



**CUYAHOGA COUNTY PROSECUTOR'S OFFICE
CUYAHOGA COUNTY**

SPECIAL AUDIT REPORT

JANUARY 1, 1992 THROUGH DECEMBER 31, 1998



JIM PETRO
AUDITOR OF STATE

STATE OF OHIO

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STATE OF OHIO
OFFICE OF THE AUDITOR

JIM PETRO, AUDITOR OF STATE

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Report of Independent Accountants

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Cuyahoga County Prosecutor
The Justice Center
1200 Ontario Street - 9th Floor
Cleveland, Ohio 44113

Pursuant to our letter of arrangement dated March 8, 1999, we conducted a Special Audit and performed the procedures summarized below, and detailed in our "Supplement to the Special Audit Report," for varying time periods between January 1, 1992 through December 31, 1998. These procedures were performed solely to determine whether title reports paid for by taxpayers were completed and on file in the County Prosecutor's Office and to determine whether the County Prosecutor's Office disbursed public monies for title reports that were not received. This engagement to apply agreed-upon procedures was performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of the specified users of this report. Consequently, we make no representations regarding the sufficiency of the procedures described below either for the purpose which this report has been requested or for any other purpose. The procedures we performed are summarized as follows:

1. We interviewed County employees to gain an understanding of the delinquent real estate tax foreclosure and payment process.
2. We conducted interviews with County personnel and representatives of title companies to determine the procedures for maintaining title work within the Prosecutor's Office and to gain an understanding of the verbal agreements between the Prosecutor's Office and the title companies.
3. We selected and reviewed 547 title fee receipts recorded during the period January 1, 1992 through June 30, 1997 to determine whether title research was performed and payment by the taxpayer was due.

As more fully described in our "Supplement to the Special Audit Report", of the 547 title fee receipts totaling \$142,695, the Prosecutor's Office could not provide us with a certified title report to support 266 of these receipts totaling \$68,696. In addition, we estimate that of the \$2,394,512 of title fee receipts which we did not specifically examine, \$1,157,130 may not be supported by a certified title report.

4. We identified 1070 disbursements to title companies during the period January 1, 1992 through December 31, 1998 and verified the permanent parcel numbers to determine whether the disbursements to title companies were for preliminary judicial reports that were completed.

As more fully described in our "Supplement to the Special Audit Report", of the 1,070 preliminary judicial report disbursements totaling \$282,240, the Prosecutor's Office could not provide us with a certified title report to support 153 of these disbursements totaling \$40,250. In addition, we estimate that of the \$2,576,161 of preliminary judicial report disbursements which we did not specifically examine, \$367,231 may not be supported by a certified title report.

5. We identified and reviewed fifty supplemental title reports and their accompanying preliminary judicial reports to determine whether both reports were completed and the supplemental payment was for work performed.

As more fully described in our "Supplement to the Special Audit Report", of the fifty supplemental title report disbursements reviewed, the Prosecutor's Office was unable to provide us with eleven supplemental title reports to support the disbursements.

6. We selected permanent parcel numbers that were part of foreclosure proceedings to determine whether the associated case files contained the title reports as required by Ohio Rev. Code., including by not limited to, Sections 5721.14 and 5721.18.

As more fully described in our "Supplement to the Special Audit Report", of the 100 parcels selected, the Prosecutor's Office provided us with the foreclosure files in all cases.

7. On June 5, 2000, we held an exit conference with the following elected officials and administrative personnel of the County:

Bob Coury, Cuyahoga County Prosecutor's Office
Tom Brown, Cuyahoga County Prosecutor's Office
Bill Coyne, Jr., Cuyahoga County Prosecutor's Office
Andrew D. Finger, Cohen & Company, CPAs
Timothy J. Kollin, Cuyahoga County Prosecutor's Office
Charlene Meli, Cuyahoga County Prosecutor's Office
Steven Letsky, Director of Accounting, Cuyahoga County Auditor's Office
Toni Gregg, Deputy Director, Cuyahoga County Office of Budget and Management
Robin D. Thomas, Chief Deputy Treasurer, Cuyahoga County Treasurer's Office
Jim Rokakis, Cuyahoga County Treasurer
Howard Katz, Cuyahoga County Treasurer's Office

The attendees were given an opportunity to respond to this Special Audit. The County requested, and we granted, an extension to respond until July 10th. On July 10th, we received a written response from the Cuyahoga County Prosecutor accompanied by additional documentation to be considered in our final report. This response was reviewed and changes were made where we deemed necessary.

The results of applying these procedures are contained in the attached "Supplement to the Special Audit Report." Because these procedures do not constitute an examination conducted in accordance with generally accepted auditing standards, we do not express an opinion or limited assurance on any of the accounts or items referred to above. Also, we express no opinion on the County Prosecutor's internal control system over financial reporting or any part thereof. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you. This report relates only to transactions relating to the above procedures, and does not extend to any financial statements of the Cuyahoga County Prosecutor's Office or Cuyahoga County, taken as a whole.

This report is intended for the use of the specified users listed above and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes. Reports by the Auditor of State are a matter of public record and use by other components of state government or local government officials is not limited.

A handwritten signature in black ink, appearing to read "Jim Petro", with a large, stylized flourish at the end.

JIM PETRO
Auditor of State of Ohio

May 1, 2000

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Certain Elected Officials and Other Relevant Individuals

Certain Elected Officials

<u>Name</u>	<u>Title</u>	<u>Term of Office</u>
Stephanie Tubbs Jones	Prosecuting Attorney	01/01/92 to 12/31/98
William D. Mason	Prosecuting Attorney	01/16/99 to 12/31/00
James Rokakis	Treasurer	03/97 to 09/01/01
Frank Russo	Auditor	01/97 to 03/13/03

Other Relevant Individuals

County Prosecutor's Office

Robert Coury, Jr., First Assistant
William J. Coyne, Jr., Assistant Prosecutor, Delinquent Real Estate Tax Department
Charlene Starr, Supervisor, Prosecutor's Delinquent Real Estate Tax Department
Nick Valukievik, Prosecutor's Delinquent Real Estate Tax Department

County Commissioners' Office of Budget and Management

Alexandra Turk, Director
Millie Jones

County Treasurer's Office

Robin Darden Thomas, Chief Deputy
Mary Mihaly, Deputy Clerk
Michael Sweeney, Deputy Clerk

County Auditor's Office

Steven Letsky, CPA, Director of Accounting

County Information Service Center

Wolfgang Kaufer, Applications Manager for Infrastructure Development

Cuyahoga County Clerk of Courts

Ron Piechowski

Cuyahoga County Prosecutor's Office Delinquent Real Estate Tax Department

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Glossary of Terms and Description of Documents

TRM-1 System	Computer system used by the offices of the County Auditor, Prosecutor, and Treasurer which lists all permanent parcel numbers that are currently delinquent. Using the permanent parcel number as the identifier, cases are created and case information is logged in the system.
Report 80	Revenue report generated by the County Auditor's Office. The report details each revenue receipt by County Index Code in date sequence and includes the amount of the receipt.
Report 81	Expenditure report generated by the County Auditor's Office. The report details disbursements by County Index Code in date sequence and includes the title company name, warrant number, warrant date, and amount.
Report 40	Expenditure report generated by the County Auditor's Office. This reports reflects the vendor name, vendor number, index code, subject code, all payments to the vendor, and encumbrances. This report is distributed monthly to all county agencies.
Report 22	Revenue and expenditure report generated by the County Auditor's Office. The report aggregates all receipt and expenditure activity which appears on the Reports 80 and 81 described above. This report is generated monthly and distributed to the County offices and departments that are associated with the individual Index Codes.
Preliminary Judicial Report	Also known as "title report" or "judicial report." A comprehensive report on a permanent parcel number that is prepared by a title company. This report includes, but is not limited to, a listing of all interested parties, a legal description of the property, the tax mailing address, the year and amount of the delinquency, any liens or bankruptcies, as well as a guarantee of the record title.
Supplemental Title Report	Also known as "supplemental" or "supplemental report." A report generated by a title company that follows a Preliminary Judicial Report. The purpose of this report is to ensure that all interested parties have been identified and notified of the foreclosure proceedings. This report is generally required when there is a lapse between the date the title work is ordered and the date of the court foreclosure proceedings.
Office Voucher	Voucher prepared by County Departments and submitted, with supporting documentation, to the County Auditor for payment.
County Voucher	An Office Voucher that has been processed by the County Auditor by reviewing supporting documentation, assigning a voucher number, entering data into the financial management computer system, and issuing a warrant.
Warrant	County's payment to a vendor from a processed County Voucher.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Glossary of Terms and Description of Documents - Continued

Prosecutor's "Red Books"	Books maintained by the County Prosecutor's Office, Delinquent Real Estate Tax Department, to record title report orders. Each title company has a designated book, and recorded within is the permanent parcel number, date ordered and date the order was received.
County Index Code	Index codes are set up by approved appropriations and are distinguished by department, fund and/or project.
File History Report	A record of activity on a permanent parcel that is maintained in the permanent parcel file at the County Prosecutor's Office, Delinquent Real Estate Tax Department.
Securitization	The process whereby the County Treasurer takes the delinquent taxes to the bond market and sells them as securities.
Negotiated Bulk Sale	The County Treasurer bids out the delinquent taxes to companies. Once these delinquent tax bills are purchased, the delinquency is removed from the Treasurer delinquent tax list and the purchasing company can attempt to collect them with the option to foreclose at the end of 3 years.
Auction Sale	Sale of delinquent tax debt by individual parcel, at auction, to private companies.
Sheriff's Sale	The last step in the foreclosure process whereby the County Sheriff auctions each individual delinquent parcel.
One Stop Payment System	A system implemented by the County Treasurer in July 1997 whereby delinquent taxpayers paid all taxes and related fees at the Treasurer's Office as opposed to the Clerk of Courts' Office and the County Prosecutor's Office.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Background

We received a letter dated December 21, 1998 from James Rokakis, Cuyahoga County Treasurer, wherein he requested a Special Audit of the Cuyahoga County Prosecutor's Delinquent Real Estate Tax Department. We met with Mr. Rokakis and his Chief Deputy, Robin Thomas, to discuss the delinquent real estate tax foreclosure process. Mr. Rokakis explained that under HB 371, which was passed in November 1997 and became effective February 1998, counties have three options to clear delinquent taxes. As he discussed, they are: 1) securitization, 2) negotiated bulk sale, and 3) an auction sale.

