year, there were no claims or judgments that would have a material adverse effect on the financial condition of the County; however, the outcome of any lawsuit would not be determinable.

## D. Long Term Obligations

### 1. Judgments

The County has a judgment which is being retired by a tax levy. The County is obligated to pay the judgment over a three-year period.

| Case Number | Original Judgment |
|---|---|
| BCV-2012-82 | $1,125,000 |

During the fiscal year, the County paid $73,302 in interest on this judgment. Because the judgment was not properly filed within the County, this judgment was not timely added to the tax roll and as a result no principal was paid on this judgment. Future principal and interest payments that will become due on the existing judgment are as follows:

| Year Ending June 30, | Principal | Interest | Total |
|---|---|---|---|
| 2015 | $ 375,000 | $ 62,911 | $ 437,911 |
| 2016 | 375,000 | 40,408 | 415,408 |
| 2017 | 375,000 | 20,000 | 395,000 |
| | $1,125,000 | $123,319 | $1,248,319 |

**2. General Obligation Bonds**

The government issued general obligation bonds to provide funds to acquire and develop land for industry. General obligation bonds are direct obligations and pledge the full faith and credit of the County, therefore, the County will levy ad valorem taxes each year for an amount necessary to fulfill the payment requirements. These bonds are required to be fully paid within 10 years from the date of issue. The first bond payment was due November 1, 2009 and the first interest payment was due May 1, 2007.

| Purpose | Interest Rate | Original Amount |
|---|---|---|
| General Obligation Bonds | 3.20-3.55% | $1,000,000 |

During the year ended June 30, 2014, the County paid $150,000 in principal, $13,125 in interest, and $250 administrative fee on the general obligation bonds.

Annual debt service requirements to maturity for general obligation bonds, including interest of $10,612, are as follows:

| Fiscal Year Ending June 30, | Principal | Interest | Total |
|---|---|---|---|
| 2015 | $150,000 | $ 7,950 | $157,950 |
| 2016 | 150,000 | 2,662 | 152,662 |
| Total | $300,000 | $10,612 | $310,612 |

**E. Sales Tax**

In a special election held on November 13, 2001, the citizens of Creek County approved a one percent (1%) sales tax. Sales tax collections began January 3, 2003. The sales tax was modified in a special election held on November 4, 2008. Sales tax revenue is used as follows:

(A) One-third (1/3) is used to pay debt service on bonds or notes issued by the Creek County Public Facilities Authority. The proceeds of which are to be used to construct county roads and bridges. This one-third (1/3) is to be terminated at the earliest possible date, at the retirement of bonds or notes, and not to exceed five (5) years. These funds are accounted for in Highway Sales Tax fund.

(B) One-third (1/3) is used to pay operational and maintenance expenses on the County jail facility. This one-third (1/3) is to be used to continue on a permanent or unlimited basis. These funds are accounted for in Jail Maintenance fund.

(C) One-sixth (1/6) is used to pay debt service on bonds or notes issued by the Creek County Public Facilities Authority. The proceeds of which are to be used to: (i) acquire, construct and equip the county jail facility; (ii) acquire, construct and equip a Juvenile Justice Center; (iii) finance capital improvements to various county buildings and the county highway system. This one-sixth (1/6) is to be used to continue on a permanent or unlimited basis. These funds are accounted for in County Improvement Debt Service fund.

(D) One-sixth (1/6) is used for the operation and maintenance of the Juvenile Justice Center and all necessary and related services of said Juvenile Justice Center. These funds are accounted for in Juvenile Justice Center M&O fund.

The revenue bonds issued by the Authority are not a liability of Creek County. The Creek County Public Facilities Authority is not a component unit of Creek County.

# OTHER SUPPLEMENTARY INFORMATION

**CREEK COUNTY, OKLAHOMA**
**COMBINING STATEMENT OF RECEIPTS, DISBURSEMENTS, AND CHANGES IN CASH BALANCES—REGULATORY BASIS—**
**REMAINING AGGREGATE FUNDS**
**FOR THE FISCAL YEAR ENDED JUNE 30, 2014**

| | Beginning Cash Balances July 1, 2013 | Receipts Apportioned | Disbursements | Ending Cash Balances June 30, 2014 |
|---|---|---|---|---|
| Remaining Aggregate Funds: | | | | |
| Creek County Election Board | $ 531 | $ - | $ - | $ 531 |
| Creek County Free Fair Rental | 50,993 | 56,646 | 58,614 | 49,025 |
| Community Development | 40,564 | 33,830 | 42,797 | 31,597 |
| Circuit Engineering District 1 | 28,940 | 50,000 | 41,022 | 37,918 |
| Planning and Urban Development | 24,355 | 9,607 | 19,150 | 14,812 |
| Assessor Revolving | 23,365 | 8,227 | - | 31,592 |
| Assessor Visual Inspection | 8,749 | - | 8,749 | - |
| Mortgage Tax Certification Fee | 53,921 | 12,140 | 5 | 66,056 |
| County Clerk Lien Fee | 89,545 | 68,557 | 9,678 | 148,424 |
| County Clerk Preservation Fee | 119,403 | 83,029 | 82,958 | 119,474 |
| Courthouse Remodel | 83,156 | 26,761 | 37,068 | 72,849 |
| Sheriff Training Fund | 28 | - | 28 | - |
| **Combined Total - Remaining Aggregate Funds** | $ 523,550 | $ 348,797 | $ 300,069 | $ 572,278 |

## 1. Budgetary Schedules

The Comparative Schedule of Receipts, Expenditures, and Changes in Cash Balances—Budget and Actual—Budgetary Basis for the General Fund and Health Fund have not been presented. Therefore, the legally adopted budget cannot be compared with actual data for the General Fund. The Comparative Schedules of Receipts, Expenditures, and Changes in Cash Balances—Budget and Actual—Budgetary Basis for the General Fund and the County Health Department Fund present comparisons of the legally adopted budget with actual data. The "actual" data, as presented in the comparison of budget and actual, will differ from the data as presented in the Combined Statement of Receipts, Disbursements, and Changes in Cash Balances with Combining Information because of adopting certain aspects of the budgetary basis of accounting and the adjusting of encumbrances and outstanding warrants to their related budget year.

