Management Audit of the County of Santa Clara Department of Tax and Collections

Prepared for the Board of Supervisors of the County of Santa Clara

July 26, 2021

Prepared by the

Board of Supervisors Management Audit Division

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July 26, 2021

Supervisor Otto Lee, Chair
Supervisor Cindy Chavez, Vice Chair
Board of Supervisors' Finance and Government Operations Committee
70 West Hedding Street San Jose, CA 95110

Dear Supervisors Lee and Chavez:

We have completed the Management Audit of the Department of Tax and Collections. This audit was added to the Management Audit Division's work plan by the Board of Supervisors of the County of Santa Clara, pursuant to the Board's power of inquiry specified in Article III, Section 302(c) of the Santa Clara County Charter. This audit was conducted in conformity with generally accepted government auditing standards as set forth in the 2018 revision of the "Yellow Book" of the U.S. Government Accountability Office. The purpose of this audit was to examine the operations, management practices and finances of the Department of Tax and Collections to identify opportunities to increase the Department's efficiency, effectiveness, and economy.

The report includes ten findings and 26 recommendations related to remittance processing and lockbox error identification; guidelines and documentation for penalty appeals; updating cost recovery fees; improving physical security measures; transmission of patient health information for collections purposes; cross-training of collections officers; timely assignment and documentation of delinquent medical accounts; clarified performance metrics for justice collections; updating policies and procedures; and more consistent write-off practices. Within the first year of implementation, we expect the net cost savings and additional revenue generation of these recommendations to total approximately $3.3 million. After the first year, in-house remittance processing would generate approximately $348,000 in additional cost savings annually.

In the attached responses to this audit, the Department of Tax and Collections agrees or partially agrees with 18 of the 21 recommendations directed to the Department and disagrees with three of these recommendations. Santa Clara Valley Medical Center agrees with all four recommendations directed to this department. One recommendation concerning an amendment to the County Ordinance Code is directed to the Board of Supervisors.

Board of Supervisors:
Mike Wasserman, District 1 | Cindy Chavez, District 2 | Otto Lee, District 3 | Susan Ellenberg, District 4 | S. Joseph Simitian, District 5

County Executive: Jeffrey V. Smith

If implemented, the recommendations would:

- Define expected services levels for the County's remittance processing vendor and generate net savings if an in-house model is eventually adopted;
- Better ensure fairness, consistency, and timeliness of penalty appeal results;
- Generate additional County revenues through fees and charges that more accurately recover costs;
- Improve the physical security of County assets;
- Ensure that all requirements of the Health Insurance Portability and Accountability Act are met in the transmission of patient debt information;
- Create cross-trained collection units that could more flexibly respond to fluctuations in workload;
- Enhance the Department's ability to collect delinquent accounts receivable for the County hospital system and facilitate Medicare bad debt reimbursement;
- Clarify ambiguities in the County's court collections agreement;
- Streamline updates of the Department's policies and procedures;
- Clarify write-off authority and criteria, prevent bulk discharges, and reduce the backlog of old accounts.

We would sincerely like to thank the Department of Tax and Collections and its staff for their thoughtful, patient, and professional cooperation and assistance throughout this audit.

Respectfully submitted,

Cheryl Solov
Management Audit Manager

CC: Supervisor Mike Wasserman
Supervisor Susan Ellenberg
Supervisor S. Joseph Simitian
James R. Williams, County Counsel

Table of Contents

This document is linked. Click on a section to view.