When the County Treasurer prepares for an auction of delinquent tax bills, he researches the County Recorder's records to identify all interested parties so that he may notify them of the forthcoming sale. In 1998, when Treasurer Rokakis was preparing for an auction, he recognized that some of the delinquent parcels on the list had already been forwarded to the County Prosecutor's Office for foreclosure. Knowing that a title search is required before any foreclosure action, Treasurer Rokakis requested the County Prosecutor's Office to provide him with copies of the title reports of the parcels which were identified as being forwarded to the Prosecutor's Office.

The Prosecutor's Office was not able to provide all of the title reports which the Treasurer requested, and therefore Treasurer Rokakis questioned all of the title charges that were entered into the TRM-1 System by the Prosecutor's Office. The Treasurer was concerned that taxpayers may have been paying fees for title searches that were not being performed. Conversely, there was a possibility that title companies were paid for title work which they did not complete or that was not necessary because the taxpayer had already paid their delinquency.

When Treasurer Rokakis contacted our Office regarding his concerns, we performed a preliminary inquiry into the County Prosecutor's Delinquent Real Estate Tax Department records. To accomplish this, we met with William J. Coyne Jr., Assistant Prosecuting Attorney in charge of the Delinquent Real Estate Tax Department, and Charlene Starr, the Department's Supervisor, to discuss the allegations. Using a listing provided by the County Treasurer that identified title fees paid by taxpayers during the period between July 1997 and October 1998, we haphazardly selected 102 parcel numbers and requested the Prosecutor's Office to provide a copy of the title reports.

Mr. Coyne and Ms. Starr informed us they did not maintain all of the title research records and indicated that we would not be able to pull the reports ourselves from their files. Therefore, we provided them with the parcel number list.

The Prosecutor's Office was not able to provide 32 of the 102 title reports that we requested. Additionally, of the 70 that were provided, 10 consisted of title company research notes rather than a certified title report. The dollar value of the 32 reports that were not provided was approximately \$9,000.

This information was provided to the Auditor of State's - Special Audit Committee, which voted to initiate a special audit.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Issue No. 1 - Delinquent Real Estate Tax Foreclosure and Payment Process

We interviewed County employees to gain an understanding of the delinquent real estate tax foreclosure and payment process.

Procedures

1. We interviewed representatives from the offices of the County Prosecutor, Treasurer, Auditor, Office of Budget and Management, and the Information Services Center to gain an understanding of the delinquent real estate tax foreclosure process.
2. We interviewed representatives from the offices of the County Prosecutor, Treasurer, Auditor, Office of Budget and Management, and the Information Services Center to determine how receipts and disbursements related to the delinquent real estate tax foreclosure process are accounted for within the County's accounting system.
3. We obtained and reviewed the County and Prosecutor's Office policies and procedures, as well as contracts with title companies, to determine how the contracts were initiated and to determine whether the Prosecutor's Office was in compliance with record retention policies.
4. We obtained and reviewed the Prosecutor's Office Records Retention Schedule and determined whether the Office complied with that Schedule.

Results

1. The following understanding of the delinquent real estate tax foreclosure process was obtained through interviews with William J. Coyne, Jr., Charlene Starr, Nick Valukievik, Steve Letsky, Robin Thomas, Mary Mihaly, Michael Sweeney, Sandy Turk, Millie Jones, Ron Piechowski, and Wolfgang Kaufer:
 - The Cuyahoga County Auditor's Office assesses real estate taxes. Real property taxes are levied each December on the assessed values as of the preceding January 1st, the lien date. The County Treasurer bills and collects property taxes. Taxes are payable semi-annually. The County's practice is to extend the statutory due dates to January and July of each year. If not paid timely, a ten percent penalty is imposed at the close of each collection. The County Auditor prepares a land list of delinquent parcels a year after the collection date, and publishes it approximately a year and a half after the delinquent billing period. The County Auditor then issues Delinquent Land Certificates in the first quarter of the following year and forwards the Certificates to the County Prosecutor for foreclosure.
 - When Delinquent Land Certificates are forwarded to the Prosecutor's Delinquent Real Estate Tax Department, the Prosecutor's Office must obtain a title search to identify all interested parties associated with the parcel before filing a foreclosure complaint/case. Approximately one year elapses from the date the Prosecutor's Office receives a Delinquent Land Certificate and the date of the foreclosure complaint filing. During that period, the Prosecutor's Office uses title companies to provide title reports detailing the history of the property. During the period January 1, 1992 through December 31, 1998, the Prosecutor's Office used the following title companies:

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

All County Title	Hitesman Title Agency, Inc.
Attorney's Title Agency, Inc.	Midwest Title Agency, Inc.
Appraiser's Title, a.k.a. Michael Westerhaus	Mountaineer Title Agency
Champlin Title Agency	National Title Agency
Chicago Title Insurance Company	Ohio Title Corporation
City Title Company	Pro Title Agency
Coastal Title Agency, Inc.	Prospect Title
Commonwealth Land Title & Ins. Co.	Russell Title Research, Inc.
Datatrace, a.k.a. Mortgage Data Services	Trident Title Agency
General Title Agency, Inc.	Tower City Title
General Title & Trust Company	United Title & Escrow Services, Inc.
Haverfield Title Agency, Inc.	Westpoint Title Agency, Inc.

- There are circumstances when the Prosecutor must place an order requesting the title company to provide a supplemental title report. Normally, this is required when new information regarding the parcel is brought to the Prosecutor's attention. A supplemental title report may also be required when a taxpayer defaults on contract payments causing the parcel to flow through the delinquency cycle.
2. The following understanding of the delinquent real estate tax receipt and disbursement cycles for the period January 1, 1992 through June 30, 1997 was obtained through interviews with William J. Coyne, Jr., Charlene Starr, Nick Valukievik, Steve Letsky, Robin Thomas, Mary Mihaly, Michael Sweeney, Sandy Turk, Millie Jones, Ron Piechowski, and Wolfgang Kaufer:

Revenue Cycle - Taxpayer Payments¹

- **Taxpayer Stop #1 - Treasurer's Office** - Taxpayers contacted the County Treasurer's Delinquent Tax Department to make arrangements to settle their delinquencies. The Treasurer's Office reviewed the payment history of the parcel number account on the TRM-1 System and then contacted the Prosecutor's Office to verify whether the costs recorded in the TRM-1 System were correct and whether there were any additional court costs to be assessed. Once verification was received from the Prosecutor's Office, the Treasurer's Office prepared a "Costs Billing Invoice of Real Estate Tax Costs", commonly referred to as a "worksheet." This "worksheet" was presented to the taxpayer who was directed to the Clerk of Courts' Office and/or the Prosecutor's Office. In hardship cases, the Treasurer requested the Prosecutor to waive the title fees. The decision to waive a title fee was made only upon authorization of William J. Coyne, Jr., the Assistant Prosecutor in charge of the Prosecutor's Delinquent Real Estate Tax Department.

¹ As described in the following paragraphs, a taxpayer was required to make three or possibly four different stops in different County offices to settle his/her delinquent real estate account. Beginning in July 1997, the Treasurer's Office implemented a "one stop system" whereby delinquent taxpayers can pay all taxes and related fees at the Treasurer's Office as opposed to the Clerk of Courts' Office and the County Prosecutor's Office.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

- **Taxpayer Stop #2 - Clerk of Courts' Office** - If court costs were involved², the taxpayer was directed from the Treasurer's Office to the Clerk of Courts' Office before going to the Prosecutor's Office. At the Clerk of Courts' Office, a deputy clerk reviewed the information on the taxpayer's "worksheet" to ensure that the court costs on the "worksheet" agreed to the Courts' cost sheet and/or to the costs which had been posted to the Courts' computerized docket.

When payment of court costs was received, the deputy clerk prepared a pre-numbered duplicate receipt. The yellow copy of the receipt was provided to the taxpayer as evidence of payment and a Clerk of Courts' stamp was affixed by the deputy clerk to the "worksheet". The taxpayer was then directed to the Prosecutor's Office.

- **Taxpayer Stop #3 - Prosecutor's Office** - When contacted by the Treasurer's Office for verification of title fees, employees of the Prosecutor's Office verified the accuracy of the fees in the TRM-1 System by viewing the account in the System to ensure the fees had been input by employees of the Delinquent Real Estate Tax Department. The Prosecutor's Office did not verify that the title report had been received.

When a taxpayer arrived at the Prosecutor's Office, he/she was required to present a) the "worksheet"; b) the yellow receipt from the Clerk of Courts' Office, if court costs were applicable; and c) his/her certified check or money order.³ These documents were provided to an employee of the Prosecutor's Office Delinquent Real Estate Tax Department who pulled the respective parcel file. According to a Delinquent Real Estate Tax Department employee, the parcel files were supposed to be pulled at the time the Prosecutor's Office received payment from the taxpayer in order to verify that title fees were due; however, this step was not always performed. Once payment was received from the taxpayer, the transaction was recorded on the "File History Report", and a receipt was prepared and presented to the taxpayer. The receipt was generated on a typewriter, and later from their computer system, and neither were pre-numbered receipts. The receipt reflected the parcel number but not the taxpayer's name. A copy of the receipt was placed in the Prosecutor's parcel file.

² Court costs are assessed by the Clerk of Courts' Office when the Prosecutor's Office files the foreclosure compliant/case.

³ During the period January 1992 through April 3, 1995, the Prosecutor's Office also accepted cash payments, exact amount only.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

The Prosecutor's Office did not record the payment of title fees in the TRM-1 System at the time payment was received. Instead, the payment was posted to the System when the Prosecutor's Office received the notice of payment from the Treasurer's Office (See Stop #4) that the account was settled. If a formal foreclosure complaint had not been filed by the Prosecutor's Office by the time the payment was received, the payment was noted and the permanent parcel file was destroyed. If the Prosecutor's Office had filed a formal foreclosure complaint and the taxes were later paid, the payment was noted and the case was considered closed and filed. In many cases, taxpayers entered into payment contracts with the Treasurer's Office. Upon entering into a contract, the taxpayer was required to pay the current year taxes, title fees, and court costs, if applicable, and agree to pay 1/5 of the delinquent balance each year until the account was settled. Upon receiving notification from the Treasurer's Office that a taxpayer had entered into a payment contract, the Prosecutor's Office closed the file.⁴

- **Taxpayer Stop #4 - Treasurer's Office** - When the taxpayer returned to the Treasurer's Office, the original "worksheet", the Court receipt, and the Prosecutor's receipt were presented as evidence that all charges had been paid at the respective departments. At this time, the Treasurer's Office accepted the delinquent tax payment amount in full or established contract payment status. Payments received were posted to the TRM-1 System.