Encumbrance accounting, under which purchase orders, contracts, and other commitments for the expenditure of monies are recorded in order to reserve that portion of the applicable appropriation, is employed as an extension of formal budgetary integration in these funds. At the end of the year unencumbered appropriations lapse.

## 2. Remaining County Funds

Remaining aggregate funds as presented on the financial statement are as follows:

Creek County Election Board – accounts for state receipts and disbursements are for the salaries of the election board secretary and precinct workers.

Creek County Free Fair Rental – accounts for receipts from the OSU Extension Center for the operations of the Creek County Free Fair.

Community Development – accounts for the collections of Rural Economic Action Plan (REAP) grant monies from Indian Nations Council of Governments (INCOG) for the purpose of purchasing goods or services for rural fire departments.

Circuit Engineering District 1 – accounts for receipts from Circuit Engineering District 1 for the purpose of constructing county roads and bridges.

Planning and Urban Development – accounts for receipts for services rendered by the Planning and Urban Development office. Disbursements are for the payment of expenses of the Planning and Urban Development office.

Assessor Revolving – accounts for revenues from any and all fees collected by the County Assessor. Disbursements are to maintain electronic databases and geographic information systems in the Assessor's office.

Assessor Visual Inspection – accounts for revenues from fees charged to all entities receiving ad valorem taxes. Disbursements are for the revaluation of all county property for ad valorem purposes.

Mortgage Tax Certification Fee – accounts for revenues from a fee for certifying mortgages. Disbursements are for any lawful expense of the County Treasurer's office.

County Clerk Lien Fee – accounts for revenues from a fee charged by the County Clerk for filing liens. Disbursements are for any lawful expense of the County Clerk's office.

County Clerk Preservation Fee – accounts for revenues from fees charged by the County Clerk for recording instruments. Disbursements are for the maintenance and preservation of public records.

Courthouse Remodel – accounts for revenues from the Court Clerk's funds. Disbursements are for the remodel of the court rooms.

Sheriff Training Fund – accounts for revenues from the sale of personal property forfeited to the Sheriff's office. Disbursements are for equipment, materials or supplies that may be used in crime prevention, education, training or programming.

# SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

**CREEK COUNTY, OKLAHOMA**
**SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS**
**FOR THE FISCAL YEAR ENDED JUNE 30, 2014**

| Federal Grantor/Pass-Through Grantor/Program Title | Federal CFDA Number | Pass-Through Grantor's Number | Federal Expenditures |
|---|---|---|---|
| **U.S. DEPARTMENT OF COMMERCE** | | | |
| Passed Through Oklahoma Department of Commerce: | | | |
| Broadband Technology Opportunities Program (BTOP) - RECOVERY | 11.557 | N/A | $ 300 |
| Total U.S. Department of Commerce | | | 300 |
| **U.S. DEPARTMENT OF INTERIOR** | | | |
| Direct Grant: | | | |
| Payments in Lieu of Taxes | 15.226 | N/A | 61,550 |
| Total U.S. Department of Interior | | | 61,550 |
| **U.S. DEPARTMENT OF JUSTICE** | | | |
| Direct Grant: | | | |
| Crime Victim Assistance | 16.575 | N/A | 24,613 |
| Edward Byrne Memorial Justice Assistance Grant Program | 16.738 | N/A | 9,200 |
| Total U.S. Department of Justice | | | 33,813 |
| **U.S. DEPARTMENT OF LABOR** | | | |
| Direct Grant: | | | |
| Unemployment Insurance - RECOVERY | 17.225 | N/A | 104 |
| Total U.S. Department of Labor | | | 104 |
| **U.S. DEPARTMENT OF TRANSPORTATION** | | | |
| Passed Through the Oklahoma Highway Safety Office: | | | |
| Alcohol Impaired Driving Countermeasures Incentive Grants I | 20.601 | K8-13-03-08-02 | 11,100 |
| National Highway Traffic Safety Administration (NHTSA) | | | |
| Discretionary Safety Grants | 20.614 | CE-13-03-10-02 | 1,815 |
| Total U.S. Department of Transportation | | | 12,915 |
| **U.S. DEPARTMENT OF HOMELAND SECURITY** | | | |
| Passed Through the Oklahoma Department of Emergency Management: | | | |
| Emergency Management Performance Grants | 97.042 | N/A | 20,000 |
| Fire Management Assistance Grant | 97.046 | N/A | 443,296 |
| Total U.S. Department of Homeland Security | | | 463,296 |
| **Total Expenditures of Federal Awards** | | | $ 571,978 |

**CREEK COUNTY, OKLAHOMA**
**NOTE TO THE SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS**
**FOR THE FISCAL YEAR ENDED JUNE 30, 2014**

Basis of Presentation

The schedule of expenditures of federal awards includes the federal grant activity of Creek County, and is presented on the *cash basis of accounting*. The information in this schedule is presented in accordance with the requirements of OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.

