AUDIT REPORT

DALLAS COUNTY

PUBLIC WORKS TAX FORECLOSURE RESALES -FY2018 AND 2019

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Dallas County Auditor

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PUBLIC WORKS TAX FORECLOSURE RESALES -FY2018 AND 2019

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This report is intended for the information and use of the agency/department. While we have reviewed internal controls and financial reports, this review will not necessarily disclose all matters of a material weakness. It is the responsibility of the department to establish and maintain effective internal control over compliance with the requirements of laws, regulations, and contracts applicable to the department

DALLAS COUNTY
COUNTY AUDITOR

MANAGEMENT LETTER

Ms. Alberta Blair, P.E.
Director of Public Works
Dallas, Texas

Attached is the County Auditor's final report entitled "**Public Works Tax Foreclosure Resales -FY2018 and 2019**" Report. In order to reduce paper usage, a hard copy will not be sent through in-house mail except to the auditee.

If you prefer that released reports be e-mailed to a different (or additional) recipient, please inform me of the name and the change will be made.

Respectfully,

Darryl D. Thomas
County Auditor

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EXECUTIVE SUMMARY

A review of Public Works processes related to the sale of tax-foreclosed properties during fiscal years 2018 and 2019 revealed the significant observations listed below:

Summary of Significant Observations

- Inconsistent process for calculating the suggested minimum bid offer amount
- Lack of segregation of duties between responsibilities to set the suggested minimum bid offer amount, accept bid offers/deposits and determine the bid close date
- Bids are viewed immediately upon receipt
- Offer and Purchase Agreements were modified without the signature/initials of the bidder.
- Purchase and Offer Agreements were accepted with deposit amounts that were less than the amount required by the contract
- One purchaser awarded property without a properly notarized Purchase and Offer Agreement
- The department accepted offers on one property prior to receiving authorization to sell from all interested taxing entities
- The department made disclosures to certain bidders as to the number of competing bids on properties prior to the bid close date
- Property awarded to bidder not involved in two-way tiebreak.
- As of November 12, 2019, one tax-foreclosed property that was sold for $32,000 on July 1, 2019 is publicly listed for sale with an asking price of $250,000. Four properties that were bundled and sold for $32,000 on March 16, 2018 are publicly listed for sale with an asking price of $14,000 per property.

Repeat Observations from Previous Audits

- None

Only those weaknesses that have come to our attention because of the audit have been reported. It is the responsibility of the department management to establish and maintain effective internal control over compliance with the requirement of laws, regulations, and contracts applicable to the department.

INTRODUCTION

Dallas County Auditor's Office mission is to provide responsible, progressive leadership by accomplishing the following:

- Comply with applicable laws and regulations
- Safeguard and monitor the assets of the County utilizing sound fiscal policies
- Assess risk and establish and administer adequate internal controls
- Accurately record and report financial transactions of the County
- Ensure accurate and timely processing of amounts due to County employees and vendors
- Set an example of honesty, fairness and professionalism for Dallas County government
- Provide services with integrity
- Work in partnership with all departments to resolve all issues of the County
- Strive to utilize the latest efficient and effective technology in the performance of tasks
- Provide technical support and training in the development, implementation, and maintenance of information systems
- Hold ourselves accountable to the citizens of the County at all times
- Be responsive to the elected officials and department heads of Dallas County

The objectives of this audit are to:

1. Ensure compliance with statutory requirements
2. Evaluate internal controls
3. Verification of accuracy and completeness of reporting
4. Review controls over safeguarding of assets

This audit covered the period of October 1, 2017 through September 30, 2019.

The audit procedures will include interviews with key process owners, observation of transactions processing, data analysis and sample testing of transactions. The main system used will also be reviewed and incorporated as part of the testing of transactions.