Executive Summary 1

Introduction 7

Section 1: Remittance Processing Errors 25

Section 2: Property Tax Penalty Appeals Outcomes 31

Section 3: Cost Recovery Agreements and Fees 37

Section 4: Physical Security and Cash Handling 43

Section 5: Health Insurance Portability and Accountability Act Compliance 49

Section 6: Siloed Collections Units and Cross-Training of Revenue Collections Officers 53

Section 7: More Timely Assignment of Delinquent Medical Accounts 59

Section 8: Court-Ordered Debt Collection Performance 71

Section 9: Improving Process to Update Policies and Procedures 79

Section 10: Write-Off Policies, Procedures, and Practices 85

Attachments A-H 93

- Attachment A: Department of Tax and Collections Audit Response 95
- Attachment B: Valley Medical Center Audit Response 101
- Attachment C: List of DTAC Clients 103
- Attachment D: DTAC Accomplishments 105
- Attachment E: Fees and Descriptions 111
- Attachment F: Patient Summary Reports 113
- Attachment G: SCVHHS 2011 Section 9 117
- Attachment H: Nine Month 2011 SCVHHS Audit Report Back 131

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Executive Summary

Section 1: Remittance Processing Errors

Taxpayers mail payments to a "lockbox" address operated by a County remittance processing vendor in City of Industry, CA. The vendor opens, inspects, and deposits these payments into the County's banking accounts and sends a remittance report to the Department of Tax and Collections (DTAC). However, there were multiple potential lockbox issues over the Fiscal Year 2018-19 and 2019-20 tax cycles. These issues included instances in which only one of multiple payments in a single envelope was correctly processed; cases of mishandled or uncashed checks; and check amounts applied to the incorrect parcel number. The County's lockbox contract does not contain an error tolerance provision that defines the acceptable degree of such remittance errors. The Department should amend its lockbox agreement to include an error tolerance provision that states the level of acceptable error from its vendor. In addition, upon expiration of its existing lockbox agreement, DTAC should consider processing its payments in-house through its batch payment processing system, Teller.

Section 2: Property Tax Penalty Appeals Outcomes

When taxpayers miss deadlines for secured and unsecured property tax payments, they are assessed a penalty. Taxpayers who believe that there was an error on their tax bill or that extenuating circumstances prevented timely payment can file a penalty appeal to gain a refund on these penalties. DTAC reviewers determine, based on documentation accompanying these appeals, whether late payments occurred in absence of taxpayer neglect. However, a judgmental sample of penalty appeals from FY 2018-19 revealed inconsistencies in outcomes of appeals with similar justifications and supporting documentation. To ensure more uniform documentation from taxpayers, DTAC should publicly post guidelines for acceptable supporting documentation for the most commonly cited penalty appeal reasons. In addition, DTAC supervisory tax collections staff should perform annual audits of a sample of appeal results, verifying whether sufficient documentation was provided and comparing the outcomes of similar appeals for consistency. If discrepancies exceed thresholds determined by supervisors prior to the audit, DTAC should institute additional training for staff in this area.

Section 3: Cost Recovery Agreements and Fees

DTAC generates revenue through charging fees—many of which are authorized by State statute—for tasks such as processing returned checks, setting up payment plans for delinquent property taxes, and selling tax-defaulted property. During Fiscal Year 2018-19, DTAC recouped $6.4 million through its 24 active fees. As of August 2020, 20 of 24 active fees (83%) charged for tax and revenue-related tasks had not been updated since 2012, with 13 of these fees not having been updated since 2003. The Department should immediately update all fees and charges older than two years, prioritizing rates that have not been updated since 2003. Per the Controller-Treasurer's Fees and Charges Policy, DTAC should review and update its rates at least every three years to include current costs, and all calculations used to determine these updated rates should be documented.

