

UNCLAIMED FUNDS AND ESCHEATMENT PROCESS REVIEW

2010-11 Solano County Grand Jury

I. SUMMARY

The Solano County Treasurer maintains a trust fund under two sections of the Probate Code in order to account for unclaimed monies held by the County on behalf of deceased persons. Funds are deposited into the Treasurer’s Trust Fund; depending on the situation, they are held until escheated to the State of California or transferred to the County’s General Fund. The Solano County Treasurer’s Office has adequate policies and procedures covering this process and testing found reporting, claims, and accounting procedures are being followed.

Solano County and its seven cities hold unclaimed stale-dated warrants and/or checks drawn against their treasury. Disposition of these funds is governed under the California Government Code. These funds can revert back to the County or city general funds after a prescribed period of time following public notification. However, there are some required elements for the notice. The Grand Jury review identified several errors and weaknesses in the process at the city level.

The California State Controller’s Office maintains an Unclaimed Property website that can be searched for items that may belong to the County or cities. The County has successfully recovered more than \$46,000 since 2007. The Grand Jury review helped County staff identify an additional \$10,232 to include on their 2010 claim. At the city level, the review resulted in receiving approximately \$3,000 in recoveries and identifying nearly \$31,000 available to research for potential claims. Despite some previous reviews being completed there was no formal documentation of the process published to ensure funds are researched and claims submitted in a timely manner.

Review Results Summary

	Unclaimed Warrants/Checks				State of California	
	P&P on file	Notice Posted	Required Notice Elements Met	Re-issue Claims Process Properly	P&P on File	Prior Claims Made
Solano County	Yes	Yes	Yes	Yes	No (F&R #1)	Yes
Benicia	No (F&R #4)	Yes	No (F&R #3a.1-4)	Yes	No (F&R #6)	Yes
Dixon	No (F&R #4)	No (F&R #3b)	❖	Yes	No (F&R #6)	Yes
Fairfield	No (F&R #3d)	❖	❖	Yes	No (F&R #6)	No
Rio Vista	No (F&R #4)	No (F&R #3b)	❖	Yes	No (F&R #6)	No
Suisun City	No (F&R #4)	No (F&R #3b)	❖	Yes	No (F&R #6)	No
Vacaville	Yes	Yes	No (F&R #3c.1-2)	Yes	No (F&R #6)	Yes
Vallejo	No (F&R #4)	No (F&R #3e)	❖	Yes	No (F&R #6)	Yes

P&P= Policies and Procedures. F&R= Finding and Recommendation. ❖= Not Relevant.

II. INTRODUCTION

The 2010-11 Solano County Grand Jury conducted a review of escheatment processes and the submission of claims for “Unclaimed Property” (funds) reported to the State of California that may belong to Solano County or its Cities. Escheatment is reversion of funds to the State or a local agency when there are no legal heirs or other lawful claimants. The objective of the review was to evaluate the effectiveness of the key business processes, control functions, and code compliance of the departments involved.

The review was initiated based on a search of the State Controller’s website that found 147 items totaling approximately \$60,000 in funds possibly owned by the County, its Cities, or Agencies. The individual dollar values ranged from \$0.95 to \$10,000. The review also included examining policies and procedures for compliance with applicable escheatment codes relative to funds held in the County or City treasury.

III. METHODOLOGY

The scope of the review focused primarily on the following functions: Accounting for unclaimed monies held by the County or City; reporting; claims; escheatment to State or general fund; and recovery of potential items from the State. The time period of the review included reports and aged items covering annual reporting for the past three years and data that were appearing on the State Controller’s Unclaimed Property website on August 24, 2010.