DETAILS

Suggested Minimum Bids

A review of the calculation of 47 suggested minimum bids for tax-foreclosed properties and the corresponding bid offers accepted during fiscal years 2018 and 2019 revealed that the process for calculating the minimum suggested bids lacks consistency and transparency. The department initially indicated that the minimum bid offers were calculated at 80% of DCAD value to account for any post-judgment taxes a bidder might have to pay. However, the calculation methodology used to set the suggested minimum bid offer amount could not be determined on 16 properties including 11 properties with minimum bids set at 68% or less of DCAD value. Eight properties were sold for less than the DCAD value including two properties that were also sold for less than the minimum suggested bid price set by the department. No formal appraisal or market comparatives were performed to justify the reductions in appraised value. Suggested minimum bid amounts were calculated by one employee with no indication of supervisory review.

Percentage less than DCAD Value	Property
50%	325 W Beltline Rd ***
62%	4 Belmont Place
64%	4453 Highland Street ***
65%	110, 114, 118, and 122 Sliger St
68%	304 Lakey Road

***Denotes sale at less than DCAD value and suggested minimum

Status: As of November 12, 2019, one tax-foreclosed property that was sold for $32,000 on July 1, 2019 is publicly listed for sale with an asking price of $250,000. Four properties that were bundled and sold for $32,000 on March 16, 2018 are publicly listed for sale with an asking price of $14,000 per property.

Observation and inquiry of Public Works personnel revealed a lack of segregation of duties related to tax foreclosure sales; one employee had responsibilities for calculating the suggested minimum bid offer amount; accepting bid offers and deposit amounts; accepting and notarizing purchase agreement documents; determining the bid close date; communicating with the successful bidders; and refunding deposit amounts to non-successful bidders.

Local Government Code per Sec. 34.05 indicates that the taxing unit may sell the property at any time by public or private sale. Section 34.05 (h) indicates the sale of property at a private sale may be sold for an amount less than the market value of land specified in the judgement of foreclosure or the total amount of the judgement against the property. Moreover, section 34.05 (i) indicates the taxing unit may sell the property at a private sale for amount less than required under Subsection (h) of section 34.05. Per Sec. 34.05 (j), the taxing unit may sell the property for an amount equal to or greater than its current market value as shown by the most recent certified appraisal role, if the sum of the amount of the judgement plus post-judgement taxes, penalties, and interest owing against the property exceeds the market value. Specific internal control procedures indicate that the minimum bid offers should be calculated by an employee other than an employee with duties related to conducting the sale.

Lack of written procedures and inadequate employee training have resulted in the inconsistent processes related to the sale of tax-foreclosed properties. Lack of managerial oversight and an inadequate segregation of duties have increased the potential risk of price fixing to benefit preferred bidders, which could result in a loss of revenue to Dallas County and other taxing entities.

Recommendation

Suggested Minimum Bids

Management should:

- Develop and document comprehensive procedures that includes a consistent use of a single calculation methodology. Employees should be trained on the procedures.
- Review calculations and the supporting documentation.
- Document the date on which the suggested minimum bid was calculated and the employee who calculated the amount.
- Communicate with the department's Property Appraiser to establish the minimum offer amount for the re-sale of the property.
- Segregate duties related to the calculation of the suggested minimum bid and the determination of the bid end date from the duties of employees with responsibilities for accepting bid offers, deposits and Purchase Agreement documentation.

Management Action Plan

Practices and Procedures are being developed to document the process used to calculate the minimum suggested amounts and to include signature and date lines for the person doing the calculations and for approval.

Auditors Response

None

Offer Submission

A review of the offer submission process for 49 properties sold under the tax foreclosure resale program during fiscal years 2018 and 2019 revealed that the department did not receive sealed bids; all bids were immediately reviewed upon receipt; the Historical Master List maintained by the department was inaccurate and incomplete; the Historical Master List was accessible to any employee in the Public Works Department to view or make changes; and the documentation provided did not indicate the bid close date for three tax foreclosure resales. **Status: Upon inquiry, department personnel was unable to determine the bid close date.**

A sample review of Offer and Purchase Agreements revealed that there was no notation of the date and time the department received the documents; 38 Offer and Purchase Agreements were modified instead of processing a document to amend the original agreement, including 10 bids that were modified without the

bidders initials and documents that were modified after notarization; and the department inconsistently recorded the date and time of these modifications.