Section 4: Physical Security and Cash Handling

DTAC Cashiers accept payments at two sites in San Jose: 70 West Hedding for secured and unsecured property tax payments, and 852 N. 1st Street for public assistance, justice, medical, and general debt payments. The Department, which receives and processes a high volume of cash and checks, requires heightened security. However, auditors observed that doors leading to "authorized personnel only" back offices at 70 West Hedding were propped open, which staff reported to be a frequent occurrence. Additionally, DTAC had several practices that were out of compliance with the County's Cash Handling Administrative Guide at the time of our audit. As of January 2021, DTAC had not posted receipt reminders for customers at its 70 West Hedding payment site; the Department was not disseminating cash handling policies to its volunteers; and keys for DTAC's 70 West Hedding were not engraved with "Do Not Duplicate" in accordance with the Guide's specifications. DTAC also had no inventory system for keys that unlock cash file drawers and money bags. DTAC should minimally ensure its doors at 70 West Hedding are closed to discourage customers from accessing the back office area. Supervisors within the DTAC Cashiering Unit should develop an inventory and check-in/check-out system for cash-access keys and require relevant personnel to use this system. Finally, management should ensure that all requirements of the Cash Handling Administrative Guide are met.

Section 5: Health Insurance Portability and Accountability Act Compliance

Under the minimum security rule of the Health Insurance Portability and Accountability Act of 1996 , covered entities must make "reasonable efforts" to limit protected health information (PHI) to what is "minimum necessary to accomplish the intended purpose." DTAC is one such entity, and its Medical and Legal Unit collectors have access to PHI through HealthLink, a database of Valley Medical Center (VMC) records. However, DTAC staff reported that collectors have access to HealthLink screens that are not necessary to their work, including correspondence screens and diagnostic coding and medical record summary tabs. This potential disclosure of superfluous PHI raises the risk of noncompliance with HIPAA requirements. VMC analysts should work with DTAC management and line staff and DTAC's Technology Services and Solutions team to create a custom HealthLink template that contains only the minimum amount of information that collectors need to perform their work.

Section 6: Siloed Collections Units and Cross-Training of Revenue Collections Officers

DTAC's Collections Division is divided into five collections units, which includes a Medical Collections Unit. Only DTAC's Medical Collections Unit has been designated as a "covered entity:" a party that receives PHI and is subject to HIPAA requirements. For this reason, the five collections units within DTAC are entirely separate, and Revenue Collections Officers (RCO) are not cross-trained across collections units. Consequently, DTAC management cannot maximize RCO efficiency by re-assigning RCOs to the collections units of highest workload throughout the year. In addition, the separation of collections units may lead to duplication of RCO efforts and negatively impact DTAC's public image if debtors are repeatedly contacted by the Department. DTAC managerial staff report that multiple RCOs may conduct skip tracing and other collections-related activities for *the same debtor* if this individual has multiple types of debt accounts. As of December 2020, DTAC had submitted a formal request to expand the number of DTAC staff who have access to County health system data. If this request is approved, DTAC should work with County Counsel and the Privacy and Compliance Office of the Health and Hospital System on this data access expansion and implementation of RCO cross-training.

Section 7: More Timely Assignment of Delinquent Medical Accounts

DTAC collects unpaid medical debts referred by the Health and Hospital System's (HHS) Patient Business Services (PBS) from Medicare, Medi-Cal, private insurance and other third-party payers, and from patients who are directly responsible for paying all or a portion of their bills. An agreement between HHS and the Finance Agency memorializes the collection services DTAC renders to PBS. In Fiscal Year 2018-19, it took PBS 210 days on average from the date-of-service to transfer delinquent accounts to DTAC. This timeline exceeds the 150 to 180-day windows (depending on account status and activity) set forth in PBS internal policies and procedures and lowers the likelihood of collecting on these accounts. Further, when medical debts are written off, HHS management reported that DTAC does not return Medicare bad debt accounts to PBS for closeout or retain detailed information on collection outcomes, making it impossible to seek partial reimbursement for these debts. Lastly, of the $54.3 million in delinquent charges transferred to DTAC in FY 2018-19, an estimated $3.7 million should not have been referred because the patients had a third-party payor that PBS did not identify or bill. DTAC should work with HHS's PBS to develop a protocol for documenting and returning uncollectible accounts to PBS with the information required to claim Medicare bad debts. Per its own policies, PBS should review its internal processes to ensure accounts are referred to DTAC within 180 days. Finally, PBS should revise procedures for obtaining patient information in order to promptly identify responsible payers and minimize referrals of collectible cases that are later discharged due to untimely billings to third parties.