# INTERNAL CONTROL AND COMPLIANCE SECTION

Oklahoma State Auditor & Inspector

2300 N. Lincoln Blvd. • State Capitol, Room 100 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

**Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance With *Government Auditing Standards***

TO THE OFFICERS OF
CREEK COUNTY, OKLAHOMA

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the combined total—all funds of the accompanying Combined Statement of Receipts, Disbursements, and Changes in Cash Balances of Creek County, Oklahoma, as of and for the year ended June 30, 2014, and the related notes to the financial statement, which collectively comprises Creek County's basic financial statement, prepared using accounting practices prescribed or permitted by Oklahoma state law, and have issued our report thereon dated February 26, 2016.

Our report included an adverse opinion on the financial statement because the statement is prepared using accounting practices prescribed or permitted by Oklahoma state law, which is a basis of accounting other than accounting principles generally accepted in the United States of America. However, our report also included our opinion that the financial statement does present fairly, in all material respects, the receipts, disbursements, and changes in cash balances – regulatory basis of the County for the year ended June 30, 2014, on the basis of accounting prescribed by Oklahoma state law, described in Note 1.

**Internal Control Over Financial Reporting**

In planning and performing our audit of the financial statement, we considered Creek County's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of Creek County's internal control. Accordingly, we do not express an opinion on the effectiveness of Creek County's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our audit we did not identify any

deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified. We did identify certain deficiencies in internal control, described in the accompanying schedule of findings and questioned costs that we consider to be a significant deficiencies: 2014-1 and 2014-2.

**Compliance and Other Matters**

As part of obtaining reasonable assurance about whether Creek County's financial statement is free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain matters regarding statutory compliance that we reported to the management of Creek County, which are included in Section 4 of the schedule of findings and questioned costs contained in this report.

**Creek County's Responses to Findings**

Creek County's responses to the findings identified in our audit are described in the accompanying schedule of findings and questioned costs. Creek County's responses were not subjected to the auditing procedures applied in the audit of the financial statement and, accordingly, we express no opinion on it.

**Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the result of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

This report is also a public document pursuant to the Oklahoma Open Records Act (51 O.S. § 24A.1 et seq.), and shall be open to any person for inspection and copying.

GARY A. JONES, CPA, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

February 26, 2016

Oklahoma State Auditor & Inspector

2300 N. Lincoln Blvd. • State Capitol, Room 100 • Oklahoma City, OK 73105 • Phone: 405.521.3495 • Fax: 405.521.3426

**Independent Auditor's Report on Compliance for Each Major Program and on Internal Control Over Compliance Required by OMB Circular A-133**

TO THE OFFICERS OF
CREEK COUNTY, OKLAHOMA

**Report on Compliance for Each Major Program**

We have audited the compliance of Creek County, Oklahoma, with the types of compliance requirements described in the U.S. Office of Management and Budget (OMB) *Circular A-133 Compliance Supplement* that could have a direct and material effect on Creek County's major federal program for the year ended June 30, 2014. Creek County's major federal program is identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs.

**Management's Responsibility**

Compliance with the requirements of laws, regulations, contracts, and grants applicable to its major federal program is the responsibility of Creek County's management.

**Auditor's Responsibility**

Our responsibility is to express an opinion on Creek County's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about Creek County's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of Creek County's compliance with those requirements.

**Opinion on Each Major Federal Program**

In our opinion, Creek County, complied, in all material respects, with the requirements referred to above that could have a direct and material effect on its major federal program for the year ended June 30, 2014.

**Internal Control Over Compliance**

Management of Creek County is responsible for establishing and maintaining effective internal control over compliance with the requirements of laws, regulations, contracts, and grants applicable to federal programs. In planning and performing our audit, we considered Creek County's internal control over compliance with the requirements that could have a direct and material effect on a major federal program to determine the auditing procedures for the purpose of expressing our opinion on compliance and to test and report on internal control over compliance in accordance with OMB Circular A-133, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of Creek County's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct noncompliance with a type of compliance requirement of a federal program on a timely basis. A material weakness in internal control over compliance is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above.

**Other Matters**

Creek County's responses to the findings identified in our audit are described in the accompanying schedule of findings and questioned costs. We did not audit Creek County's responses and, accordingly, we express no opinion on the responses.

This report is intended solely for the information and use of management, those charged with governance, others within the entity, and is not intended to be and should not be used by anyone other than the specified parties. This report is also a public document pursuant to the Oklahoma Open Records Act (51 O.S., section 24A.1 et seq.), and shall be open to any person for inspection and copying.

GARY A. JONES, CPA, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

February 26, 2016

## SECTION 1—Summary of Auditor's Results

Financial Statements

Type of auditor's report issued:.....Adverse as to GAAP; unqualified as to statutory presentation

Internal control over financial reporting:

- Material weakness(es) identified?.....None Reported
- Significant deficiency(ies) identified?.....Yes

Noncompliance material to financial statements noted?..... No

Federal Awards

Internal control over major programs:

- Material weakness(es) identified?.....None Reported
- Significant deficiency(ies) identified? .....None Reported

Type of auditor's report issued on
compliance for major programs: ..... Unqualified

Any audit findings disclosed that are required to be reported
in accordance with section 510(a) of Circular A-133?..... No

Identification of Major Programs

| CFDA Number(s) | Name of Federal Program or Cluster |
|---|---|
| 97.046 | Fire Management Assistance Grant |

Dollar threshold used to distinguish between
Type A and Type B programs: ..... $300,000

Auditee qualified as low-risk auditee?..... No

## SECTION 2—Findings related to the Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance With *Government Auditing Standards*

### Finding 2014-1 - Property Taken by Eminent Domain Levied Against Taxpayers and Noncompliance of Open Meeting Laws (Repeat Finding)

**Condition:** The Board of County Commissioners (BOCC) obtained through eminent domain approximately 226 acres. The County could not provide sufficient documentation to determine that this procedure was done in accordance with state statutes and the Oklahoma Constitution.

