



AUDIT REPORT



DATE November 30, 2018

NO. 2018-006

FOLLOW-UP TAX DEED SALES

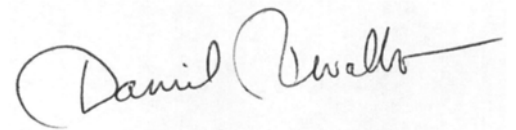
INTERNAL AUDIT DIVISION
ROGER D. EATON
CLERK OF THE CIRCUIT COURT AND COUNTY COMPTROLLER
CHARLOTTE COUNTY FLORIDA

Honorable Roger D. Eaton
Charlotte County Clerk of the Circuit Court and Comptroller
350 East Marion Avenue
Punta Gorda, Florida 33950

We have completed a follow-up audit of Tax Deed Sales. The purpose of this follow-up audit was to ensure comments and recommendations of the original audit issued April 12, 2017 were adequately addressed.

The report details the original audit comments, recommendations, and follows up on the original responses provided. Follow-up was accomplished thru inquiries and observations of evidence.

Respectfully submitted,

A handwritten signature in black ink that reads "Daniel Revallo". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Daniel Revallo
Internal Audit Director

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EXECUTIVE SUMMARY

Internal Audit has completed a follow-up audit of the Tax Deed Sales process performed by the Tax Deeds Section of the Official Records Division of the Charlotte County Clerk of the Circuit Court.

Follow-up audits are limited to comments and recommendations made in the original Tax Deed Sales audit report dated April 12, 2017. It takes into account the responses documented in the original audit and subsequent corrective actions taken or delegated by the respondent. As part of this review, we reviewed the current Tax Deed Procedures dated October 19, 2018, Version 1.0. TaxSmart is the Tax Deeds software.

This report will conclude the follow-up process as it pertains to Tax Deed Sales. The status of corrective action will either be:

OPEN – Corrective action has not been taken to adequately address the original audit comment.

OPEN/PARTIALLY COMPLETED – Corrective action has begun, but has not adequately addressed the original audit comment.

CLOSED – Corrective action has been taken to adequately address the original audit comment.

Original Audit Comments and Status of Corrective Actions

OPEN

None

OPEN/PARTIALLY COMPLETED

None

CLOSED

- Written operating procedures should include all manual processes performed.
- Cash equivalents should be properly safeguarded.
- Notices of Surplus are not being scanned (print to file) into the applicable bucket in TaxSmart.
- Escheatment of properties from the list of “lands available for taxes” was not executed according to the Statute’s time frame.
- The minimum bid is not updated for events occurring after the filing of the Tax Deed Application Certification.
- An opportunity for improvement exists if information contained in the Tax Deed Application Certification could be provided by the Tax Collector’s Office in electronic format.

BACKGROUND

Florida Statutes provide that the Clerk of the Circuit Court is responsible for the administration of tax deed sales. Chapter 197 prescribes the requirements for tax deed sales and Chapter 28 prescribes the charges for recording documents, instruments, and other services provided by the Clerk. The sale of a tax deed by the Clerk is the culmination of a process that begins with the sale of a tax certificate by the Tax Collector.

A tax certificate is an enforceable first lien against the property for unpaid real estate taxes. To remove the lien or redeem the certificate, payment must be made to the Tax Collector for delinquent taxes plus accrued interest, advertising costs, and collection fees. If the property owner does not redeem the tax certificate after two years from the time of issue, the certificate holder can apply for a tax deed with the Tax Collector in order to bring the property to sale at a public auction. If a tax deed application is received from the certificate holder, the Tax Collector submits a Certification of Tax Deed Application and the Property Information Report, both in hardcopy format, to the Clerk's Tax Deed Section.

Upon receipt of the information, the Tax Deed Section bills the applicant for the fees required by the Statutes. Once payment is received, the Tax Deed Section will advertise the sale in the newspaper for four consecutive weeks prior to auction, notify all related parties, and schedule the auction.

Tax deed sales are conducted via public auction on the Internet and properties are sold to the highest bidder. If there are no bids higher than the opening bid, the property is struck off to the certificate holder. Either the highest bidder or the certificate holder must pay all additional recording fees and documentary stamps before the tax deed is issued.

When property is sold and there are no liens, the owner receives notification that he/she may claim the overbid proceeds (sale price less opening bid). If the property is subject to a lien or liens, the Clerk's Office notifies those who may have a right to claim and upon verification, will disburse the overbid amounts according to statute. Any unclaimed overbid proceeds from a tax deed sale are held for one year by the Clerk's Office and then forwarded to the State of Florida as unclaimed property.

The Clerk currently uses three separate systems that interface with each other to process tax deed sales: Realforeclose from REAL AUCTION is used to conduct the on-line sales; TaxSmart from Pioneer is used to process the sales, and the recording software Landmark from Pioneer is used to record the tax deeds.

TaxSmart has the capability of functioning as an integrated sub-ledger to the general ledger in the Accounting System EDEN. Transactions are updated daily from TaxSmart to the general ledger.

The Clerk of the Circuit Court Comptroller Division performs reconciliations of the deposits and payments posted to both REAL AUCTION and TaxSmart in a daily basis.

AUDIT OBJECTIVES

The purpose of this follow-up audit was to determine whether the proposed corrective actions by the department in response to the five critical findings and one opportunity for improvement in Tax Deed Sales Audit Report Number 2017-001 were adequate and timely in their implication.

SCOPE AND METHODOLOGY

The follow-up audit included review of the following items that were to be corrected:

- Written operating procedure enhancements
- Safeguarding cash equivalents
- Notice of Surplus handling
- Execution of escheatment of properties
- Update of the minimum bid for events following the Tax Deed Application Certifications
- Determine whether Tax Deed Application Certifications can be received in electronic format

The scope of the audit included a review of comments, recommendations, and responses reported in the 2017-001 Tax Deed Sales Audit Report dated April 12, 2017. The review was conducted September 6, 2018.