Section 8: Court-Ordered Debt Collections Performance

DTAC has collected court-ordered debt on behalf of the Superior Court of the County of Santa Clara (Superior Court) since 2005. As permitted under State law, DTAC recovers its costs for court-ordered debt collection by deducting costs from any revenues collected before distribution. In light of DTAC's decreasing trial court collections and findings from the State's Legislative Analyst's Office (LAO), there is a risk that the Superior Court may not renew the agreement for court-ordered debt collection in June of 2021. The agreement between the Superior Court and the County is also unclear on how it defines DTAC's target collection rate, and declines in both dollar amounts collected and liquidation rates from FY2016-17 to 2018-19 make it unlikely that the Department will hit these rates—however they are defined. If the collection agreement between the County and the Superior Court is formally renewed (DTAC reported that parties have "verbally agreed" to a two-year renewal), DTAC should attempt to establish one or more mathematical calculations by which its collections performance is measured. DTAC should also develop a written contingency plan that addresses the potential revenue loss and implications for staffing should the Superior Court not renew the comprehensive collection program in 2021.

Section 9: Improving Process to Update Policies and Procedures

In October 2019, DTAC began to update and standardize its policies and procedures. DTAC hired an Extra Help Management Analyst to work with departmental Subject Matter Experts (SME) to develop these processes into updated policies and procedures. There are severe bottlenecks in the finalization of DTAC's updated policies, procedures, and training guides. As of April 2020, 179 of the 187 items (96%) on DTAC's SharePoint site had yet to undergo an initial approval by a unit supervisor. Additionally, as of May 2020, none of the 22 training manuals that had been initiated were complete. Review of policies, procedures, and training guides is constricted by availability of SMEs, and this availability has decreased even further with the COVID-19 crisis. Prioritization of policies and procedures is unclear or inconsistently followed. In addition, there appears to be no set system for reviewing and finalizing drafts. Given the limited capacity of permanent DTAC personnel, the Department should create and document a prioritization plan for its policies and procedures, starting with the procedures defined in its training manuals. In addition, DTAC should formalize a mechanism for SME review, approval, and finalization of drafted items by creating a set window of time for these tasks and dictating expected turnaround times for completion.

Section 10: Write-Off Policies, Procedures, and Practices

California Government Code authorizes the Department of Tax and Collections (DTAC) to request a discharge of accountability for debts that are either too small for collection or meet certain collectability or legal criteria (i.e., "write-offs"). Contrary to best practices, the Department does not have a standardized write-off policy, which resulted in bulk write-offs of medical, justice, and tax bankruptcy-related debts in 2017 and 2019. Further, $54.1 million of medical debts discharged in July 2019 corresponded to accounts that had exceeded the State's four-year statute of limitations, including accounts that were over 20 years old. Separately, in the intervening years in which DTAC did not perform medical debt write-offs, a 2011 audit of County hospital administration and support services identified ambiguities in Board-delegated medical debt compromise authority and processes. Recommendations to clarify these ambiguities were adopted by the Board of Supervisors but were not implemented as of February 2021. The Department should prioritize developing a universal write-off policy in its update of policies and procedures. Further, per recommendations from the 2011 hospital audit, the Board of Supervisors should amend the County Ordinance Code to clarify authorizations and processes for compromise of medical debts and specify where DTAC's write-offs fit within this framework.

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Introduction

This Management Audit of the Department of Tax and Collections (DTAC) was added to the Management Audit Division's Fiscal Year (FY) 2019–2020 work plan by the Board of Supervisors, pursuant to the Board's power of inquiry specified in Article III, Section 302(c) of the County of Santa Clara Charter. The Board added this audit after considering the annual County-wide audit risk assessment conducted by the Management Audit Division in accordance with Board Policy.