Additionally, one property was awarded to a bidder whose offer was modified on the bid close date; however, there is no indication of the time the modification was submitted; 17 winning bids were selected less than 30 days after the first offer was received by the department including four properties that had bid close dates that were the same date as the first offer. Two purchase offers and the corresponding deposit amounts totaling $4,003 were accepted after the winning bid had been selected. Two offers were accepted without the Purchase and Offer Agreement documents being properly notarized including one offer that was selected as the winning bid. The department accepted offers on one property prior to receiving authorization to sell from all interested taxing entities. There was no documentation for two properties to support the amount retained for court costs. Two Purchase and Offer Agreements were accepted with deposit amounts that were less than the amount required by the contract. **Status: The remaining deposit amounts were received one week and three weeks after the acceptance of the Purchase and Offer Agreements.**

Sample review of the offer submission documentation and observation during fieldwork revealed that the department made disclosures to certain bidders as to the number of competing bids on properties prior to the bid close date.

All offers submitted to the county must be on the county's offer and purchase agreement form, and must include an executed no title-policy statement, no conflict of interest statement and an affidavit. For all bids or offers amounting to $20,000 or less, the person or entity submitting it shall be required to submit a deposit in proper certified funds, preferably in the form of certified check or money order, made payable to Dallas County for $2,000 or the purchase price, whichever is less. For bid/offer amounts greater than $20,000, the person or entity submitting it shall submit a deposit in proper certified funds payable to Dallas County for 10 percent of the purchase price. Prior to accepting an offer, the department should verify that the Offer and Purchase Agreement (OPA) is completed and fully executed by all parties to whom the property will be conveyed if bid is successful. All exhibits should be signed and notarized where applicable. Inconsistent documentation, staff training, and management review related to the processing of foreclosure resales have resulted in a lack of transparency due to incomplete/inaccurate records and questions as to the validity of modified Purchase and Offer Agreements. Further, the lack of segregation of duties increased the risk that the bid process could be altered to prefer certain bidders.

Recommendation

Offer Submission

Management should:

- Develop a bidding process that encourages fairness and transparency by requiring sealed bids that are not opened prior to the bid close date.
- Require a minimum of two employees to unseal the bids after bid close.
- Work with the Civil DA to develop a document to amend the Offer and Purchase Agreement when a bid is modified.
- Consult with the Civil DA as to the legal validity of Purchase and Offer Agreements

modified after notarization.

- Utilize a time-stamp clock when receiving or modifying offers.
- Ensure all steps in the sale of a property are properly documented in the department's records and reviewed by management.
- Implement controls to detect and prevent actions inconsistent with departmental policies and procedures.

Management Action Plan

The Public Works Department is working with the Purchasing Department on a plan for Public Sales. Everyone involved in the process will receive training.

Auditors Response

None

Properties: 110, 114, 118, and 122 Sliger Street

A review of the documentation associated with the sale of the properties located at 110, 114, 118, and 122 Sliger Street revealed inconsistencies in the processing of the properties throughout the bidding process; though the Dallas County Appraisal District (DCAD) recognized the lots as four separate properties, the department accepted Offer and Purchase Agreements for the four properties as a single property; the purchaser was charged separate administration fees for each property; and 10 percent of the total bid offer was collected as an initial deposit instead of $1,500 for each property bid offer less than $15,000.

Additionally, the department did not retain documentation indicating the date that the highest bidder was selected; one Offer and Purchase Agreement was not retained in the property file; one Offer and Purchase Agreement contains a different name than the bidder's name that was recorded on the Historical Master; and one Offer and Purchase Agreement was accepted without being properly notarized.