It appears that the property described above was taken for economic development purposes. On March 4, 2013, in the Journal Entry of Judgment for case CV-2012-82, the court found that, "in connection with the economic development area referenced…, it is necessary for plaintiff to acquire the subject property…" The Oklahoma Supreme Court has held, in part: "Economic development alone (not in connection with the removal of blighted property) does not constitute a public use or public purpose to justify the exercise of eminent domain as a matter of Oklahoma constitutional law, nor does it satisfy the public purpose requirement of 27 O.S. § 5."

Further, 27 O.S. § 13 states in part, "Any person, acquiring agency or other entity acquiring real property for any public project or program described in Section 9 of this title shall comply with the following policies: 1. Every reasonable effort shall be made to acquire, expeditiously, real property by negotiation."

The County could not provide documentation where negotiations resulted in an offer made to the landowner prior to condemning the land. The Chairman of the BOCC could not confirm that funds were available to purchase this land if a negotiated price was reached. The County could not provide documentation that an appraisal had been performed to determine the value of the land. The Chairman of the BOCC confirmed that he was responsible for recording the minutes of the executive session regarding this condemnation but, as of the date of audit fieldwork, he could not locate the minutes.

The County had two options for purchasing the land from the landowner:

1. Purchase the land outright if funds were available, or
2. By a three-fifths vote of the citizens, the County could issue debt to purchase the land.

There is no documentation that the County attempted to exercise either of these options in obtaining the land. Rather, through the decree of a judge, the amount of $1,125,000 was levied as a judgment resulting in an increase of ad valorem taxes for the property owners of the County in order to pay the landowner for the land.

The judgment was not timely filed in the County Clerk's office in order to levy the Sinking Fund and update the tax rolls to include the judgment amount over a three-year period, resulting in the County paying an additional $73,302.23 in interest.

Further, prior to the release of the September 17, 2012, meeting minutes, there was no public notice by way of meeting agendas or minutes that referenced the BOCC taking the land through eminent domain, the amount of the land at issue, the exact location of the land at issue, plans for economic development with the land, or the possible creation of an industrial park on the land. In BOCC meeting minutes dated January 11, 2016, the BOCC discussed transferring ownership or management rights to the Creek County Industrial Authority.

According to the chairman of the BOCC, the City of Sapulpa's economic-development director told county officials in 2012 that the 226 acres were optimal as an economic-development site and that the Sellers Trust was looking to sell them. The City of Sapulpa's city attorney subsequently represented the Sellers Trust in the condemnation case. In August 2011, the Sapulpa Industrial Foundation, a non-profit organization affiliated with the Sapulpa Chamber of Commerce, had commissioned an "Industrial Park Feasibility Report" regarding the land. The report referenced "a pay-back agreement through the City" that "would allow the Sapulpa Industrial Foundation to recover a portion of the cost and also provide an opportunity for additional development by others along the route". The land was and is still not in the city limits of the City of Sapulpa, but it is in the City's "fence line," meaning that the City could annex it.

**Cause of Condition:** The County did not follow provisions of the Oklahoma Constitution and state statutes regarding the acquisition of land. Further, policies and procedures are not in place to ensure that meetings are conducted in conformity with the Open Meeting Act.

**Effect of Condition:** These conditions resulted in noncompliance with state statutes and regulations. Further, these conditions resulted in inaccurate records, incomplete information, and unnecessary payment of $73,302.23 in interest due to lack of communication among county officials.

**Recommendation:** The Oklahoma State Auditor & Inspector's Office (OSAI) recommends that the County comply with all laws regarding acquisition of property. The County should refrain from condemning and taking property for the purpose of economic development as prohibited by the Oklahoma Constitution.

OSAI further recommends that the County strictly adhere to the Open Meeting Act regarding agendas and executive sessions. The County should take steps to ensure adequate communication of financial issues among County officials to guard against unnecessary financial losses of taxpayer dollars.

**Management Response:**
**Chairman, BOCC:** Please see response in Appendix A of this report.

**Auditor Response:** The enforcement of eminent domain was not a necessary action for the Board because the landowner had consented to sell the property. Therefore, the County should have purchased the land with available funds rather than proceeding with a judgment that required a levy against landowners of the County resulting in an increase to the taxpayers' property taxes. If funds were not available for the purchase of this land, this should have been put to a vote of the people to incur the indebtedness.

**Criteria:** Section 24 of Article 2 of the Oklahoma Constitution provides, in part: "Private property shall not be taken or damaged for public use without just compensation." "Until the compensation shall be paid to the owner or into court for the owner, the property shall not be disturbed, or the proprietary rights of the owner divested. When possession is taken of property condemned for any public use, the owner shall be entitled to the immediate receipt of the compensation awarded."

Section 23 of Article 2 of the Oklahoma Constitution provides, in part: "No private property shall be taken or damaged for private use, with or without compensation, unless by consent of the owner."

Section 26 of Article 10 of the Oklahoma Constitution provides, in part: "No county… shall be allowed to become indebted, in any manner, or for any purpose, to an amount exceeding, in any year, the income and revenue provided for such year without the assent of three-fifths of the voters thereof, voting at an election, to be held for that purpose, nor, in cases requiring such assent, shall any indebtedness be allowed to be incurred to an amount, including existing indebtedness, in the aggregate exceeding five percent of the valuation of the taxable property therein…."