PURPOSE, SCOPE, AND OBJECTIVES

The purpose of the audit was to examine the operations, management practices, and finances of DTAC, and to identify opportunities to increase the Department's efficiency, effectiveness, and economy. Work on this audit began with an entrance conference on August 14, 2019, and a draft report was issued to the Division on March 1, 2021.

We also sent the draft audit to the Office of the County Counsel, and relevant sections of the draft audit to Santa Clara Valley Medical Center for review and comment.

Two exit conferences were held with DTAC on March 10, 2021 and March 22, 2021, and auditors met with Santa Clara Valley Health and Hospital System management on April 20, 2021. A revised (final) report incorporating feedback from the exit conferences was issued to DTAC, the Office of the County Counsel, and Santa Clara Valley Medical Center on June 11, 2021.

The audit's main objectives were:

- To determine whether the Department maximizes County revenue through its property tax and debt collections efforts in an accurate, timely, and equitable manner.
- To assess the usability and availability of collections mechanisms for the Department's customers, as well as the level of general customer satisfaction with the Department.
- To verify whether appropriate controls are in place to reduce the potential for property tax or delinquent debt payments to be lost, deposited incorrectly, allocated incorrectly, or misappropriated.
- To identify any opportunities to improve the effectiveness, efficiency, and economy of the Department.

Primarily, we evaluated the Department's operations between FY 2014–15 and FY 2019–20, although we updated the report with additional information throughout FY 2020–21. Within this timeframe, we prioritized departmental practices after FY 2016–17, which was when the former Department of Revenue, Office of the Tax Collector, and debt collection functions of the Social Services Agency were consolidated into DTAC's current structure.

AUDIT METHODOLOGY

We interviewed executive management personnel including the Director and Assistant Director of DTAC, as well as Managers for the Department's three major Divisions: Customer Service and Support, Fiscal, and Collections. We also interviewed supervisors and line staff such as Revenue Collections Officers, Cashiers, Accountants, Office Specialists, and Information Technology staff. The Management Audit Division conducted observations of cashiering, cash reconciliation, and payment processing activities during the December 2019 property tax peak season and shadowed a Revenue Collections Officer through a regular workday. We also spoke with staff from Valley Medical Center and the Technology Services and Solutions Department on their working relationship with DTAC.

We reviewed the Department's FY 2019–20 and FY 2020–21 budgets; various property tax and debt collection reports generated by DTAC's Fiscal Division and its electronic systems; and the Department's fees and internal charges. The Management Audit Division examined DTAC's policies and procedures, as well as California Revenue and Taxation Code and relevant Board policies. We analyzed property tax penalty appeals, debt write-off documents, and medical information overviews provided to Revenue Collections Officers. We also reviewed the Department's active professional services agreements and memorandums of understanding with entities for whom DTAC performs debt collection functions. Lastly, we reviewed customer satisfaction survey results, information technology tickets for tax payment portal issues, and descriptive documents for new information technology systems.

COMPLIANCE WITH GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS

This management audit was conducted under the requirements of the Board of Supervisors Policy Number 3.35 as amended on May 25, 2010. That policy states that management audits are to be conducted under generally accepted government auditing standards (GAGAS) issued by the U.S. Government Accountability Office. We conducted this performance audit in accordance with GAGAS as set forth in the 2018 revision of the "Yellow Book" of the U.S. Government Accountability Office. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. In accordance with these auditing standards, we performed the following procedures:

Audit Planning – This management audit was selected by the Board of Supervisors using a risk assessment tool and estimate of audit work hours developed at the Board's direction by the Management Audit Division. After audit selection by the Board, a detailed management audit work plan was developed and provided to the Department.

Entrance Conference – An entrance conference was held with DTAC management to introduce the audit team, describe the audit program and scope of review, and to respond to questions. A letter of introduction from the Board and the audit work plan were also provided at the entrance conference.