The methodology of this review included discussing findings, recommendations, and responses reported in the 2017-001 Tax Deed Sales Audit Report. Discussions were held with Crystal Henderson, Director of Official Records. After discussion, we obtained verbal responses and verified these responses whenever possible.

COMMENTS, RECOMMENDATIONS AND FOLLOW-UP AUDIT RESULTS

The following are our comments, recommendations, responses and statuses of corrective actions, followed by Auditor Comments. Original responses were received from Crystal Henderson, Director of Official Records. Status of Corrective Action and Auditor Comments were derived from a meeting with Crystal Henderson and observation of supporting items available.

1. Written operating procedures should include all manual processes performed.

We recommend that the Tax Deeds Section review existing policies and procedures for completeness and update them to include any missing or necessary items.

Original Response: "Official Records is in the process of updating the Tax Deed manual to reflect all of the policies and procedures handled in our department."

Status of Corrective Action: Closed

Auditor Comments: Internal Audit reviewed the Tax Deed manual, which has been updated to reflect all of the policies and procedures handled in the department as evidenced by procedures for the maintenance of the lands available for taxes list.

2. Cash equivalents should be properly safeguarded.

We recommend that cash and cash equivalents be properly safeguarded. Procedures should be implemented whereby checks are secured/locked in the clerk's desk drawer until they are processed for deposit.

Original Response: "Procedures are now in place so that checks are also locked in the deputy clerk's drawer while they are away from their station."

Status of Corrective Action: Closed

Auditor Comments: Internal Audit verified that the Cashier & Currency Control procedure manual 5.0 dated 3/22/2018 addresses the Security of Funds, stating cash drawers must not be left unsecured when unattended. At the time of this follow up, there were no cash equivalents to be observed and no unsecured monetary items were observed. Internal Audit will perform continual follow up during surprise cash counts, as a step in this process is to observe the location for unsecured currency.

3. Notices of Surplus are not being scanned (print to file) into the applicable bucket in TaxSmart.

We recommend that the Tax Deeds Section ensure that all Notices of Surplus be maintained in the system to be in compliance with Florida Statutes and Code.

We also recommend that a notice of surplus letter, signed by the Section clerk, be maintained.

Original Response: "Notice of Surplus letters were not being scanned into Taxsmart because they were blank. I am working with the IT Department to have the names and addresses of the owner and interested parties listed on the Notice of Surplus which will include a notice or proof of mailing. These forms will then be saved to each Tax Deed that has a surplus."

Status of Corrective Action: Closed

Auditor Comments: Internal Audit verified by observation that the system now has the names and addresses of the owner and interested parties listed on the Notice of Surplus.

4. Escheatment of properties from the list of “lands available for taxes” was not executed according to the Statute’s time frame.

We recommend that the Tax Deeds Section adhere to the Statute and escheat properties to the County “three years after the land was offered for public sale”. In addition, this process should be included in the Section’s policies and procedures manual.

Original Response: “The Tax Deed department has updated the policy to reflect that the List of Lands Available will be escheated three years after the land was offered for public sale, as opposed to waiting 3 years and 91 days”

Status of Corrective Action: Closed

Auditor Comments: The escheatment of properties process was verified in the manual to have the correct language. Escheatment of properties is not common, so no transactions were available to test. The original issue was identified by an interview which exposed the misinterpretation of the Statute. Current interview determined the Statute is now correctly understood. The Tax Deeds Section is currently working with IT to automate this process.

5. The minimum bid is not updated for events occurring after the filing of the Tax Deed Application Certification.

We recommend that the Tax Deeds Section establish and implement a procedure requesting updated information from the Tax Collector’s Office for delinquent taxes and/or additional certificates that occurred subsequent to the tax deed application. In addition, this request should be made in writing.

Original Response: “Minimum bid for 197.502(6)(c) The Tax Deed department is compliant with, we are adding the ½ homestead for the improved property. Current taxes are not being included at this time. The Tax Deed department is striving to meet the standards set forth by the Best Practices while following guidelines of the Florida Statutes. At this time if the Tax Collector provides us the Tax Deed packet prior to this year’s taxes, this year’s taxes are excluded from the open bid because of the timeframe between receiving the Tax Collector’s packet and the actual sale date. We will be in contact with the Tax Collector to see how this process can be updated.”

Status of Corrective Action: Closed

Auditor Comments: As in their response above, the Tax Deeds Section asserts they were in compliance with procedures at the time of the audit. Additional requirements with the based on updates of Best Practices and new Statutes for the taxes will begin with Tax Deed applications filed after October 1, 2018.

6. An opportunity for improvement exists if information contained in the Tax Deed Application Certification could be provided by the Tax Collector's Office in electronic format.

We recommend the Tax Deeds Section contact the Tax Collector's Office to explore receiving an electronic download of the information contained in the Tax Deed Application Certification packet.

Original Response: "We have had a meeting with the Tax Collector along with both IT Departments last year to determine if this would be possible. I will follow up with both departments to see if this data can be integrated into our existing software."

Status of Corrective Action: Closed

Auditor Comments: Conversations have been held regarding this opportunity, but this recommendation cannot be implemented due to limitations between Constitutional offices. This is not a control weakness and the recommendation was explored.

ACKNOWLEDGEMENT

We would like to thank the Clerk of the Circuit Court Tax Deeds Section for their assistance in the completion of this follow-up audit.

Follow Up Audit performed by:

Dan Revallo

Internal Audit Director

Charlotte County Clerk of Court & County Comptroller