Board of County Commissioners of Muskogee County v. Lowery (2006 OK 31) held, in part: "Economic development alone (not in connection with the removal of blighted property) does not constitute a public use or public purpose to justify the exercise of eminent domain as a matter of Oklahoma constitutional law, nor does it satisfy the public purpose requirement of 27 O.S. § 5."

Title 27 O.S. § 13 states in part, "Any person, acquiring agency or other entity acquiring real property for any public project or program described in Section 9 of this title shall comply with the following policies: 1. Every reasonable effort shall be made to acquire, expeditiously, real property by negotiation."

Title 25 O.S. § 307 states in part, "No public body shall hold executive sessions unless otherwise specifically provided in this section. Executive sessions of public bodies will be permitted only for the purpose of: 3. Discussing the purchase or appraisal of real property." "Any vote or action on any item of business considered in an executive session shall be taken in public meeting with the vote of each member publicly cast and recorded."

**Finding 2014-2 – Inadequate Internal Controls and Noncompliance Over the Disbursement Process (Repeat Finding)**

**Condition:** Upon inquiry and observation of the County's disbursement process, the following was noted:

- Warrants paid are not reflected on the County's general ledger.
- Warrants paid are not marked the actual date paid; instead they are marked paid each Friday.

**Cause of Condition:** Policies and procedures have not been designed and implemented to ensure warrants paid are shown on the general ledger and warrants are marked paid on the actual paid date.

**Effect of Condition:** This condition resulted in noncompliance with state statute and could result in unrecorded transactions, misstated financial reports, undetected errors, and misappropriation of funds.

**Recommendation:** OSAI recommends that management implement internal controls to ensure compliance with 19 O.S. § 171, which includes warrants paid being reflected on the general ledger and warrants marked paid when they clear the bank.

**Management Response:**
**County Treasurer:** I was not in office, but upon finding out that this was the policy, we took steps to resolve that our office have a daily balance every day. We contacted our software provider to change the program. The transition is in progress, at this time we are working to get all the transactions to clear the same way and have a daily balance that matches the bank statement.

**Criteria:** Accountability and stewardship are overall goals of management in the accounting of funds. Internal controls should be designed to analyze and check accuracy, completeness, and ensure warrants paid are properly reflected on the County's general ledger. Additionally, warrants should be marked paid the day they actually clear the bank to help ensure the proper accounting of funds to comply with 19 O.S. § 171, which states in part, "the county shall present their financial statements in a regulatory basis".

**SECTION 3—Independent Auditor's Report on Compliance for Each Major Program and on Internal Control Over Compliance Required by OMB Circular A-133**

No matters were reported.

**SECTION 4—This section contains certain matters not required to be reported in accordance with *Government Auditing Standards.* However, we believe these matters are significant enough to bring to management's attention. We recommend that management consider these matters and take appropriate corrective action.**

**Finding 2014-3 – Estimate of Needs Not Accurately Presented (Repeat Finding)**

**Condition:** We noted in the 2014-2015 Estimate of Needs that the cash receipts and disbursements on the budget of the general fund and health fund do not agree to receipts apportioned and disbursements adjusted for encumbrances on the financial statement.

**Cause of Condition:** Policies and procedures have not been designed and implemented with regards to the Estimate of Needs agreeing to the financial statement.

**Effect of Condition:** This condition results in an incomplete and incorrect Estimate of Needs being approved.

**Recommendation:** OSAI recommends management review the Estimate of Needs prior to approval to ensure that all exhibits are accurately presented.

**Management Response:**
**Chairman of the Board of County Commissioners:** I have spoken with Creek County's Certified Public Accountants in charge of creating the Estimate of Needs and we are confident that the system change within the Treasurer's Office (pertaining to Finding 2014-2 Inadequate Internal Controls and Noncompliance Over the Disbursement Process above) will correct the Estimate of Needs difference. We will review this information at the end of the fiscal year to make sure that was indeed the problem. If the problem consists we will review the matter to correct it.

**Criteria:** The adopted budget is an expression of public policy and financial intent and is a method of providing controls over that intent. Effective internal controls as they relate to government entities financial reporting should assist in fulfilling government's duty to be publicly accountable and should enable user's access to that accountability by demonstrating whether resources were obtained and used in accordance with the entity's adopted budget.

**Finding 2014-4 – Inadequate Internal Controls and Noncompliance Over Inmate Trust Fund Checking Account and Sheriff Commissary Fund (Repeat Finding)**

**Condition:** There is an inadequate segregation of duties regarding the County Sheriff's Inmate Trust Fund Checking Account and Sheriff Commissary Fund.

- One employee receives mailed-in payments, prepares and delivers the bank deposits, prepares inmate reports and reconciles the bank statement.
- The County Sheriff does not have a Commissary Fund on the County Treasurer's general ledger.
- Since the County Sheriff does not have a Commissary Fund established; all disbursements were made from the Inmate Trust Fund Checking Account. Therefore, these expenditures were not approved by the Board of County Commissioners.
- Disbursements were made from the Inmate Trust Fund that are not allowed by statute.
- The County Sheriff's office does not produce or file an annual report for the Sheriff Commissary Fund with the Board of County Commissioners by January 15th, of each year.

**Cause of Condition:** Policies and procedures have not been designed and implemented to adequately segregate duties and/or compensating controls to ensure statutory compliance regarding the Inmate Trust Fund Checking Account and Sheriff Commissary Fund.