Techniques used in deriving facts included:

- Researched relevant Government Code(s):
 - Probate Code §§7663 & 11850
 - California Government Code §§50050-50057
 - Solano County Ordinance: article I, §§11-13
- Examined County and City Internet websites.
- Discussed with staff from Solano County Auditor-Controller and Treasurer’s Offices regarding: A) the Treasurer’s Trust Fund; B) the stale-dated warrant process; and C) claiming State of California unclaimed property.
- Discussed with staff from the seven cities regarding A) the stale-dated check process; and B) claiming State of California unclaimed property.
- Reviewed policies & procedures provided in response to a request for information.
- Tested Active Deceased Person Balances in County Treasurer’s Trust Fund on 9/20/2010.
- Tested General Ledger (GL) posting of deposits, claims, and escheated funds in the County Treasurer’s Trust Fund for the period 7/1/2007 – 6/30/2010.
- Tested 2008-10 County GL, Journal Vouchers, claim forms, and warrant exception adjustments.
- Reviewed County 2010, 2009, and 2008 claim forms and balanced to GL.
- Reviewed County 2010, 2009, and 2008 newspaper public notices for required elements.
- Reviewed data on the State Controller’s Unclaimed Property website on August 24, 2010.

IV. STATEMENT OF FACTS

A. Treasurer's Trust Fund

Funds may be deposited with the County Treasurer on behalf of deceased persons under two sections of the Probate Code, §§7663 & 11850. Under §7663, the Public Administrator (PA) makes a determination that no beneficiaries exist (no known heirs) for money left over from handling an estate of a deceased person. The PA has the funds deposited to the Treasurer's Trust Fund until disbursement by either court order or transfer to the general fund in accordance with California Government Code §50050. Under §11850, the PA, a private attorney, or executor of an estate may petition the court for relief of responsibility regarding certain funds within a probated estate where an heir is designated but cannot be located. Under court order the funds are credited to the Treasurer's Trust Fund until claimed or escheated to the State of California.

The Solano County Treasurer's Office (CTO) has policies and procedures in place covering this process and testing found reporting, claims and accounting procedures are being followed. The CTO is a custodian of the funds until claimed or escheated and has no requirement to search for the potential owner. Withdrawal (claims) of proceeds requires instructions from the court. When a claim is made and approved, a journal voucher is submitted to the County Auditor-Controller's Office (ACO) for payment. As items reach the reporting date and remain unclaimed an Estates of Deceased Person Report of Cash and Personal Property Absent Heirs or Claimants form is prepared for submission to the State Controller's Office and the ACO sends the funds to the State.

B. Unclaimed Warrants/Checks

1. Solano County

In government finance, a warrant is an order to pay that instructs the County Treasurer to pay a specified amount to the warrant holder. In most cases, it circulates similarly to a bank check. A Solano County ordinance stipulates a warrant is considered void if not presented to the County Treasurer for payment within one year after its date of issuance. At this time its status is changed to "Stale-Dated" and depending on its dollar amount is immediately transferred to the County General Fund (Tier 1- under \$15) or held for a period of three years (Tier 2 - \$15 or greater) before being credited back to the appropriate County fund.

Reviews determined the various tasks incumbent within the unclaimed warrant process are split between the ACO and CTO. The CTO handles the public notice and claims while all other functions fall to the ACO. County departments are notified of stale-dated items on an ongoing basis and, after attempts to locate the owner have been exhausted, complete the Unclaimed Warrant Report annually. This report is used to publish a public notice in the designated newspaper for two successive weeks in March. Testing found the notification and claims process is completed as prescribed in the written policies and procedures. However, discussions with management in the CTO determined it does not currently post a copy of the unclaimed warrants list on the County website. After the designated date in the public notice the money reverts back to the County. In the three years reviewed this amounted to approximately \$90,000 in Tier 2 funds.

2. Cities

The Cities pay their financial obligations by bank check, which are considered stale-dated after six months. All the Cities maintain an outstanding check register that can be used to identify aged outstanding items for reporting purposes. The California Government Code states property of a local agency that remains unclaimed in its treasury or in the official custody of its officers for three years is the property of the local agency after notice. The code calls for some specific notification requirements relating to necessary elements, amounts and timing in order for the City to revert the money back into the general or issuing fund.

Examination of information provided and management interviews revealed a wide variance in the procedures and practices executed by the Cities. A number of compliance exceptions were identified. Three cities (Dixon, Rio Vista, and Suisun City) were reverting money back to the city but no public notice had been published in the past several years. Two cities (Benicia and Vacaville) have published some form of public notification but they included errors or oversights not in compliance with required elements. Benicia's newspaper notifications had errors relating to listing and reverting items less than three years old, noting a reversion date that was less than the 45-day requirement from first publication date, and not including a dollar amount. Vacaville posts a notice on the city website but errors were noted in the reporting-dollar threshold and not listing the fund in which the money is being held. Only one of the County's seven cities had written policies and procedures regarding unclaimed money held in its custody.