Pre-Audit Survey – Audit staff reviewed documentation and other materials to obtain an overall understanding of the Department's operations, and to isolate audit areas that warranted more detailed assessments.

Field Work – Field work activities were conducted after completion of the pre-audit survey and included the following: (a) staff interviews; (b) observations of tax and debt collections functions; (c) reviews of departmental policies and procedures, professional agreements, and memorandums of understanding; (d) analyses of collection fees, penalty appeal results, and write-offs; and (e) evaluations of customer satisfaction survey results and information systems, among other investigative tasks.

Draft Report – On March 1, 2021, a draft report was provided to DTAC to describe audit progress, and to share general information on our preliminary findings and conclusions. We also provided the draft report to Santa Clara Valley Medical Center.

Exit Conference – Two exit conferences were held with DTAC management on March 10, 2021 and March 22, 2021 to obtain views on the report findings, conclusions and recommendations, and to make fact-based corrections and clarifications as appropriate. Following these meetings, a revised draft was provided to the Department on June 11, 2021 for use in preparing their formal written responses.

Final Report – This final report was issued on July 26, 2021. Written responses from DTAC and Santa Clara Valley Medical Center are attached to this report as Attachment A on page 95 and Attachment B on page 101.

BACKGROUND

The Department of Tax and Collections (DTAC) is responsible for collecting revenue and delinquent debt owed to the County. The revenue that DTAC collects supports services and programs for County residents, school districts, special districts, and other public agencies. Starting July 1, 2017, all operations of the former Office of the Tax Collector, Department of Revenue, and welfare-related collections for the Social Services Agency were consolidated under DTAC. The County's major lines of revenue are described below.

Property Taxes

DTAC is responsible for the collection of County property taxes, as mandated under California Revenue and Taxation Code Section 2602. The Department coordinates with the Office of the Assessor and the Controller-Treasurer Department to establish secured, unsecured, and supplemental tax rolls (see Figure I.1 on page 10 for descriptions of these rolls).

Figure I.1: *Property Tax Rolls*

Tax Roll	Description
Secured	Taxes assessed against real property (e.g., land or structures). The County Assessor establishes the value of the property on January 1, and taxes are due in two installments: one in November and the other in February, with final delinquency dates of December 10 and April 10, respectively.
Unsecured	Taxes assessed against property that can be relocated and is not real estate (e.g., business equipment, fixtures, boats, and airplanes). The County Assessor establishes the value of the unsecured property on January 1, and the last date to pay is August 31.
Supplemental	Additional secured taxes that are due when property undergoes a change in ownership or new construction. The supplemental tax is due upon the mailing of the bill and is payable in two installments.

Source: DTAC Website - Frequently Asked Questions.

DTAC issues bills and collects on these rolls. Payments are accepted through an online payment portal, in-person at 70 West Hedding and 852 N. 1st Street in San Jose, and by mail to the County's external lockbox location at City of Industry.

During FY 2018–19, DTAC collected $6.04 billion of $6.07 billion levied Countywide in secured property taxes, and $385 million of $392 million levied in unsecured property taxes Countywide, including about $1.1 billion in property taxes allocated to the County of Santa Clara. According to the State Controller's Office, Santa Clara County's secured tax collection rate of 99.6% was the highest of 58 reporting counties. Meanwhile, the unsecured collection rate of 98.4% was the eleventh highest in the state.

Taxpayers who do not pay their taxes by final delinquency dates are charged a 10% penalty plus processing fees. In 2017, the Department began accepting partial payments for property tax installments, and late penalties following this period are only charged against unpaid amounts. If taxes are delinquent beyond the end of the fiscal year, they may be transferred to the Redemption Roll, at which point they accrue additional interest.