**Effect of Condition:** This condition resulted in noncompliance with state statutes, laws, and regulations. Also, without proper accounting and safeguarding of the Inmate Trust Fund Checking Account, there is an increased risk of misappropriation of funds.

**Recommendation:** OSAI recommends the following:

- Key duties and responsibilities should be segregated among different individuals to reduce the risk of error or fraud. No one individual should have the ability to authorize transactions, have physical custody of assets, and record transactions.
- The County Sheriff establish a Commissary Fund with the County Treasurer.
- Expenditures should be made from the Sheriff Commissary Fund in accordance with 19 O.S. § 180.43.
- The County Sheriff should file a report of the commissary with the County Commissioners by January 15th, of each year.

Further, OSAI recommends that no operating expenditures should be made from the Inmate Trust Fund Checking Account. The County Sheriff should comply with state statues regarding the Commissary Fund with the County Treasurer.

**Management Response:**
**County Sheriff:** All mailed-in money orders are received by the master control operator who will log them in the money order book. These money orders will be double checked by the night shift supervisor; both the supervisor and control operator will sign the envelope and the log book. All monies will then be put into the safe in the booking area. The safe will be emptied every morning (except holidays and weekends) by the Inmate Trust Fund clerk under the view of the camera system. The Inmate Trust Fund clerk will prepare the deposit and the deposit will be verified by the warrants clerk. Once the deposit is completed it will be placed into the locked bank bag and given to the Jail Administrator or his/her designee for daily deposit at the bank. The Inmate Trust Fund clerk and Jail Administrator or Assistant Jail Administrator will reconcile the bank statements on a monthly basis and be reviewed for accuracy by someone other than the preparer.

The Sheriff will designate a fund on the County Treasurer's general ledger for the Commissary. No disbursements will be made out of the Inmate Trust Fund Checking Account unless allowed by statute.

**Criteria:** Accountability and stewardship are overall goals of management in the accounting of funds. To help ensure a proper accounting of funds, the duties of receiving, receipting, recording, depositing cash and checks, reconciliations, and transaction authorization should be segregated.

Title 19 O.S. § 180.43 E. and D. states in part, "Any funds received pursuant to said operations shall be the funds of the county where the persons are incarcerated and shall be deposited in the Sheriff's Commissary Account. The sheriff shall be permitted to expend the funds to improve or provide jail services. The sheriff shall be permitted to expend any surplus in the Sheriff's Commissary Account for administering expenses for training equipment, travel or for capital expenditures. The claims for expenses shall be filed with and

allowed by the board of county commissioners in the same manner as other claims. The Sheriff shall receive no compensation for the operation of said commissary. The sheriff shall file an annual report on any said commissary under his or her operation no later than January 15 of each year."

Title 19. O.S. § 531A. states in part, "The county sheriff may establish a checking account, to be designated the "Inmate Trust Checking Account." The county sheriff shall deposit all monies collected from inmates incarcerated in the county jail into this checking account and may write checks to the Sheriff's Commissary Account for purchases made by the inmate during his or her incarceration and to the inmate for unencumbered balances due the inmate upon his or her discharge."

Title 19 O.S. § 531 C. states, "Banking fees on the account may be paid out of the Sheriff Commissary Account or the county sheriff's Service Cash Fund."

**Finding 2010-8 – Suspension and Debarment**

**Pass-Through Grantor:** Oklahoma Highway Safety Office, Direct Grant, U.S. Department of Homeland Security
**Federal Agency:** Department of Transportation, Department of Energy, Department of Homeland Security
**CFDA No:** 20.205, 81.128, 97.036
**Federal Program Name:** Highway Planning and Construction, Energy Efficiency and Conservation Block Grant Program (EECBG), Disaster Grants - Public Assistance (Presidentially Declared Disasters)
**Federal Award Year:** 2010
**Control Category:** Suspension and Debarment
**Questioned Costs:** $-0-
**Finding Summary:** Creek County did not verify if vendors are debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal agency.
**Status:** Corrective action taken.

**Finding 2008-12 - Insufficient Records of Federal Disbursements**
**Pass-Through Grantor:** Oklahoma Department of Homeland Security
**Federal Agency:** U.S. Department of Homeland Security
**CFDA No:** 97.036
**Federal Program Name:** Disaster Grants – Public Assistance
**Federal Award Year:** 2008
**Control Category:** Activities Allowed and Unallowed, Allowable Costs/Cost Principles, Cash Management, Matching, Level of Effort and Earmarking, Period of Availability, Special Tests and Provision
**Questioned Costs:** $142,025
**Finding Summary:** Creek County did not identify expenditures to support the amount reported.
**Status:** Management does not feel this finding warrants further action because two years have passed since the audit report was submitted to the Federal clearinghouse, the Federal agency or pass-through entity is not currently following up with the County regarding this finding, and a management decision has not been issued.