In July 1997, the County implemented the One-Stop Payment Program. Under this program, the "worksheet" is generated from the TRM-1 System and the taxpayer makes all payments with the Treasurer. When the money is collected, it is distributed via fund distribution to the Prosecutor and Clerk of Courts. In addition, the Treasurer's Office sends the Prosecutor's Delinquent Real Estate Tax Department a notice when payment of title fees is collected. Each month the Treasurer's Office forwards a detail collection report to the Prosecutor's Delinquent Real Estate Tax Department and the Clerk of Courts to support all court costs and title fees collected. Using this One-Stop Payment Program, the Treasurer's Office has instituted controls to ensure that title fees collected are supported by a title report received from the title company. Therefore, our special audit procedures relative to title fee receipts relate only to the period January 1, 1992 through June 30, 1997.

Revenue Cycle - Deposit of Title Fee Payments by the Prosecutor's Office

- The Prosecutor's Office deposited collections with the Office of Budget and Management (OBM). When the Prosecutor's Office remitted the collections to OBM, they prepared a letter stating the parcel number, order number, and the remittance amount. One letter was prepared for payments made with check or money order, and one letter was prepared for payments made in cash. When staff members of the Prosecutor's Delinquent Real Estate Tax Department prepared the letter, they signed the letter "William J. Coyne, Jr.," and typically included their own initials in the lower left corner. When cash payments were deposited, two copies of the cover letter, along with the deposit, were hand-delivered to OBM. One letter remained with OBM and the other was signed by OBM personnel and returned to the Prosecutor's parcel file.

⁴ According to Assistant Prosecutor, William J. Coyne, Jr., the Prosecutor's Office changed its procedures for maintaining files of delinquent accounts which were on "contract" status during the latter part of our audit period. A definite date of implementation could not be provided. Instead of immediately closing the file, the delinquent file was held as "pending" until the contract was fully settled. A "pending" file was maintained rather than closing a contract status file because sometimes taxpayers defaulted on the contract payments and the parcel again became delinquent.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

- Taxpayer payments of title fees received by the Prosecutor's Office were supposed to be taken to OBM on a daily basis; however, when comparing receipt dates to deposit dates, we determined this did not always occur. When questioned about the Office's depositing practices, the Supervisor of the Delinquent Real Estate Tax Department advised it was standard procedure to deposit with OBM the day the collections were received, but it did not always occur. She said that on a "case by case" basis, money was held until the following work day. In those circumstances the money was either locked in her cabinet or placed in a lock box within one of the unlocked file cabinets in the office.
- Each month, the Auditor's Office provides each department with a Report 22 which details all receipts and disbursements of the department for the month. According to employees of the Prosecutor's Office Delinquent Real Estate Tax Department, there were no procedures in place to ensure that the information on the Report 22 agreed to the receipt information maintained by the Department.

Disbursement Cycle

- The Title Companies forwarded an individual invoice to the Prosecutor's Office along with each title report. These invoices, which reflected the parcel number, the charge, and the title company internal order number, were given to the Prosecutor's Office general duties personnel to make an entry on the parcel number File History Report. Invoices were stamped as approved for payment. The Prosecutor's Delinquent Real Estate Tax Department maintained one envelope for every title company performing work for them. As the title reports and invoices arrived, the invoices were placed in the appropriate envelope and the title reports were filed in the parcel number folder.
- When the Prosecutor's Office received invoices from title companies, an employee reviewed the Prosecutor's Office Red Books to ensure that an order was placed. If the Prosecutor's Red Books showed the order was canceled, the employee contacted the title company to inquire about the invoice. If the title company represented that the research or report was in process when the Prosecutor's Office canceled the work, the invoice was stamped as approved for payment and placed in the appropriate envelope.
- Once a month, the title companies sent a monthly invoice along with a recap sheet of the charges. The Supervisor in the Prosecutor's Delinquent Real Estate Tax Department compared the individual invoices to the recap report to ensure the charges were accurate.
- The Supervisor removed the individual invoices from the envelope, compared them to the recap sheet and invoice, approved them for payment, prepared an office voucher, and forwarded the office voucher to the front office for approval. The individual invoices were attached to the white copy of the approved office voucher and the document was forwarded to County Auditor's Accounts Payable Department. The recap sheets were attached to the yellow copy of the office voucher and retained by the Supervisor in the Delinquent Real Estate Tax Department.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

- If the monthly invoice, which recapped all charges, was found to have discrepancies, the Supervisor of the Delinquent Real Estate Tax Department made the corrections directly on the invoice, adjusted the amount due directly on the title company invoice, and proceeded with preparing the office voucher. If title companies had questions about the changes, they contacted the Supervisor and addressed their questions with her. According to the Supervisor, discrepancies normally occurred due to timing differences between prior payments not yet received by the title company and their current billing.
 - Initially, the Prosecutor's Fiscal Officer verified the office vouchers for the title work. However, according to the Fiscal Officer, this process was time consuming and the title companies were not being paid timely. Consequently, the Supervisor was given the responsibility to verify the invoices, approve them for payment, and prepare the office voucher for either the Fiscal Officer or someone in the front office to sign. The office voucher and the corresponding individual invoices were forwarded to the County Auditor's Accounts Payable Department and processed for payment.
3. We received a copy of the Prosecutor's Office handbook, but it did not contain any detailed information pertaining to the revenue and disbursement processes.
 4. We requested copies of contracts with vendors used to perform title searches and were told by William J. Coyne, Jr., Supervisor of the Delinquent Real Estate Tax Department, that all contracts were verbal.
 5. We obtained a copy of the Prosecutor's Office Records Retention Schedule from William J. Coyne, Jr. This schedule was last approved in 1978, and was not specific to records of the Delinquent Real Estate Tax Department. In discussing this schedule with Mr. Coyne, he stated he was not aware of the destruction schedule prior to our request and was not able to advise which schedule pertained to his department. We will recommend this schedule be updated to include any changes to date.
- While interviewing employees of the Prosecutor's Office and reviewing the Prosecutor's Office files pertaining to its research in the foreclosure process, we noted that permanent parcel files which should have contained Delinquent Tax Certificates, receipts for taxpayer payments, and title reports for which the County disbursed payment to title companies had been destroyed. As stated earlier, it was standard operating procedure for the Prosecutor's Office to destroy a file if a taxpayer paid all delinquent taxes before the Prosecutor's Office had filed a formal foreclosure compliant.

Noncompliance Citations

1. Ohio Rev. Code Section 149.38(D) requires, in pertinent part, that each county records commission maintain "a rule that requires any receipts, checks, vouchers, or other similar records pertaining to expenditures from the delinquent tax and assessment collection fund created in section 321.261 of the Revised Code....to be retained for at least four years."

While reviewing the Prosecutor's Office files pertaining to its research in the foreclosure process, we found that permanent parcel files containing Delinquent Tax Certificates, receipts for taxpayer payments, and title reports for which the County disbursed payment to title companies were routinely destroyed when the Prosecutor's Office was notified by the Treasurer's Office that the taxpayer had settled his/her account.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

The Prosecutor's Office disposal of permanent parcel records was not in compliance with Ohio Revised Code. These records were only maintained until notification was received from the Treasurer's Office that the taxpayer settled their delinquent account. When these records were disposed of, the staff person responsible for tracking the events associated with the parcel number discarded the information.

The Prosecutor's Office provided us with a copy of their Schedule of Record Retention and Destruction. This schedule was approved in 1978. The schedule does not specifically itemize documents maintained in the Delinquent Real Estate Tax Department.

We recommend the Prosecutor's Office amend its record retention policy and destruction schedules to maintain the rules required to be included in its schedules by Ohio Rev. Code Section 149.38(D). Each major department should prepare a list of the types of records that are maintained, including those maintained in electronic or disk format. Management should review the lists and compile a new schedule to submit for approval. Key employees responsible for record maintenance and destruction should be provided with a copy of the Prosecutor's policies and schedules. We also recommend that written contracts be executed between the Prosecutor's Office and the title companies which include a provision requiring the title companies to maintain title research documentation for a period of not less than ten years as required by Ohio Rev. Code Section 3953.07.

2. Ohio Rev. Code Section 9.38⁵ states that a public official other than a state officer, employee, or agent shall deposit all public monies received by the official with the Treasurer of the public office or with a properly designated depository once every 24 consecutive hours.

The Prosecutor's Office accepted cash, checks and money orders for title fees until April 3, 1995, and did not accept cash after that date. When we reviewed some of the dates the taxpayer paid in comparison to OBM's Revenue Receipt date, we noted various lag times between the dates. The lag times indicate deposits were not made within a 24-hour period.

Upon inquiry, the Prosecutor's Office indicated that it was the standard procedure to deposit with OBM the day the collections were received, but it did not always occur. When money was held, it was either locked in a cabinet or placed in a locked box and the box was placed in one of the office files.

We recommend the Prosecutor's Office review their procedures for depositing collections with OBM and adopt a policy with language consistent with this Ohio Revised Code Section. If the Prosecutor's Office opts to continue holding money within its Office, then it should amend its policy to specify an alternate time period within the parameters of the amended statute. In addition, staff responsible for depositing with OBM should be aware of the section.

⁵ This section was amended effective November 2, 1999. The amendment now allows public officials (other than a state officer, employee or agent) to deposit all public moneys received with the Treasurer of the public office or properly designated depository on the next business day following the day of receipt, if the total amount of such monies received exceeds \$1,000. If the total amount does not exceed \$1,000, the public official has the option of either depositing the money on the next business day following the day of receipt or adopting a policy permitting a different time period. The alternate time period, however, shall not exceed three business days following the day of receipt. Further, the policy must include procedures to safeguard the monies until the time of deposit. If, however, the public official is governed by a legislative authority, only that legislative authority may adopt such a policy.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Management Comments

1. Reconciling the Report 22

Each month the Auditor's Office distributes a Report 22 to each County department. The report details each receipt and disbursement by individual Index Code, for the month. The Departments are responsible for reviewing the reports and contacting the County Auditor's Office with any questions or discrepancies.