The City of Fairfield has adopted a practice of not transferring unclaimed funds into the general fund. The City holds the money in a non-general fund trust account indefinitely or until the funds are claimed. This has been in affect since 1995. The trust account balance as of November 15, 2010 was \$128, 651.37. Approximately \$104,000 of this balance is aged over three years. The City of Vallejo has not published a public notice in several years but indicated they have not reverted the funds during this period. Review of outstanding check registers for items aged three years or greater found checks totaling approximately \$92,381.

C. State of California Claims

The State acquires unclaimed property through California's Unclaimed Property Law, which requires "holders" such as corporations, business associations, financial institutions, and insurance companies to annually report and deliver property to the Controller's Office after there has been no customer contact for three years. In some cases, the owner has no knowledge of the property. The reported items include those for government entities.

1. Solano County

The County completed their first review for State unclaimed property in 2000. The most recent reviews completed in August 2007 and May 2009 netted a total of \$46,335.46 in recoveries. Review of documentation and discussion with ACO personnel determined these successful recovery efforts were based solely on searching the State Controller's website under "Solano County." The Grand Jury provided a list dated August 24, 2010 that included expanded search criteria including "Solano Co" and "County of Solano." These searches captured approximately \$10,000 in additional potential funds the County included in preparing their 2010 claim, which will total approximately \$24,000. Staff was articulate and thorough in their research efforts to gather necessary support to submit claims. However, it was determined there are no recorded

policies and procedures on file covering this process. Management proactively undertook documenting and publishing internal standards, which were completed during the course of the review.

2. Cities

Several of the County's cities have informally monitored the State website in some capacity dating back as early as 2007. Submitted claims netted recoveries totaling \$12,371.48. The bulk received by Vallejo in 2008 for six items totaled \$11,330.17. The Grand Jury provided a list of potential items (dated August 24, 2010) to each of the cities. As a result of this initial list, Fairfield, which previously did not have a process in place, recovered \$2,831.25. An updated search as of February 19, 2011 found Fairfield has new items totaling \$11,157.40 available to be claimed. The majority (\$10,409.80) originated from two items listed as PG&E refunds. Overall, as of the update on February 19, 2011, the County's Cities have approximately \$31,000 available to research for potential claims.

Management interviews and examination of information provided determined that although several Cities had an informal review process in place no formal documentation of the process was published to ensure funds due are researched, claims submitted, and recoveries deposited.

V. FINDINGS AND RECOMMENDATIONS

SOLANO COUNTY

Finding 1 – The Grand Jury's review in October 2010 indicated that the County had no written policies and procedures to ensure funds due from the State are collected and appropriately credited as a recovery in a timely manner. Management and staff in the Auditor-Controller's Office proactively corrected this situation during the course of the review and documented their internal procedures.

Recommendation 1 –The Auditor-Controller's Office should continue to develop and refine the established policies and procedures as new and better research methods are identified.

Finding 2 – As of February 22, 2011, a copy of the Unclaimed Monies List (warrants) was not posted on the County's website.

Recommendation 2 – The unclaimed monies listed in the public notice published in the newspaper in March each year should also be posted to the County's website as a source for the public to review.

CITIES

Finding 3 – Property of a local agency that remains unclaimed in its treasury or in the official custody of its officers for three years is the property of the local agency after notice. The following exceptions and/or weaknesses to Government Code requirements relating to notification, reporting timeframes, dollar amounts, and accounting for unclaimed funds held by the city were noted:

- a. The following concerns were noted in the 2008 and 2009 public notification published in the newspaper. **(Benicia)**
 1. The listing included items less than three years old, which do not meet the timing requirement to revert back to the city on the published date.
 2. Under the Government Code, the published date the money becomes the property of the city should not be less than 45 days or more than 60 days from the first published notice in the newspaper. In both years the date was less than 45 days.
 3. The 2009 notice did not include a dollar amount of the check.
 4. The notices do not include the payee's name.*
- b. A public notification prior to reverting money back to the city has not been published in the past several years. **(Dixon, Rio Vista, and Suisun City)**
- c. The city posts public notification of outstanding items of \$50 or more on their website for three years. The following concerns were noted: **(Vacaville)**
 1. This dollar amount does not comply with the code requirements and results in items from \$15.00 to \$49.99 being reverted back to the city before the required three-year period.
 2. The notice requires stating the fund in which the money is being held. The website notice or listing does not reference the fund in which the money is held.
- d. The city does not have a policy of transferring unclaimed funds to the general fund. The city holds the funds in a non-general fund trust account indefinitely or until the funds are claimed. This practice appears to date back to 1995. As of November 15, 2010 the trust account balance was \$128,651.37. It would be in the best interest of the city to follow the Government Code requirements to take advantage of the process that would allow them to revert the funds back to the city. **(Fairfield)**
- e. City officials stated no notifications in the newspaper or city website have been made in several years. They stated the city has not reverted funds back to the fund on which they were drawn during that time. Review of outstanding check registers for items aged three years or greater found funds totaling approximately \$92,381. It would be in the best interest of the city to follow the Government Code notification requirements to take advantage of the process that would allow them to reabsorb the funds for city use. **(Vallejo)**

Recommendation 3 – City management and staff should review California Government Code §§50050-50057 and incorporate processes and oversight to ensure compliance with legal requirements and evaluate whether current practices are in the best interest of their city.

Finding 4 – As of February 22, 2011, several cities had not developed written policies and procedures regarding unclaimed money held by the city. **(Benicia, Dixon, Rio Vista, Suisun City, and Vallejo)**

Recommendation 4 – City management and staff should prepare written policies and procedures covering unclaimed funds held in its official custody. They should ensure steps to comply with

* See Comments section.

Government Code requirements pertaining to notification, reporting timeframes and amounts, claims processing, and accounting.

Finding 5 – A copy of the Unclaimed Monies List (checks) is not posted on several cities’ websites. **(Benicia, Dixon, Fairfield, Rio Vista, Suisun City, and Vallejo)**

Recommendation 5 – The Unclaimed Monies List representing aged outstanding city issued checks should be posted to that city’s website for the public to review.

Finding 6 – As of February 22, 2011, some cities had not prepared written policies and procedures covering the claiming of items belonging to the city listed on the State of California’s unclaimed property website. **(Benicia, Dixon, Fairfield, Rio Vista, Suisun City, Vacaville, and Vallejo)**

Recommendation 6 – City management and staff should prepare written policies and procedures covering the claims submission process. They should include establishing an appropriate schedule to perform the review on an annual basis (at minimum), detailing the prescribed search criteria used in researching the State website to ensure applicable items are captured, and listing the accounting steps to post recoveries.

COMMENTS

The Solano County Grand Jury review of Government Code §50051 found the statute does not specify that a name is a required element. The code reads: “The notice shall state the amount of money, the fund in which it is held, and that it is proposed that the money will become the property of the local agency on a designated date not less than forty-five days nor more than sixty days after the first publication of the notice.” Research of the statute and case law did not identify a reason for omitting this important element. A number of the County’s cities should be preparing or updating written policies and procedures covering unclaimed funds held in their official custody. The cities should include the payees’ names in the notices they issue.

Part of the Grand Jury report process allows for Respondents to examine drafts for factual accuracy before final internal review. After the Grand Jury prepared its initial draft of this report on February 22, 2011, the County and several of the cities proactively initiated corrective measures addressing some of the items discussed above.

REQUIRED RESPONSES

Solano County Auditor-Controller (Finding 1)
Solano County Treasurer (Finding 2)
City of Benicia Mayor (Finding 3a.1-4, 4, 5 & 6)
City of Dixon Mayor (Finding 3b, 4, 5 & 6)
City of Fairfield Mayor (Finding 3d, 5 & 6)
City of Rio Vista Mayor (Finding 3b, 4, 5 & 6)
City of Suisun City Mayor (Finding 3b, 4, 5 & 6)
City of Vacaville Mayor (Finding 3c.1-2 & 6)
City of Vallejo Mayor (Finding 3e, 4, 5 & 6)

COURTESY COPIES

Solano County Administrative Officer
Solano County Board of Supervisors