# APPENDICES

**APPENDIX A**

Board of County Commissioners

COMMISSIONERS
1st District
NEWT STEPHENS
2nd District
RICK STEWART
3rd District
LANE WHITEHOUSE

Creek County

Collins Building
317 East Lee, Suite #103
Sapulpa, Oklahoma 74066

(918) 224-0278
Fax (918) 227-6308

February 26, 2016

Marla Latham, Audit Manager
Oklahoma State Auditor's Office
Central County Audit Division
217 N. Harvey, Suite 209
Oklahoma City, OK 73102

Dear Ms. Latham:

This letter is in response to the State Auditor's Office's audit of Fiscal Year Ended June 30, 2013 of Creek County. The audit schedule of findings and responses ("findings") notes a lack of documentation on eminent domain action and designates such as finding 2013-1. The report indicates a number of deficiencies and makes certain constructive recommendations in this regard. Each of these deficiencies and the corresponding recommendations are addressed below:

**Constitutionality of Eminent Domain Action**

In 2012, Creek County was approached by Ted Fisher, the Director of Economic Development for Sapulpa, Oklahoma and former Oklahoma State Senator, regarding land that was for sale in the County. Senator Fisher relayed that the seller, Jim Sellers, was interested in selling the land and that the site was optimal as an economic development site. As the attached letter from Sellers' attorney indicates, condemnation was chosen by both the County and the land owner as the preferred method for this action in order to get favorable compensation and payment terms on this transaction after an agreed price could not be reached. This letter indicates that the land owner did indeed consent to the taking in question. The audit states that the public purpose requirement of eminent domain is not satisfied by an economic development purpose alone which was the sole enumerated reason in the Certificate of Necessity approved by the Board in this matter.

The Board has received advice of its counsel, the District Attorney's Office of Creek County, that its exercise of eminent domain was constitutional because of the landowner's consent to the taking. In short, the District Attorney advises that the taking was for a public purpose; although, the land owner could have affirmatively and successfully challenged the taking of his property in the condemnation proceeding.

## APPENDIX A

Further, the District Attorney's Office has advised that no remediation of the same is necessary. You will find a copy of the opinion in this regard attached.

The District Attorney's Office also advises that their office has amicably conferred with the State Auditor with respect to their disagreement in this regard and how to avoid a similar future circumstance.

**Conformance with Oklahoma Open Meetings Act**

On August 13, 2012, the Board addressed an agenda item in its regular meeting which provided notice that it would address in executive session "acquisition/disposition/appraisal of real property" by the county based on authority of 25 O.S. § 307(B)(3)-(4). Hand written notes on the chairman's copy of the agenda for the regular meeting indicate that such an executive session was held and that no action was taken as a result of that discussion. The auditors findings suggest this was an improper executive session based on a distinction between the statutory language "purchase or appraisal of real property" and the agenda language of "acquisition/disposition/appraisal of real property."

A number of agenda items in the months preceding said meeting regarding this property suggest on-going negotiations for the sale of the property, which ultimately ended in condemnation. This, along with the language of the agenda item suggesting discussion of "acquisition" of the property on the August 13, 2012 agenda, is sufficient to give notice and cites proper authority for such an executive session under 25 O.S. § 307(B)(3) as well as § 307(B)(4). 25 O.S. § 307(B)(4) permits executive sessions for "confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest."

Although the Board's purpose for conducting the executive session appears sound as addressed above, this does not abrogate the 25 O.S. § 312 requirement that proper and complete minutes be kept and recorded. See *Berry v. Board of Governors of Registered Dentists of Oklahoma, Okla.*, 611 P.2d 628 (1980). The Board's process for recordkeeping has fallen short in this instance, and a plan to maintain these records through the Office of County Clerk has been discussed and is currently planned to be implemented at the advice and with the specific oversight of the District Attorney's Office, as legal counsel to the Board.

However, in this specific instance, the agenda of this particular meeting presents a very atypical situation. At the same meeting this executive session was held, the commissioners declared a state of emergency in the county and enacted emergency procedures and services for fires that were ravaging a large portion of the County. These extraordinary wild fires consumed full time attention of the commissioners for some weeks during this period. The fires burned thousands of acres of land in the county, destroying some four hundred thirty homes along with other structures. The commissioners had to coordinate available resources and active counter-measures around the clock in response to this emergency, including assisting command and

**APPENDIX A**

control operations. This state of emergency understandably strained the commissioners' ability to give proper focus to the compliance requirements of these documents.

Since the fires, the commissioners have determined that the County Clerk is better suited to meet the special recordkeeping duties imposed by the Oklahoma Open Meetings Act and shall be doing so henceforth with the oversight of a specifically assigned assistant district attorney.

In addition to remedying this specific shortcoming, the Board has taken further steps to prevent such situations in the future by funding a dedicated legal liaison position within the District Attorney's Office for civil support to the County. One of the various duties of this position is verification of compliance by the Commissioners, as well as all other public boards of the County with requirements of the Oklahoma Open Meetings Act.

**Filing of Judgments in County Clerk's Office**

The Board has forwarded the recommendation of the State Auditor to the District Attorney. The District Attorney's Office has advised that its belief was that the referenced judgment was, in fact, filed with the County Clerk, some months after the conclusion of the condemnation proceeding. Any delay in such was merely an oversight. The Board was assured that a future similar judgment will be filed in the County Clerk's Office forthwith.

Hopefully, this response will address all requirements set forth in the above-referenced audit report. Thank you for your time and effort in this regard.

Sincerely,

Newt Stephens, Jr., Chairman
Board of County Commissioners
Creek County, Oklahoma

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**APPENDIX B**

First Assistant
Don L Nelson

Assistant District Attorneys
Mike Loeffler
Laura Farris
Maxey Reilly
Kelly Allen
W.M. Bartley Logsdon

MAX COOK
District Attorney
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Bristow, OK 74010
(918) 367-6505
Fax (918) 367-9783

Question Submitted by Newt Stephens, Jr.
County Commissioner, Creek County
District 1

Decided: 25 January 2016 (2016 DA-24-1)

Opinion of the District Attorney 24

This Office has received your request for an official opinion in which you query, substantively, the following, to-wit:

> **Was the Board's acquisition of certain real property via eminent domain in Creek County District Court Case No BCV-12-82 unconstitutional, and must the Board comply with the State Auditor's requirements in connection therewith?**

The direct answer to both queries is: No. With all due respect, the Opinion of the State Auditor is incorrect with regard to the constitutionality of the take through condemnation in said proceeding. Accordingly, the State Auditor's recommendations need not, and in fact, probably cannot be accomplished.