There were no procedures in place within either the Prosecutor's Office Delinquent Real Estate Tax Department or the Prosecutor's Fiscal Office to ensure that the Report 22 was reviewed or reconciled to internal departmental documentation of title fee collections or disbursements to title companies.

2. Pre-numbered Duplicate Receipts

When the Prosecutor's Office accepted title fees from taxpayers, they prepared a memo-type receipt with the parcel number, method of payment (i.e., cash, check, or money order), and the amount received. These receipts were not pre-numbered documents, and there was no compensating control in place to determine that all receipts were accounted for and remitted to OBM.

We recommend the Prosecutor's Office use a pre-numbered, duplicate receipt book for all collections. The receipt book should be maintained by an employee who is independent of the depositing process. One copy of the receipt should be provided to the taxpayer, one copy should be maintained within the individual case file, and one copy should remain intact in the receipt book. The Prosecutor's Fiscal Officer should use the receipt book to reconcile deposits to the Report 22.

3. Report 22 Reconciliation Under One-Stop Payment System

Under the One-Stop Payment System, the County Treasurer's Office collects all fees associated with delinquent real estate taxes, including title fees and court costs. The Treasurer's Office distributes the collections via fund distribution (Index Code) to the appropriate departments within the County. When a taxpayer pays delinquent taxes which have related title fees, a "Notice of Payment" is prepared and submitted to the Prosecutor's Delinquent Real Estate Tax Department. In addition, the Treasurer's Office provides the Prosecutor with weekly and monthly recap reports.

Since the Prosecutor's Delinquent Real Estate Tax Department no longer collects the title fees, they must rely on the "Notice of Payment" forms from the Treasurer's Office to post information to the TRM-1 system and/or the History Report in the parcel number file. Therefore, there is an increased risk that information may not reach the Prosecutor's Office, and their files may show a taxpayer as still delinquent.

Therefore, we recommend the Prosecutor's Delinquent Real Estate Tax Department reconcile the Notice of Payment forms received from the Treasurer to the weekly recap reports. This process will allow the Prosecutor's Office to recognize discrepancies in a timely manner. For example, if the weekly recap report shows an amount for title fee collections greater than the number of Notice of Payment forms, then the Prosecutor's will recognize they have not received all of the forms. Conversely, if the number of Notice of Payment forms received is less than the amount posted as title fees collected, the Prosecutor's will recognize that perhaps not all of the collections were accurately coded with their Index Code.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

In addition, we recommend the Prosecutor's Fiscal Officer reconcile the monthly recap reports from the Delinquent Real Estate Tax Department to the monthly Report 22's received from the County Auditor's Office. This procedure will not only serve to monitor that the weekly recap reports are reconciled to the monthly recap reports, it will also assist the Fiscal Officer in determining whether all collections were properly posted to their Index Code.

These reconciliation procedures should provide the Prosecutor's with assurance that they received all of the "Notice of Payment" forms and that all of the collections for the month are completely posted to their account. Weekly reconciliations will allow the Prosecutor's Office to resolve any discrepancies with the Treasurer's Office in a timely manner.

4. TRM-1 System - Sign-on Passwords

The County's TRM-1 system is used as a data base for delinquent real estate accounts. Various departments within the County Auditor, Treasurer, and Prosecutor Offices use the system. We reviewed the system with staff in these departments and a representative from the County's Data Center. For the program application used by the Prosecutor's Delinquent Real Estate Department to enter information relevant to title charges and other related permanent parcel information, individual staff members have a sign-on password interfaced to their processing access level within the program application. We observed that after information is entered, the user must complete the transaction by entering their initials to signal the entry is complete before the system will accept the information. However, presently, the system does not interface the user initials with the sign-on password. Therefore, an employee may sign-on and enter the system through their assigned terminal, but when they enter information they can enter any set of initials to prompt the system to accept the data entered.

If the system allows an authorized user to enter data under initials that are not associated with their sign-on password, the potential exists that erroneous information can be entered and, when detected, management would not be able to determine which user entered the information. Further, employees are not protected if someone with authorized access uses their initials to post erroneous information.

We recommend the County Data Center staff review the application program and modify it to interface the sign-on password with the user's initials. The system should reject data entered if the initials do not match the sign-on. This would enhance the program's integrity and provide management with assurance that the user initials shown on reports identify the true user. In addition, this would deter employees from attempting to enter erroneous information if they cannot conceal their identity.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Issue No. 2 - Interviews with County Employees and Title Companies

We conducted interviews with County personnel and representatives of title companies to determine the procedures for maintaining title work within the Prosecutor's Office and to gain an understanding of the verbal agreements between the Prosecutor's Office and the title companies.

Procedures

1. We conducted interviews with personnel from the Prosecutor's Office to determine whether discrepancies existed with ordering, obtaining, and maintaining title reports.
2. We conducted interviews with employees of United Title & Escrow Services, Appraiser's Title, Attorney's Title, Oakwood Title Company, General Title & Trust, Haverfield Title Agency, Mountaineer Title Agency, and Ohio Title Corporation to determine who initiated the relationship between the title company and the Prosecutor's Office and what agreement was made.

Results

1. Charlene Starr explained the Prosecutor's Office procedures for ordering title reports which is detailed in Issue No. 1. While explaining this process to us, an issue arose regarding how the title companies invoiced for canceled reports. Ms. Starr was unsure how the title companies invoiced for these reports since the companies were not required to submit a report for those that were canceled. To clarify the issue, we interviewed an employee of Ms. Starr's department who had handled such situations in the past. The employee stated that if an invoice came to the department without a title report, she reviewed the title company Red Books to determine whether the report had been canceled. In addition, she also contacted the title company. If it was canceled by the Prosecutor, the invoice was placed into the individual title company envelope to be paid at the end of the month.

While interviewing title companies, we confirmed the information provided by the Prosecutor's Office regarding the ordering and invoicing process. The companies agreed that they received calls from the Prosecutor's Office when they needed title work performed and they submitted individual invoices as well as monthly billings. However, variances existed among the companies' methods of billing for canceled title reports.

If a title report was ordered on a delinquent parcel and the taxpayer paid the delinquent taxes before the title report was received, the Prosecutor's Office canceled the title report. They notified the title company via a phone call. Through interviews with the Assistant Prosecutor in charge of the Delinquent Real Estate Tax Department and the Department Supervisor, we found the Prosecutor's Office had an informal agreement with the title companies that if they started the title research and the Prosecutor's Office subsequently canceled the order, the title company still received the maximum title search fee and full premium rate even though the search was not completed. This was basically operated on an "honor system" because under these circumstances the Prosecutor's Office did not require the title companies to submit either their field examiner notes or a completed title report when they submitted their invoice for payment. Upon interviewing the various title companies we noted this informal agreement regarding payment of canceled title work was inconsistently applied as one title company received no payment, one company received a small payment, and other companies received the maximum title fee.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

2. Per William J. Coyne, Jr., title companies solicited the Prosecutor's Delinquent Real Estate Tax Department to perform the judicial reports. The Prosecutor's Office retained information on the title company and when an opening occurred title companies were contacted and asked to meet with the Assistant Prosecutor and Supervisor of the Delinquent Real Estate Tax Department. During this meeting, the title company was informed of expectations and the amount per report they would be paid. Those contacted were selected respective to the date of solicitation.

During interviews with the title companies, we received various responses:

United Title & Escrow Services is owned by Kevin Purcell, a former assistant prosecutor with the County Prosecutor's Office. Mr. Purcell stated that while he was employed by the Prosecutor's Office, he performed title searches on the side for the Delinquent Real Estate Tax Department, and when he left the County he took the work on full time.

Michael Westerhaus, also known as Appraiser's Title, stated that sometime in the late 1980s or early 1990s he had one of Appraiser's examiners contact the Prosecutor's Delinquent Real Estate Tax Department regarding their performing title searches. A short time later he was contacted by William J. Coyne, Jr., and thereafter began performing title searches for the County.

A representative from Attorneys Title stated that their chief examiner at the time, Harry Inke, had set up the arrangements for the title searches. Mr. Inke had worked with the County Prosecutor's Office previously and was instrumental in setting them up to perform the title searches.

When Oakwood Title Company became a separate division of General Title & Trust, all of the title searches for General Title & Trust were transferred to them.

Haverfield Title Agency recalled that they had initially attended a meeting at the Prosecutor's Office to get the guidelines for performing title searches for them, but they could not recall who initiated the meeting.

Debbie Wilson, President of Mountaineer Title Agency, was contacted by the Prosecutor's Office to perform title searches for them. She had been a title examiner for many years, and the Delinquent Real Estate Tax Department was familiar with her work. Ms. Wilson formed her own company and that was when she was contacted by the Prosecutor's Office.

We spoke with Gerald Carlisle of Ohio Title Corporation NE Agency, Inc. He stated that Ohio Title began performing title searches in the mid-1980s. He was contacted by Tom Cables, the former Supervisor of the Delinquent Real Estate Tax Department, and requested to perform professional title searches as opposed to the in-house employee that had been performing them. Ohio Title performed the searches as a favor to Mr. Cables until the early 1990s, but discontinued them for economic reasons.

3. As represented by Mr. Coyne at the onset of the special audit, all agreements with title companies performing title research and reports was done under an oral agreement. These agreements were set forth during the initial meetings the companies had with Prosecutor's staff. They verbalized their expectations and cost for the performance of Preliminary and Final Judicial Reports. There were no written contracts between the two.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

The Title Companies forwarded an individual invoice with each title report. The invoices had the parcel number, the charge, and the title company internal order number. Once each month, the title companies sent the Prosecutor an invoice for the sum of the individual title reports along with a recap sheet of the charges.

When we discussed the differences between the costs invoiced for the supplemental title reports with the Prosecutor's Office, they stated they paid \$50 for each report. As for the varying costs they paid for these reports, they stated that they did not discuss the price for these reports with the companies. Ms. Starr stated since one company did such a good job they were willing to pay more than \$50, but would also accept invoices for amounts less than \$50 such as \$35 and \$45.