All offers submitted to the county must be on the county's offer and purchase agreement form, and must include an executed no title-policy statement, no conflict of interest statement and an affidavit. For all bids or offers amounting to $20,000 or less, the person or entity submitting it shall be required to submit a deposit in proper certified funds, preferably in the form of certified check or money order, made payable to Dallas County for $2,000 or the purchase price, whichever is less. For bid/offer amounts greater than $20,000, the person or entity submitting it shall submit a deposit in proper certified funds payable to Dallas County for 10 percent of the purchase price. Prior to accepting an offer, the department should verify that the Offer and Purchase Agreement (OPA) is completed and fully executed by all parties to whom the property will be conveyed if bid is successful. All exhibits should be signed and notarized where applicable. Inconsistent documentation, staff training, and management review related to the processing of foreclosure resales have resulted in a lack of transparency due to incomplete/inaccurate records and questions as to the validity of incomplete Purchase and

Offer Agreements. Further, the lack of segregation of duties increased the risk that the bid process could be altered to prefer certain bidders.

Recommendation

Properties: 110, 114, 118, and 122 Sliger Street

Management should:

- Develop a bidding process that encourages fairness and transparency by requiring sealed bids that are not opened prior to the bid close date.
- Require a minimum of two employees unseal the bids after bid close.
- Ensure all steps in the sale of a property are properly documented in the department's records and reviewed by management.
- Implement controls to detect and prevent actions inconsistent with departmental policies and procedures.
- Review Purchase and Offer Agreements to ensure all forms are present and completed.

Management Action Plan

The Public Works Department is working with the Purchasing Department on a plan for Public Sales and will ensure the Program's Practices and procedures are updated accordingly. Everyone involved will be trained on the new process.

Auditors Response

None

730 Pleasant Run Road

A review of the documentation associated with the sale of the property located at 730 Pleasant Run Road revealed two of the three bids submitted on the property resulted in a tie at the bid close date. Both bidders increased their offer amounts. However, the property was awarded to a third individual who submitted their first offer 10 days after the initial bid close date. The Purchase and Offer Agreement for the winning bid shows an original offer amount that was less than that of the bidders involved in the tie. The offer amount was subsequently modified and increased the same day that the property was awarded. The modified offer amount was not date and timestamped or initialed by the bidder.

Two additional bids were accepted after the initial bid close date and after the two bidders that were tied had been notified to increase their offers. Three offer amounts were modified without processing an amendment to the Offer and Purchasing Agreement document including two bids that were modified based on email correspondence. A third party was allowed to change a bid through email without documentation of having the authority to modify the bid. The person making the modified bid offer was not the original bidder. Four accepted Offer and Purchase Agreements were missing pages.

All offers submitted to the county must be on the county's offer and purchase agreement form, and must include an executed no title-policy statement, no conflict of interest statement and an affidavit. The department should verify that the Offer and Purchase Agreement (OPA) is completed and fully executed by all parties to whom the property will be conveyed if bid is successful. All exhibits should be signed and notarized where applicable. The department should not disclose any information about the highest offer until it has been placed on the Commissioners Court Agenda and made viewable for the public. When the highest bid is a tie, only the prospective purchasers should be notified with the opportunity to submit their highest and best offer.

Inconsistent documentation, staff training, and management review related to the processing of foreclosure resales have resulted in a lack of transparency due to incomplete/inaccurate records and questions as to the validity of modified Purchase and Offer Agreements. Further, the lack of segregation of duties increased the risk that the bid process could be altered to prefer certain bidders.

Recommendation

730 Pleasant Run Road

Management should:

- Develop a bidding process that encourages fairness and transparency by requiring sealed bids that are not opened prior to the bid close date.
- Work with the Civil DA to develop a document to amend the Offer and Purchase Agreement when a bid is modified.
- Ensure for all steps related to the sale of a property are properly documented in the department's records and reviewed by management.
- Establish a policy and documentation as to whom is authorized to submit and/or modify a bid and the method by which a bid can be submitted/modified.
- Require identification prior to accepting modifications to submitted bids.
- Utilize a time-stamp clock when receiving or modifying offers to ensure transparency of the bidding process.
- Review Purchase and Offer Agreements to ensure all forms are present and completed.
- Train all employees on policies and procedures.