**Generally**:

Under the Oklahoma Constitution, private property may not be taken or damaged by a condemning party unless the taking or damage is necessary for the accomplishment of a lawful public purpose. *Board of County Com'rs of Muskogee County v. Lowery*, 136 P.3d 639, 2006 OK 31, and the owner thereof be afforded just compensation for said taking/damage. See, 27 O.S. § 16. Thus, every condemnation proceeding carries two fundamental questions: if the landowner does not consent to the take, is the take for a public purpose; and 2) what is the just compensation for that take. It is the first question that is disputed here.

**APPENDIX B**

The nonconsensual take through condemnation of property in furtherance of potential economic development or enhancement of a community (absent the remediation of community blight) while a valid purpose, must yield to greater constitutional obligation to protect and preserve the individual fundamental interest of private property ownership. *Board of County Com'rs of Muskogee County Okla. v. Lowery,* 136 P.3d 639, 2006 OK 31. Accordingly, a property owner cannot be compelled to suffer condemnation for the purpose of economic development **without his consent**. (Cf. *Kelo v. City of New London,* 545 U.S. 469 (2005) in which the U.S. Supreme Court approved of the use of eminent domain for economic development for federal constitutional purposes.) Therefore, the constitutional protections afforded by the Oklahoma Constitution are clearly more than those afforded by the U.S. Constitution Am. V & XIV. It is this part of the relevant law that the State Auditor correctly sets forth.

County governments possess such power of eminent domain. See, 27 O.S. §5. The Oklahoma Supreme Court has opined that Oklahoma Constitution Article II § 23-24 regarding eminent domain are not grants of power, but rather limitations placed upon the exercise of power recognized as a necessary attribute of the sovereign. *Kelly v. Oklahoma Turnpike Authority,* Okla., 269 P.2d 359 (1954). The limits imposed by these Constitution sections are personal rights of a landowner and are thus an affirmative defense in an action to exercise eminent domain. Such limitations on eminent domain by the State or political subdivision thereof must be construed strictly in favor of the property owner against the condemning authority. *Stinchcomb v. Oklahoma City, Okla.*, 81 Okla. 250, 198 P. 508 (1921). However, in substantially all the statutes, constitutional provisions and the case law limiting the sovereign's power of eminent domain, cite as a prerequisite that the landowner **does not consent** to the take.

**Specifically**:

The landowner in the referenced case (Mr. Sellers) clearly had a defense to the taking, had he wished to avail himself of same. Instead, Mr. Sellers consented to the take of the property before the condemnation was instituted. Thus, only the just compensation due and the payment terms remained to be adjudicated in the condemnation proceeding.

Specifically, Mr. Sellers **affirmatively consented to the take** not only by his prior agreement, but also as evidenced by his waiver (by and through counsel of record) of this issue by not posing such defense in the condemnation proceeding. Mr. Sellers' consent is further evidenced by his ultimate agreement not only to the take, but also the just compensation set by the court-appointed Commissioners in said proceedings. Lastly, Mr. Sellers' failure to appeal or subsequently collaterally attack the judgment along with his continued acceptance of annual payments made pursuant to the Judgment in said condemnation continues to conclusively demonstrate consent to the take of the subject property.

**APPENDIX B**

As Mr. Sellers' interest in preservation of his private property was never an issue and was never posed as a defense to the County's take of his property for economic development purposes, *Lowery, supra,* is not prohibitive of, nor does it deprive the court of subject matter jurisdiction in the Sellers' condemnation proceeding. Accordingly, nothing in the state constitution or elsewhere prohibited the action from proceeding as it did.

Note: based upon the entire reasoning contained herein we omit substantive discussion of the serious legal and practical issues of collaterally attacking the judgment therein at this late date (let alone reversing the transaction as recommended by the State Auditor).

**Therefore, it is the Opinion of this Office that the Commissioners are not controlled by the recommendations of the State Auditor in connection with the condemnation proceedings in Creek County Case BCV-2012-82 insofar as the Board was not constitutionally or otherwise prohibited from acquiring the subject property therein with the consent of the landowner.**

Sincerely,

Michael S Loeffler
Assistant District Attorney

MSL/dd

**APPENDIX C**

THE LAW OFFICES OF DAVID R. WIDDOES, PLLC

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Sapulpa, Oklahoma 74066
(918) 694-5430 / facsimile (918) 224-8404
email: david@widdoeslaw.com

January 28, 2016

Mike Loeffler, Esq.
Assistant District Attorney
Creek County Courthouse
110 W 7th Street
Bristow, Oklahoma 74010 (delivery via: email)

Re: *The Board of County Commissioners v. Jimmy A. Sellers, Trustee of the Jimmy A. Sellers; Creek County District Court; Case No. BCV-2012-82 (Bristow Division).*

Dear Mr. Loeffler:

As counsel of record for the Respondent in the above-referenced matter, this to confirm that at no time did Mr. Sellers ever object to the act of "taking" his property by the county, either before, during or after the course of the proceedings. And as you know, although my client consented to the government's take, the condemnation proceedings were required to adjudicate and arrive at the amount of just compensation due to Mr. Sellers. I trust this has been responsive, but should you have any questions, comments or need any additional information, please feel free to contact me.

Very truly yours,

David R. Widdoes

cc. Client


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