We interviewed various title companies to determine whether there was consistency with the oral agreements between the Prosecutor's Office and the title companies. One responded that they initially did not receive any payment for canceled reports but occasionally received a small fee to cover research costs. Another company stated they did not bill for canceled reports, even if the research was complete, unless the report was completed and ready to be sent. Other companies indicated that in the more recent years of our audit period they were fully reimbursed for canceled title reports. One company stated that if the report was canceled and the research was complete but not to the typist, they would not invoice for it. However, if the report was near completion, they billed the County for the base search fee allowed (\$200), and attached a copy of the report or examiners notes.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Issue No. 3 - Title Fee Receipts

We selected and reviewed title fee receipts recorded during the period January 1, 1992 through June 30, 1997 to determine whether title research was performed and payment by the taxpayer was due.

Procedures

1. We reviewed the delinquent property tax receipts recorded in the County's Revenue Report 80 for the period January 1, 1992 through June 30, 1997, which was the time period prior to the implementation of the "One-Stop Payment System". We haphazardly selected title fee receipts which were identified as either a \$210 or \$280 fee within the line-item description column on the reports⁶. From the receipts selected, we reviewed the supporting documentation and haphazardly selected 100 receipts/parcels per year for the years 1992 - 1996, and 50 receipts/parcels for the period January 1 through June 30, 1997. We reviewed the associated source documents maintained at the County Commissioner's Office of Budget and Management to determine what information should be recorded in the Prosecutor's Office related to these parcels.
2. We requested the Prosecutor's Office to provide title reports for the selected parcels, as required by Ohio Rev. Code, including but not limited to, Sections 5721.14 and 5721.18, to determine whether title research was performed and taxpayer payments were due.
3. Although identified in our original letter of arrangement, we did not contact the title companies to obtain title report information for all reports the Prosecutor's Office were not able to provide. This procedure was performed by the Prosecutor's Office.
4. Based upon the number of a) title reports requested; b) title reports not provided; and c) title reports that contained irregularities, we estimated the total amount of title fees collected by the Prosecutor's Office during the Period January 1, 1992 through June 30, 1997 which feasibly were not supported by a certified title report.
5. Using Audit Command Language (ACL) software, our Information Systems Auditors performed a computer match of the parcel numbers selected for this receipt test and the parcel numbers selected for our disbursements tests discussed in Issues No. 4 and 5 to determine whether any parcel number(s) appeared on both tests. For each parcel number which was found to be on both tests, we scrutinized all relevant information including receipt date, disbursement date, name of title company, title report certification date, and the date the parcel was certified delinquent by the County Treasurer to ensure that the results were appropriately reported in our calculations.

Results

1. We obtained the County's Revenue Report 80 for 1992 through June 30, 1997 and identified those transactions related to title fees received from taxpayers. We recomputed (footed) the report detail to verify the totals were accurate, and we traced the totals to the County's general ledger. There were no exceptions noted.

⁶ One receipt on the Report 80 could represent numerous individual payments. For example, the receipt selected may have been \$1,400 which included 5 individual title fee receipts of \$280. We reviewed the supporting documentation of each receipt and haphazardly selected the individual title fee receipts and corresponding parcel numbers.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

2. Using the Report 80's, we haphazardly selected title fee receipts which were identified as either a \$210 or \$280 fee within the line-item description column on the reports⁷. From the receipts selected, we reviewed the supporting documentation and haphazardly selected 100 individual receipts/parcels per year for the years 1992 - 1996, and 50 receipts/parcels for the period January 1 through June 30, 1997 for a total of 550 receipts.
3. For each of the receipts selected, we obtained the supporting documentation from the County Commissioner's Office of Budget and Management. The supporting documentation generally consisted of the source (payor) for title fee collections which represented each collection by the permanent parcel number.
4. For each receipt selected, we reviewed the supporting documentation to determine whether the amount of title fees charged was consistent with the Cuyahoga County Court of Common Pleas, Local Rule 24 (D). That Rule established title fees at \$210 from January 1, 1992 through May 1993, and increased them to \$280 in May, 1993. The fees remained at \$280 through June 30, 1997.

Of the 550 receipts reviewed, all but one reflected a title fee charge which was consistent with the Rule. The one exception reflected a charge which was greater than the standard fee, however only by \$36. Some of the reports were more than the standard \$210 or \$280 fee because of the amount of the delinquency or research involved. The Prosecutor's Office did not have a separate fee schedule if additional research was involved.

5. We provided a list of the 550 selected permanent parcel numbers to the County Treasurer's Office to determine whether all were valid. We also requested the Treasurer's Office determine and document the year the parcel was certified delinquent.

The Treasurer's Office reviewed each of the permanent parcel numbers and noted the requested information. Of the 550 permanent parcel numbers provided to the Treasurer's Office, 547 were deemed valid parcel numbers. The remaining three parcels were deemed invalid due to transposition and numbering errors. These parcels (1 in 1993, 2 in 1994) were excluded from our selection, reducing our request to 547.

6. We provided the list of 547 parcel numbers to the Prosecutor's Office and requested they provide us with the corresponding title reports. Of the 547 requested reports, the Prosecutor's Office provided us with 416 title reports. The remaining 131 could not be located. The following table is a breakdown, by year, of the title reports requested, received, and not provided. As is evidenced by these numbers, the lack of documentation to support title fee receipts was just as prevalent in the later years as in the earlier years:

	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>Total</u>
Title Reports Requested	100	99	98	100	100	50	547
Title Reports Received	<u>84</u>	<u>71</u>	<u>73</u>	<u>75</u>	<u>75</u>	<u>38</u>	<u>416</u>
Title Reports Not Provided	<u>16</u>	<u>28</u>	<u>25</u>	<u>25</u>	<u>25</u>	<u>12</u>	<u>131</u>

⁷ One receipt on the Report 80 could represent numerous individual payments. For example, the receipt selected may have been \$1,400 which included 5 individual title fee receipts of \$280. We reviewed the supporting documentation of each receipt and haphazardly selected the individual title fee receipts and corresponding parcel numbers.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Officials from the Prosecutor's Office explained that they attempted to locate missing title reports by researching their title company Red Books and computerized records to determine which company performed the title research. In addition, they sent letters to title companies requesting their assistance in identifying which of the title companies performed the title research. For these 131 title reports, the Prosecutor's Office could provide us with no evidence that the title search was performed.

We believe the title fees collected for these 131 title reports are monies which were inappropriately collected from taxpayers for title reports that were not completed. The following table reflects a breakdown, by year, of the number and dollar amount of the 131 related receipts where a title report was not provided:

<u>Year</u>	<u>Number of Receipts</u>	<u>Amount of Receipts</u>
1992	16	\$3,360
1993	28	7,350
1994	25	6,860
1995	25	7,000
1996	25	7,000
1997	<u>12</u>	<u>3,360</u>
	<u>131</u>	<u>\$34,930</u>

7. We reviewed the 416 title reports provided and noted the following irregularities which lead us to conclude that, for these irregularities, the title reports provided were not the title reports that supported the receipts we requested:

- A 37 were certified after the payment of title fees was received by the taxpayer. The date lags ranged from less than one month to more than six years.
- B 5 reflected order numbers that were different from the order numbers on the receipt, and
- C 8 were certified after the payment of title fees was received by the taxpayer. The date lags ranged from less than one month to more than six years and they reflected order numbers that were different from the order numbers on the receipt.

These irregularities were due to the following reasons which are best described in the following examples:

- A An individual paid his/her title fees and delinquent property taxes on September 29, 1994, yet the Prosecutor's Office had not received a copy of the title report from the title company. At this time, the Prosecutor's Office would contact the title company to inquire whether the title search had begun. If the search had begun, but was not yet completed, the Prosecutor's Office would cancel the search, however, the title company was still paid. For these canceled titles, the Prosecutor's Office neither refunded the taxpayer's payment nor required the title company to send them the completed report. In addition, the Prosecutor's Office disposed of the parcel file within its Office because the property was no longer considered delinquent. Therefore, the Prosecutor's Office had no support for the title fee payment received on August 17, 1992, including no record of the order number or the title company.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

B The taxpayer that paid his/her title fees and delinquent property taxes on August 17, 1992 to bring his/her property into good standing, was delinquent once again in 1998. As a result, the property was subjected to the County's delinquent property tax process. The Prosecutor's Office would again assess title fees and order a title search on that parcel. The 1998 title search would be given an order number different from the 1992 order and may have been ordered from a different title company than the 1992 search. Therefore, when we requested the title report to support a payment of title fees made on August 17, 1992, for parcel #137-03-069, we were provided with a title report for that parcel, order TF-5523, that was certified August 28, 1998.

In addition to the irregularities above, we noted 76 instances in which the documentation that was provided consisted of title research notes only, not a certified title report. Also, 9 title reports which were provided were not certified and dated. For these 85 instances, the County has no assurance that the title research performed was insured by the title insurance company.

The following table reflects a breakdown, by year, of the above irregularities:

<u>Type of Irregularity</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>Total</u>
Certification Date Subsequent to Title Fee Payment Date	9	5	9	9	3	2	37
Order Numbers Do Not Agree	--	1	1	1	2	--	5
Certification Date Subsequent to Title Fee Payment Date <u>and</u> Order Numbers Do Not Agree	3	2	1	1	1	--	8
Research Notes Only	25	19	11	10	7	4	76
No Certification	<u>2</u>	<u>--</u>	<u>2</u>	<u>4</u>	<u>1</u>	<u>--</u>	<u>9</u>
Total	<u>39</u>	<u>27</u>	<u>24</u>	<u>25</u>	<u>14</u>	<u>6</u>	<u>135</u>

We believe the title fees collected for these 135 title reports are monies which were inappropriately collected from taxpayers because a certified title report was not completed. The following table reflects a breakdown, by year, of the number and dollar amount of these 135 receipts:

<u>Year</u>	<u>Number of Receipts</u>	<u>Amount of Receipts</u>
1992	39	\$8,216
1993	27	6,440
1994	24	6,580
1995	25	6,930
1996	14	3,920
1997	<u>6</u>	<u>1,680</u>
Total	<u>135</u>	<u>\$33,766</u>

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

8. Using the information from Results No. 6 and No. 7 above related to our examination of the 547 title reports requested, we calculated the total amount of title fees collected for these 547 reports which appeared to be inappropriately collected from taxpayers because a certified title report was not completed:

<u>Year</u>	<u>Dollar Amount of Title Reports Not Provided</u>		<u>Dollar Amount of Irregular Title Reports</u>		<u>Total</u>
1992	\$3,360	+	\$8,216	=	\$11,576
1993	7,350	+	6,440	=	13,790
1994	6,860	+	6,580	=	13,440
1995	7,000	+	6,930	=	13,930
1996	7,000	+	3,920	=	10,920
1997	<u>3,360</u>	+	<u>1,680</u>	=	<u>5,040</u>
Total	<u>\$34,930</u>	+	<u>\$33,766</u>	=	<u>\$68,696</u>

9. Using the number and dollar amount of a) title reports requested; b) title reports not provided; and c) title reports provided that were irregular, we estimated the total amount of title fees collected by the Prosecutor's Office during the Period January 1, 1992 through June 30, 1997 which feasibly were not supported by a certified title report as follows:

<u>Year</u>	<u>(A) Number of Title Reports Requested</u>	<u>(B) Dollar Amount of Title Reports Requested</u>	<u>(C) Dollar Amount of Receipts/Title Reports Selected Which Were Not Supported</u>	<u>(D) % of Total Receipts/Title Reports Selected Which Were Not Supported (C)÷(B)</u>	<u>(E) Total Title Fees Collected During the Year Less Our Selection</u>	<u>(F) Estimated Dollar Amount of Total Title Fees Less Our Selection Not Supported (E)*(D)</u>
1992	100	\$21,000	\$11,576	55%	\$422,462	\$232,354
1993	99	24,255	13,790	57%	371,419	211,709
1994	98	27,440	13,440	49%	523,015	256,277
1995	100	28,000	13,930	50%	393,026	196,513
1996	100	28,000	10,920	39%	460,831	179,724
1997	<u>50</u>	<u>14,000</u>	<u>5,040</u>	36%	<u>223,759</u>	<u>80,553</u>
Total	<u>547</u>	<u>\$142,695</u>	<u>\$68,696</u>		<u>\$2,394,512</u>	<u>\$1,157,130</u>

In summary, our examination of 547 title fee receipts totaling \$142,695 which were collected during the period January 1, 1992 through June 30, 1997 resulted in \$68,696 of receipts that we believe are monies which were inappropriately collected from taxpayers because a certified title report was not completed. In addition, we estimate that of the \$2,394,512 of title fee receipts which we did not specifically examine, it is possible that the Prosecutor's Office will be unable to produce sufficient documentation to support that \$1,157,130 of these fees were due from the taxpayers because the title reports were not completed.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

10. We provided our Information Systems Auditors (ISA) with a) a listing of the 547 parcel numbers selected for this receipt testing, b) a listing of the 1070 parcel numbers selected for the preliminary judicial report disbursement testing discussed in Issue No. 4, and c) a listing of the 50 parcel numbers selected for the supplemental title report disbursement testing discussed in Issue No. 5 and requested they perform a computer match to determine whether any parcel number appeared on more than one test.

Using ACL software, ISA determined that:

48 parcel numbers appeared on both the receipt testing and the preliminary judicial report disbursement testing; and

1 parcel number appeared on both the receipt testing and the supplemental title report disbursement testing.

For each of the 49 parcels identified by ISA, we scrutinized all relevant information including receipt date, disbursement date, name of title company, title report certification date, and the date the parcel was certified delinquent by the County Treasurer to ensure that the results were appropriately reported in our calculations of title fee receipts and title report disbursements which were supported. Of the 49 parcels scrutinized we noted:

2 parcels - The Prosecutor's Office did not provide us with a title report for either the receipt or the disbursement test. These 5 parcels are included in our calculations on both the receipt and disbursement testing as "Title Not Provided".

11 parcels - The Prosecutor's Office provided us with 13 title reports or research notes. We scrutinized all relevant information for each title report and determined that:

None of the 11 title reports provided supported the specific receipt which we had selected. Collections for these reports were not supported because: a) reports contained the wrong order number; b) the certification date on a title report was significantly later than the date on the receipt for the payment made by the taxpayer; and c) research notes were submitted and not a completed title report. Therefore, in our receipt testing calculations, these 11 title reports are included as "Title Reports Selected Which Were Not Supported".

Of the 11 title reports provided, we determined that only 5 supported the specific disbursements which we had selected. For the remaining 6 parcels, we received research notes for three of them, a report dated prior to the date the parcel was certified delinquent and containing the wrong order number, and another had a county warrant issued prior to the date to the report. Therefore, in our disbursements testing calculations, these 11 title reports are included as "Title Reports Selected Which Were Not Supported".

6 parcels - The Prosecutor's Office provided us with research notes only, no title reports. These 6 parcels are included in our calculations on both the receipt and disbursement testing as "Title Reports Selected Which Were Not Supported".

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

1 parcel - This parcel number was reflected on both the receipt test and on the supplemental title report test. The Prosecutor's Office provided us with a title report for this parcel which supported the receipt selected, however the title report did not support the supplemental title report disbursement. The report was a preliminary judicial report and not a supplemental title report. This parcel is included in our receipt testing calculations as "Title Report Provided", and in our supplemental title report disbursement testing as a report not provided.

29 parcels - The Prosecutor's Office provided us with a title report that appeared to support both the receipt and disbursement selected. These 29 parcels are included in our calculations on both the receipt and disbursement testing as "Title Report Provided".

Management Comment - See Conclusion Statement at the end of this report.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Issue No. 4 - Preliminary Judicial Report Disbursements

We identified transactions that represented payments to title companies and verified the permanent parcel numbers to determine whether the disbursements to title companies were for preliminary judicial reports (“title reports”) that were completed.

Procedures

1. We obtained County Auditor Cash Disbursement Report 81s and Report 40s and identified transactions representing payments to title companies for title reports.
2. We reviewed all of the standard title report transactions per year to determine which title companies performed work each year.
3. We selected 10% of the disbursements made to each vendor identified, for each year, from the office vouchers provided by the County Auditor.
4. We identified in our letter of arrangement that we would verify the parcel numbers using the TRM-1 System. However, we prepared a list for the County Treasurer’s Office and they verified the parcel numbers and reported their results to us.
5. We requested title reports from the County Prosecutor to determine whether the disbursements to the title companies was for work performed.
6. We identified in our letter of arrangement that we would contact the title companies to obtain title report information for the reports the Prosecutor’s Office was not able to provide. However, the Prosecutor’s Office performed this procedure.

Results

1. We obtained the County’s Disbursement Report 40s and the Disbursement Report 81s and identified those disbursements made to title companies for title research work during January 1, 1992 through December 31, 1998. We recomputed (footed) the reports detail to verify the totals were accurate, and we traced the totals to the County’s general ledgers. There were no exceptions noted.
2. Using this information, we determined the total number of title reports and the total dollar amount of disbursements⁸ to the title companies for preliminary judicial reports for each year. We then multiplied the total number of title reports by 10% to determine the total number of title reports which we would review.

⁸ These disbursements were identified as either a \$210 or \$280 fee within the line-item description column on the Reports. \$210 was the standard fee during the period January 1, 1992 through April 1993. The standard fee was increased to \$280 in May 1993 through the end of the audit period.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

<u>Year</u>	<u>Total Dollar Amount of Disbursements</u>	<u>Total Number of Title Reports</u>	<u>Multiplied by</u>	<u>Total Number of Title Reports to Review (rounded)</u>
1992	\$ 252,260	1,201	10%	120
1993	441,430	1,844	10%	184
1994	660,381	2,359	10%	236
1995	319,920	1,145	10%	114
1996	467,330	1,670	10%	167
1997	384,720	1,374	10%	137
1998	<u>332,360</u>	<u>1,187</u>	10%	<u>118</u>
Total	<u>\$2,858,401</u>	<u>10,780</u>		<u>1,076</u>

3. In order to ensure that the 10% of title reports which we planned to review included reports from each title company and the number selected for each company was proportionate to the amount of disbursements made to the company during the year, we calculated the percentage of total yearly disbursements made to each title company.

For example, in 1992 General Title, Inc. was paid a total of \$16,800, which is 7% of the total disbursements made to title companies of \$252,260. We multiplied 7% by 120, which is the number of titles we planned to review for 1992, to arrive at a total number of General Title disbursements to review of 8.

4. We selected the disbursements from the Report 81s and requested the County Auditor's Office to provide us with the related voucher packages. In order to determine the accuracy of the disbursements, we footed all the invoices in each voucher package and compared the totals to the corresponding warrant. We found that each voucher package amount equaled the warrant. We also inspected the endorsement on the back of each warrant to ensure the endorsement agreed with the vendor listed as the payee.

While reviewing the invoices, we noted that some of the invoices reflected the notation "canceled", yet the invoices were paid in full. We contacted the Prosecutor's Office for an explanation. William J. Coyne, Jr., stated that canceled title reports could still be invoiced by the title companies if they were already in progress. For example, if a title report was ordered on a delinquent parcel and the taxpayer paid the delinquent taxes before the title report was received, the Prosecutor's Office canceled the title report. They notified the title company via a phone call.

Through interviews with the Assistant Prosecutor in charge of the Delinquent Real Estate Tax Department and the Department Supervisor, we found the Prosecutor's Office had an informal agreement with the title companies that if they started the title research and the Prosecutor's Office subsequently canceled the order, the title company still received the maximum title search fee and full premium rate even though the search was not completed. This was basically operated on an "honor system" because under these circumstances the Prosecutor's Office did not require the title companies to submit either their field examiner notes or a completed title report when they submitted their invoice for payment. Upon interviewing the various title companies we noted this informal agreement regarding payment of canceled title work was inconsistently applied as one title company received no payment, one company received a small payment, and other companies received the maximum title fee.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

5. We selected 1076 parcel numbers from the invoices in the proportionate number calculated for each title company. We provided our list of the 1076 parcels to the County Treasurer's Office to determine whether all parcel numbers in our selection were valid. We also requested them to determine and document the year the parcel was certified delinquent. According to the Treasurer's Office:
- A 1056 were valid parcel numbers that had been certified delinquent.
 - B 14 parcel numbers were incomplete. We once again compared the numbers to the related invoice to ensure we had not made an error. We found no discrepancies. The title company had included an incomplete parcel number on the invoice. For example, in 1995 parcel numbers were 8 digits in length, however the invoice only included 7 digits.
 - C 6 parcel numbers could not be located due to transposition errors. We excluded these parcels from our selection to be provided to the Prosecutor's Office.

As a result, we provided the Prosecutor's Office with our list of 1070 parcels and requested them to provide us with a certified title report to support the disbursement.