Management Action Plan

The Public Works Department is working with the Purchasing Department on a plan for Public sales and will ensure the Program's Practices and Procedures are updated accordingly. Everyone involved in the process will receive training.

Auditors Response

None

Delinquent Taxes Due on Deeded Properties

Per the Tax Foreclosure Specialist, the suggested minimum offer amount was reduced below the DCAD assessed value for 13 properties because the post-judgement taxes were considered in the calculation of the sale. The documents approved by the Dallas County Commissioners Court for the resale of the properties indicated that the purchasers would be liable for a specified portion of the post-judgement taxes.

A review of the balance of post-judgement taxes on these properties as of October 14, 2019 revealed that five out of the 13 properties had a total outstanding balance due of $19,279.60. Despite the unpaid balances, Public Works has processed the Quitclaim deeds to transfer ownership of the properties. By not requiring the collection of post-judgement property taxes prior to the issuance of the Quitclaim Deed, the department has increased the potential for loss of revenue to Dallas County and other taxing entities participating in the Neighborhood Revitalization Program.

Recommendation

Delinquent Taxes Due on Deeded Properties

Management should:

- Develop and document comprehensive procedures requiring the payment of post-judgement taxes prior to the issuance of the Quitclaim Deed.
- Train staff on procedures related to the collection of taxes and issuance of Quitclaim Deeds.

Management Action Plan

The DA's office, the Tax office and Linebarger (the County's Tax collection attorney) wil need to give direction if this is to change where the Public Works Department collects taxes.

Auditors Response

None

Resale of 325 W Beltline Rd

A review of the documentation related to the resale of the property located at 325 W Beltline Rd revealed the bid from one interested purchaser was not recorded on the Historical Master List and there was no notation that the purchaser withdrew the bid; one deposit for $4,850 made on the property was withdrawn and used as a deposit for a different property that the bidder won; and the tax foreclosure department was not able to provide the bid close date for the property.

Departmental practices and procedures indicate that all applicable fields on the Historical Master Spreadsheet should be completed and updated as additional information is received during the resale process. In addition, the deposits received are to be applied to one specific property and cannot be transferred for use on another property. Inconsistent management oversight related to staff's adherence to department's established policies and procedures and a lack of staff training resulted in inaccurate/incomplete financial records.

Recommendation

Resale of 325 W Beltline Rd

Management should:

- Ensure that all steps related to the sale of a property are documented and reviewed by management.
- Re-train all employees on department policies and procedures.

Management Action Plan

The Public Works Department is working with the Purchasing Department on a plan for Public Sales.

Auditors Response

None

Transparency and Code of Ethics

Inquiry of Public Works Tax Foreclosure personnel revealed the department did not require employees to sign a Code of Ethics and employees were not up-to-date in submitting *Disclosure of Outside Income* forms to the Dallas County Administrator. Per Dallas County Code Section 71-60, county employees involved in daily administration, monitoring of a contract, bid, incentive or property transactions are required to submit a *Disclosure of Outside Income* form to be presented to the County Administrator by April 30 of each year. Dallas County Code Chapter 71 Transparency and Code of Ethics communicates the importance of ethics by addressing conflicts of interest and the acceptance of gifts and gratuities by employees. The lack of written procedures and inconsistent management oversight resulted in a lack of transparency and de-emphasized the importance of ethical behavior related to tax foreclosure sales.

Recommendation

Transparency and Code of Ethics

Management should:

- Adopt an employee code of ethics policy that is distributed and acknowledged by employee signature.
- Formalize employee ethics training addressing conflict of interest and the acceptance of gifts and gratuities.

- Review Dallas County Code regarding procedures and time lines for submitting Disclosure of Outside Income forms.

Management Action Plan

An "Ethics and Outside Income" checklist will be developed for each employee to sign off on each year. Each employee will be required to take at least a one-hour class in ethics per year. Submittal of the Disclosure of Outside Income for to the Dallas County Administrator will be required each year regardless if nothing has changed from the year before.

Auditors Response

None

Refunds to Unsuccessful Bidders

A review of all 90 deposits refunded to unsuccessful bidders during fiscal years 2018 and 2019 for validity, accuracy and completeness revealed the payee name on four fiscal year 2018 refund disbursements differed from the individuals/entities listed on the issued manual receipts including two separate instances in which the manual receipts reflect that the deposit amounts were received from two individuals, though the refund was disbursed to one individual; an instance in which receipts from an individual and an LLC were combined and the total amount of the refund was disbursed to the LLC.

Risks identified during a walk-through of the department's refund process revealed that one employee received/receipted the bid deposit amounts and submitted the requests for payment to refund the deposits.

Public Works' written procedures indicate that the remitter name on the receipt issued is the party who will receive the refund in the event the deposit has to be refunded. Per Dallas County Code Sec. 70-543 (c) as it relates to refund procedures, the department will prepare and submit a request for payment form to the county auditor, along with supporting documentation, including the account and year when revenue was originally recorded. Incomplete controls over the refund process including inconsistent management review and an inadequate segregation of duties resulted in inaccurate/incomplete financial records and increased the potential that refunds could be duplicated or that funds could be misappropriated.

Recommendation

Refunds to Unsuccessful Bidders

Management should:

- Review and approve refund requests.
- Reinforce department policy of issuing refunds to the individual/entity from which the collection was made as indicated by the Payee Name on the manual receipt.
- Ensure staff is properly trained regarding the refund process.
- Review and updated internal controls to ensure refunds are complete and accurate.

Management Action Plan

The Public Works Department is working with the Purchasing Department on a plan for Public Sales; and will work with the Auditor's Office when there are multiple remitters.

Auditors Response

None

Manual Receipts

A review of 209 manual receipts issued during fiscal years 2018 and 2019 revealed three manual receipts were issued out of sequence. A sample review of 75 manual receipts traced to County Wide Receipting (CWR) for proper posting revealed manual receipt numbers were not recorded on the computer receipts and seven manual receipts totaling $33,132 were posted to CWR and deposited more than five business days after issuance. This included two manual receipts totaling $4,500 that were posted and deposited more than 10 business days after issuance.

A walkthrough of the receipt and deposit process revealed computer receipts were not created within one business day of the issuance of a manual receipt; funds were not properly secured; and the department was not issuing computer-generated receipts.

All monies received should be promptly receipted and deposited consistent with Local Government Code, § 113.022. Manual receipts are written only during system downtime, reflecting the appropriate property name and amount paid. Once the system is restored, the payments are posted to the system and the manual receipt numbers are entered into the comment field. If a manual receipt is skipped, it should be marked "Void" with an explanation written on the receipt. All funds should be locked in a secure location with access that is limited to the necessary personnel. A lack of management oversight and written policies and procedures related to the manual receipt process resulted in delayed revenue recognition and increased the risk that funds may be misappropriated.

Recommendation

Manual Receipts

Management should:

- Request access to County Wide Receipting to issue computer receipts with in the Public Works department.
- Ensure receipts are deposited timely as specified in Local Government Code, § 113.022.
- Establish written manual receipt policies and procedures and train staff on the manual receipting process.
- Periodically review manual receipt books for completeness and proper posting to the County Wide Receipting system.
- Increase controls over the storage of funds prior to deposit.

Management Action Plan

As a result of this audit, the following steps have or are in the process of being implemented:

- The Auditor's Office has allowed Public Works access to County Wide Receipting (CWR) in order to issue computer receipts within the Department
- All receipts will be entered upon receipt and physical deposits will be hand-delivered to the Treasurer's Office at Ren Tower, as agreed upon with the County Auditor and Public Works Director
- In necessary to issue a manual receipt, Public Works will review periodically for completeness of posting to the CWR system
- Public Works have selected three staff persons to be trained on the CWR system. All have been approved and set up on the system. The Auditor's Office will conduct training
- Public Works have procured new keys for the limited personnel to lock the Secretary workstation to increase controls over the access and storage of checks for deposit.

Auditors Response

None

cc: Darryl Martin, Commissioners Court Administrator