6. Of the 1070 title reports requested, the Prosecutor's Office provided us with 1039 title reports. The remaining 31 title reports could not be located. The following table is a breakdown, by year, of the title reports requested, received, and not provided. As is evidenced by these numbers, the lack of documentation to support title fee disbursements was prevalent in all years of the audit period.

	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>Total</u>
Title Reports Requested	120	183	235	112	167	135	118	1070
Title Reports Received	<u>120</u>	<u>183</u>	<u>230</u>	<u>111</u>	<u>159</u>	<u>124</u>	<u>112</u>	<u>1039</u>
Title Reports Not Provided	<u>0</u>	<u>0</u>	<u>5</u>	<u>1</u>	<u>8</u>	<u>11</u>	<u>6</u>	<u>31</u>

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

The following table reflects a breakdown, by year, of the number and dollar amount of the 31 title fee disbursements which lack supporting documentation.

<u>Year</u>	<u>Number of Disbursements</u>	<u>Amount of Disbursements</u>
1992	0	\$ 0
1993	0	0
1994	5	1,330
1995	1	280
1996	8	2,240
1997	11	3,080
1998	<u>6</u>	<u>1,680</u>
	<u>31</u>	<u>\$8,610</u>

7. We reviewed the 1039 title reports and documentation provided and noted the following irregularities which lead us to conclude that, for these irregularities, the title reports provided were not the title reports that supported the disbursements we requested.
- A Certification dates that were subsequent to the date on the title company invoice. The date lags ranged from a few months to years.
 - B Certification dates that were significantly different from the invoice date. For example, we were provided a title report that was certified in 1976 to support a disbursement that was made on an invoice dated in 1993.
 - C Order numbers that were different from the order numbers on the receipt.
 - D Certification dates that were prior to the parcel being certified delinquent per the County Treasurer's records.
 - E Invoices that did not reflect a date but had a title report date that was dated after the warrant date.
 - F The documentation that was provided consisted of title research notes only, not a certified title report.
 - G Title reports were not certified and dated.
 - H Parcels that were included on an invoice and paid, however the County Treasurer's records indicated the parcel was never certified as delinquent.
 - I Duplicate title reports from two different title companies were provided for the same disbursement.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

The following table reflects a breakdown, by year, of the number and dollar amount of these disbursements with irregularities.

<u>Year</u>	<u>Number of Disbursements</u>	<u>Amount of Disbursements</u>
1992	10	\$ 2,100
1993	38	8,820
1994	31	8,680
1995	11	3,080
1996	15	4,200
1997	11	3,080
1998	<u>6</u>	<u>1,680</u>
Total	<u>122</u>	<u>\$31,640</u>

8. Using the information from the results above related to our examination of the 1070 title reports requested, we calculated the total amount of title fees disbursed for these 1070 reports which are not adequately supported:

<u>Year</u>	<u>Dollar Amount of Title Reports Not Provided</u>	+	<u>Dollar Amount of Irregular Title Reports</u>	=	<u>Total</u>
1992	\$ 0	+	\$ 2,100	=	\$2,100
1993	0	+	8,820	=	8,820
1994	1,330	+	8,680	=	10,010
1995	280	+	3,080	=	3,360
1996	2,240	+	4,200	=	6,440
1997	3,080	+	3,080	=	6,160
1998	<u>1,680</u>	+	<u>1,680</u>	=	<u>3,360</u>
Total	<u>\$8,610</u>	+	<u>\$31,640</u>	=	<u>\$40,250</u>

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

9. Using the number and dollar amount of a) title reports requested; b) title reports not provided; and c) title reports provided that were irregular, we estimated the total amount of title fees disbursed by the Prosecutor's Office during the Period January 1, 1992 through December 31, 1998, which feasibly were not supported by a certified title report, as follows:

Year	(A) Number of Title Reports Requested	(B) Dollar Amount of Title Reports Requested	(C) Dollar Amount of Disburs/Title Reports Selected Which Were Not Supported	(D) % of Total Disburs /Title Reports Selected Which Were Not Supported (C)÷(B)	(E)⁹ Total Title Fees Disbursemen ts During the Year Less Our Selection	(F) Estimated Dollar Amount of Total Title Disb. Less Our Selection Not Supported (E)÷(D)
1992	120	\$25,200	\$2,100	8%	\$ 227,060	\$ 18,165
1993	183	42,350	8,820	21%	399,080	83,807
1994	235	65,730	10,010	15%	594,651	89,198
1995	112	31,360	3,360	11%	288,560	31,742
1996	167	46,760	6,440	14%	420,570	58,880
1997	135	37,800	6,160	16%	346,920	55,507
1998	<u>118</u>	<u>33,040</u>	<u>3,360</u>	10%	<u>299,320</u>	<u>29,932</u>
Total	<u>1070</u>	<u>\$282,240</u>	<u>\$40,250</u>		<u>\$2,576,161</u>	<u>\$367,231</u>

In summary, our examination of 1070 title fee disbursements totaling \$282,240 which were made during the period January 1, 1992 through December 31, 1998 resulted in \$40,250 of disbursements which are not supported with a completed title report. In addition, we estimate that of the \$2,576,161 of title fee disbursements which we did not specifically examine, it is possible that the Prosecutor's Office did not receive a completed title report to support \$367,231 of these disbursements.

⁹ "Total Title Fee Disbursements During the Year" represents all disbursements identified as either a \$210 or \$280 fee within the line-item description column on the Reports 40 and 81. This total does not include supplemental title fee disbursements or disbursements to title companies in amounts other than the standard fee of \$210 or \$280.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Management Comments - Also see Conclusion Statement at the end of this report.

1. Formal Guidelines or Contracts with Title Companies

The Prosecutor's Office contracts with title companies for judicial reports which include preliminary, final and supplemental reports, as applicable for the parcel. The agreement between the title companies and the Prosecutor's Office is verbal. Representatives of the Prosecutor's Delinquent Real Estate Tax Department indicated they verbalize the expectations and set costs for the reports.

Formal guidelines or contracts would ensure all title companies are aware of the Prosecutor's expectations regarding quality of work, billing procedures, supporting documentation, and their payment schedule. Therefore, we recommend the Prosecutor's Office develop formal guidelines and contracts with the title companies to maintain uniformity in the compensation. Contracts should detail the Prosecutor's performance expectations with regards to format, content and costs for each of the reports. If title companies have this information, they will have greater assurance that all companies are treated equally.

Since the Prosecutor sometimes has to cancel title research orders which may have already been started by the title company at the time the order was canceled, we recommend development of a schedule detailing what compensation will be paid and the work the Prosecutor's Office will expect the title companies to submit to support their company's invoices. The price should not exceed what is detailed in Cuyahoga County Court of Common Pleas Local Rule 24 (D).

We recommend the following steps be implemented to enhance the current procedures: (1) compare title company invoices to the TRM-1 system to ensure the invoice is not a duplicate payment, (2) compare charges to ensure the "premium" is not charged when it is not appropriate (i.e. \$200 vs \$280), (3) establish guidelines for "canceling" title searches to preclude title companies from charging when work is not complete and to ensure the Prosecutor's cancel in a timely manner to preclude title companies from doing work for which they cannot be paid, and (4) establish procedures to ensure that title work is received before the invoice is processed for payment.

2. Invoices Not Containing Dates

The Prosecutor's Office processes invoices from title companies for payment of title reports. The title company prepares the invoices that contain, at a minimum, information such as a date, order number, permanent parcel number, and amount invoiced for the title report.

In reviewing invoices for the disbursement testing, we identified more than 240 invoices that did not contain a date. With no date on the invoice there is nothing precluding a title company from submitting the invoice more than once for payment of the same report. Therefore, we recommend that when invoices are received without a date, the Prosecutor's Office should research their parcel files to ensure they did not already pay for the title work. Title companies should be notified to date the invoices, and if certain title companies continue to submit undated invoices the Prosecutor's Office should return them, unapproved, until all information is complete.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

3. Full Payment of Canceled Title Work

The Cuyahoga County Court of Common Pleas, Rule 24 (D), allows for a minimum base research fee of \$200 for the required judicial reports. An additional premium is paid to the title company for each report as approved by the Ohio Department of Insurance. A total cost of \$210 dollars for the search and premium fee was permitted during 1992 to May 1993 of our audit period, and \$280 through the end of our audit period.

The Supervisor and Assistant Prosecutor of the Delinquent Real Estate Tax Department represented that title companies were paid for judicial searches that were canceled. No evidence of the work was required to be presented, and they were paid not only the base research fee of \$200 but also the premium. Therefore, title companies were compensated for insurance premiums that were never paid or obtained. As reported, Bill Danko, the Court Administrator, approves of disbursing these monies as a way of compensating the title companies for other reports which cost more to research than is allowable by local rule.

We recommend the Prosecutor's Office establish and formalize payment guidelines commensurate with the amount of work completed on the reports canceled while in progress, and require its presentation for payment. If criteria is established on the payment for this research, a pay scale should be established, not to exceed the amount allowed for base research, as described in Local Rule 24 (D).

4. Evidence of Title Insurance

Judicial reports, a.k.a. title reports, must be insured by the preparer's (title company) title insurance company in order to become part of the Courts' record. Each report contains a signature and seal of certification from the company.

Supervisors of the Delinquent Real Estate Tax Department stated that initially they had requested proof of insurance from each title company's underwriter. However, over time, this procedure deteriorated and they did not follow up on obtaining this information from their title companies. Payment for a premium is included in the amount invoiced by the title company, but the prosecutor had no proof of that insurance. During the audit, the Prosecutor's Office, as well as the title companies, had difficulty providing the title reports we requested. We recommend the Prosecutor's Office revert to their prior practice of obtaining proof of insurance from each title company and maintain the document in their files. Having the title insurer name would have provided the Prosecutor an alternative to researching the report.

We recommend the Prosecutor's Office maintain a file for each title company that includes their proof of insurance.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

5. Formal Guidelines for Canceling Title Work

Title companies were paid for judicial reports that they completed and insured. Taxpayers should not be charged for judicial reports that are not completed. The Prosecutor's Office had an informal policy that allowed for the payment of title work that was already in progress, regardless of the stage of the research.

Officials for the Prosecutor's Office represented that if the title report was ordered, the title company was entitled to the cost of the report. Therefore, when a title report was canceled, the taxpayer was still charged for the report even if the title company never completed the report. The supervisor indicated this was an "honor system" and title companies were not required to submit documentation to support incomplete work in order to be paid. This policy allows for payment of title work without justification, and disbursements could be made without any knowledge of whether the work was ever in progress. There were no formalized procedures or guidelines established by the Prosecutor's Office and provided to the title companies regarding the payment for canceled title work. Also, there were no procedures in place requiring the timely cancellation of a report by the Prosecutor to prevent title companies from completing work for which they cannot be paid.

It is recommended that formal procedures be implemented with regard to canceling title work. The guidelines should include procedures for the Prosecutor's staff to follow in canceling a report, as well as detailed requirements and procedures for the title companies. This should prevent title companies from charging when work is not complete and ensure the Prosecutor's Office cancels reports in a timely manner to preclude title companies doing work for which they cannot be paid. Additionally, formalized procedures ensure all title companies are treated equally and that the Prosecutor's staff have valid documentation to support their decision process when working with title companies. The title companies should be required to provide a dated report or research as justification for payment.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Issue No. 5 - Supplemental Title Report Disbursements

We identified and reviewed fifty supplemental title reports and their accompanying preliminary judicial reports to determine whether both reports were completed and the supplemental payment was for work performed.

Procedures

1. We interviewed William J. Coyne, Jr., and Charlene Starr of the Prosecutor's Office as well as title company representatives, to determine the procedures followed when invoicing for supplemental work.
2. We used the County Auditor Cash Disbursement Report 81 reports to identify disbursements made to title companies for supplemental title reports. We selected 25 disbursements from the 1997 Report 81 and 25 disbursements from the 1998 Report 81.
3. For the 50 disbursements selected, we obtained the related office vouchers from the County Auditor which contained permanent parcel information.
4. We requested the Prosecutor's Office to provide the supplemental and preliminary judicial reports to determine whether the disbursements to the title companies was for work performed.

Results

1. Per Mr. Coyne, supplemental title reports are ordered when there is a significant lapse between the date the title work is initially ordered and the date of court foreclosure proceedings. The Prosecutor's Office is responsible for various notification procedures and must ensure all interested parties have been identified. Supplemental title reports are also ordered if new information regarding the parcel is brought to the Prosecutor's attention.

Ms. Starr stated the cost of supplemental title reports is generally \$50; however, one title company was paid \$75, and some companies charge less than \$50. During the initial meetings held between the Prosecutor's Office and the title companies, the companies were informed the combined cost of the preliminary judicial report, as well as a final judicial report, but the cost of the supplemental reports were not discussed. Therefore, unless the company inquired about billing for the supplemental reports, the title companies performed the work at no charge.

While interviewing title company representatives, we noted inconsistencies with respect to the cost and billing procedures for supplemental title reports. Of the title companies interviewed, some "billed" for supplemental reports at a rate of \$35, while others "billed" at a rate of \$50. One company was not aware it could bill for supplemental reports, and therefore performed the work at no additional charge. One company stated it found out coincidentally that it could bill for supplemental reports and then began to bill.

2. To select the fifty disbursements to be reviewed, we used the Cash Disbursement Report 81s and selected those disbursements where the line-item description did not reflect a standard title charge, indicating supplemental work was performed.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

3. We obtained the fifty voucher packages from the County Auditor's Office; 25 for 1997 and 25 for 1998. Of the 25 selected for 1998, we noted that 5 of the invoices did not contain the parcel numbers relating to the supplemental title reports. We believe the parcel number is vital information needed by the Prosecutor's Office to ensure the work was performed and the charge was valid. Rather than select 5 new disbursements, we provided the information to the Prosecutor's Office and requested them to provide us with the parcel numbers which should have been reflected on the invoice. The Prosecutor's Office was unable to provide us with those parcel numbers.

Each voucher package contained a monthly recap sheet prepared by the title company reflecting all of the title work performed during the month and included on the invoice. Using the information on the invoice, we obtained 45 permanent parcel numbers, 25 from 1997 and 20 from 1998, that were billed for supplemental title reports.

4. We provided the list of 45 parcel numbers to the Treasurer's Office to determine whether the parcel numbers were valid. According to the Treasurer's Office, all of the parcels, except for one, were valid delinquent parcels. The one exception was related to a 1997 disbursement. The Treasurer's Office noted this parcel was not delinquent.
5. Of the 25 parcels identified for 1997, the Prosecutor's Office provided 20 supplemental reports and 24 preliminary reports. Of the 20 parcels identified for 1998, the Prosecutor's Office provided 19 preliminary and supplemental reports.
6. We reviewed all of the information provided by the County Auditor, Treasurer, and Prosecutor's Offices and noted:
 - A 4 supplemental title reports were dated after the title company invoice date.
 - B 1 preliminary judicial report was dated prior to the year the parcel was certified as delinquent.
 - C 1 supplemental title report was dated more than 6 years prior to the title company invoice date.
 - D 5 of the invoices did not contain parcel numbers.
 - E Some of the invoices did not reflect a date.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Management Comment (See also Management Comments No. 1 & 2 in Issue 4.)

Development of a Supplemental Title Report Fee Schedule

The payment and billing procedures for preliminary and final judicial reports were set up in the initial meeting between the Prosecutor's Office and the title company, but the supplemental reports were not discussed at these meetings. As a result, not all title companies were aware of the set cost or that they could bill for supplemental reports. The Prosecutor's Office represented that they generally paid \$50 for supplemental reports, but upon review of invoices, we noted they accepted invoices ranging from \$35 to \$75. During interviews with title companies, we found that not all companies were billing the County Prosecutor the same amount for supplemental title reports. This resulted from title companies not being informed about allowable charges. Therefore, not only did the amounts invoiced vary, some title companies were not aware they could bill for supplemental work.

We recommend the Prosecutor's Office develop a formal fee schedule for supplemental work and ensure that each title company has a copy of the schedule.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Issue No. 6 - Foreclosure Documentation

We selected permanent parcel numbers that were part of foreclosure proceedings to determine whether the associated case files contained the title reports as required by Ohio Rev. Code., including by not limited to, Sections 5721.14 and 5721.18.

Procedures

1. Based upon our understanding of the delinquent real estate tax foreclosure process obtained in Issue No. 1, we reviewed the County Prosecutor's Foreclosure Logs and haphazardly selected 50 case numbers for 1997 and 50 for 1998 to determine whether the Preliminary and Final Judicial reports were in the case files.
2. We provided the Prosecutor's Office with our listing of 100 cases and requested it provide the case files.

Results

The Prosecutor's Office provided us with the foreclosure files for the 100 parcels selected. Upon review, all documentation in the case files appeared to be in order. All questions were addressed by Charlene Starr, Supervisor of the Delinquent Real Estate Tax Department. No other discrepancies were noted.

SUPPLEMENT TO THE SPECIAL AUDIT REPORT

Conclusion Statement

We provided the Cuyahoga County Prosecutor's Office with a list of 547 parcel numbers which were subjected to the County's delinquent real estate tax foreclosure process during the period January 1, 1992 through June 30, 1997. For each of these 547 parcels, we reviewed documentation within the County Auditor's Office which supported that each taxpayer had paid the Prosecutor's Office either \$210 or \$280 for title fees. The purpose of these title fees was to pay title companies to perform title research and provide a certified title report to the Prosecutor's Office. We requested the Prosecutor's Office to provide us with a certified title report for each of the 547 selected parcels to determine that the title fees paid by the taxpayer were for title work performed.

Of the 547 parcels selected, the Prosecutor's Office could not provide us with 131 of the title reports to support that title work was performed. In addition, of the of 416 parcels where the Prosecutor's Office provided us with the title company documentation, the documentation for 135 of those parcels contained irregularities which result in a lack of supporting documentation to justify the title fee paid by the taxpayer. Of the 547 parcels selected, the total amount of title fees collected which were not supported is \$68,696. Based upon these results, we estimate that of the \$2,394,512 of title fee receipts which we did not specifically examine, it is possible that the Prosecutor's Office will not be able to provide sufficient documentation to support that \$1,157,130 of these fees were due from the taxpayers.

In addition, we requested the Prosecutor's Office provide Preliminary Judicial Reports for 1070 permanent parcel numbers for which monies were disbursed between January 1, 1992 and December 31, 1998. We reviewed individual vendor invoices, retained by the County Auditor's Office, for each parcel number selected for which there was a disbursement. Disbursements to title companies were made as payment for completed certified title reports. Title reports provided by the Prosecutor's Office for the selected parcel numbers were reviewed to determine whether the payment of \$210 and \$280 was supported.

We received Preliminary Judicial reports or title company documentation for 1039 of the 1070 requested. We did not receive documentation for 31 of the parcel numbers, showing a lack of support for payment in the amount of \$8,610. Of the 1039 parcel numbers for which we did receive documentation, 122 documents contained irregularities which lack the support necessary for the justification of payment to the title company in the amount of \$31,640. Of the 1070 parcels we selected, we determined that payments to title companies that were not supported totaled \$40,250. Using the results of this test, we estimate that of the \$2,576,161 title fee disbursements which we did not specifically examine, the Prosecutor's Office will not be able to provide a completed certified title report to support the disbursement of \$367,231.

We recommend the County establish a system which provides taxpayers the opportunity to provide proof of payment of title fees paid during the period January 1, 1992 though June 30, 1997. We recommend the county establish a central location and formalized process whereby proof of payment can be accepted, research performed, and each case resolved either by reimbursing the taxpayer or providing the taxpayer with a certified title report to support the payment.

We recommend the County notify taxpayers, via media advertisement, that it is possible that title fees paid to the County Prosecutor's Office during the period January 1, 1992 through June 30, 1997 were inappropriately collected. The advertisements should indicate where and when taxpayers can submit proof of payment of title fees. "Proof of payment" should be defined in the advertisement (e.g.: canceled checks, copy of money order, etcetera). The advertisement should also indicate that reimbursements will be made to the taxpayers if the County Prosecutor's Office is unable to provide them with a certified title report to support the payment.



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CUYAHOGA COUNTY PROSECUTOR'S OFFICE

CUYAHOGA COUNTY

CLERK'S CERTIFICATION

This is a true and correct copy of the report which is required to be filed in the Office of the Auditor of State pursuant to Section 117.26, Revised Code, and which is filed in Columbus, Ohio.

Susan Babbitt

CLERK OF THE BUREAU

**CERTIFIED
AUGUST 22, 2000**