Under California Revenue and Taxation Code, property for which taxes have been in default for five years are subject to the county tax collector's power to sell, and these properties must be sold within four years of becoming subject to sale.[1] DTAC manages the public auction of tax defaulted properties and retains auction lists and results on its public website.

1 Revenue and Taxation Code Sections 3691 and 3692.

County-Wide Debt Collections

County departments, as well as a handful of outside clients such as Stanford University, refer their current and delinquent debt accounts to DTAC, which is responsible for collecting on these accounts. As of October 2019, there were 444,058 accounts in the Department's collections system amounting to $740 million.[2] During FY 2018–19, DTAC's gross collections totaled $44.9 million.[3]

By volume and dollar amount, medical and justice-related debts comprise the largest general debt collection categories. Unpaid patient medical accounts from Santa Clara County Valley Medical Center are referred to DTAC. Additionally, as required by Senate Bill 940, the Department has an agreement with Santa Clara's Superior Court to collect court-ordered debt including delinquent fines, forfeitures, penalties, assessments, and fees. DTAC also collects victim restitution to compensate victims of crimes, as well as debts for the Department of Probation. During FY 2018–19, hospital and justice-related collections totaled to $14.3[4] and $20.0 million, respectively. Taken together, these debt categories comprised 76.5% of DTAC's entire volume of general debt collections for that fiscal year.[5]

DTAC additionally collects small amounts for departments such as the Office of the County Counsel, the Employee Services Agency, the Department of Planning and Development, the Registrar of Voters, and the Roads and Airports Department. A full list of DTAC's clients can be found in Attachment C on page 103.

Revenue Collections Officers and Clerks are assigned debt accounts through DTAC's electronic collections system, and they employ a variety of methods to collect on these debts. Staff contact and interview debtors; conduct skip tracing to verify debtors' whereabouts and financial capacity; and develop payment plans. Other collections tactics include intercepting tax refunds or garnishing wages to cover the unpaid amount, which DTAC accomplishes through an agreement with the State of California Franchise Tax Board. The Department also may initiate legal claims to enforce debt payment.

2 Actual amounts may vary, as the Department reported multiple reporting problems with this collections system—an issue discussed later in this Introduction.
3 Of this amount, $39.1 million was collected by DTAC. The remaining amount—while researched and worked by DTAC collectors—was billed by the County Health and Hospital System to third-party providers.
4 Including collections that were eventually billed to outside providers.
5 These general debt collection amounts do not include property tax collections.

Public Assistance Debt

At the beginning of FY 2017–18, debts and personnel of the Debt Management and Collections Unit of the Social Services Agency were transferred to DTAC. The Finance Agency has a Memorandum of Understanding with the Social Services Agency for DTAC to collect excess payments for the following public assistance programs, once benefits have been discontinued:[6]

- CalWORKs
- CalWORKs Employment Services
- Cash Assistance Program for Immigrants
- CalFresh
- Adoption Assistance Program
- In-Home Supportive Services
- Refugee Cash Assistance
- General Assistance
- Miscellaneous debts

Public Assistance Revenue Collections Officers and Clerks perform similar functions to collections staff for other County debts; however, this unit utilizes a separate collections system that interfaces with CalWIN, one of the state's benefits administration programs. During FY 2018–19, this unit collected $5.8 million.

Other Revenue

In addition to property tax and debt collections, DTAC also collects the following revenues for the County:

- Transient Occupancy Tax paid on temporary lodging such as hotels, motels, short-term rentals, and recreational vehicle sites within the County's unincorporated areas;
- Franchise Fees for franchises utilizing County streets or highways;
- Parking citations.

See Figure I.2 below for a summary of these revenues from FY 2018–19.

Figure I.2: ***FY 2018–19 Actual Miscellaneous Revenues***

Revenue Source	Amount
Transient Occupancy Tax	$692,532
Franchise Fees	$1,806,649
Parking Citations	$1,148,385(1)
Total:	**$3,647,566**

Source: DTAC Fiscal Report.

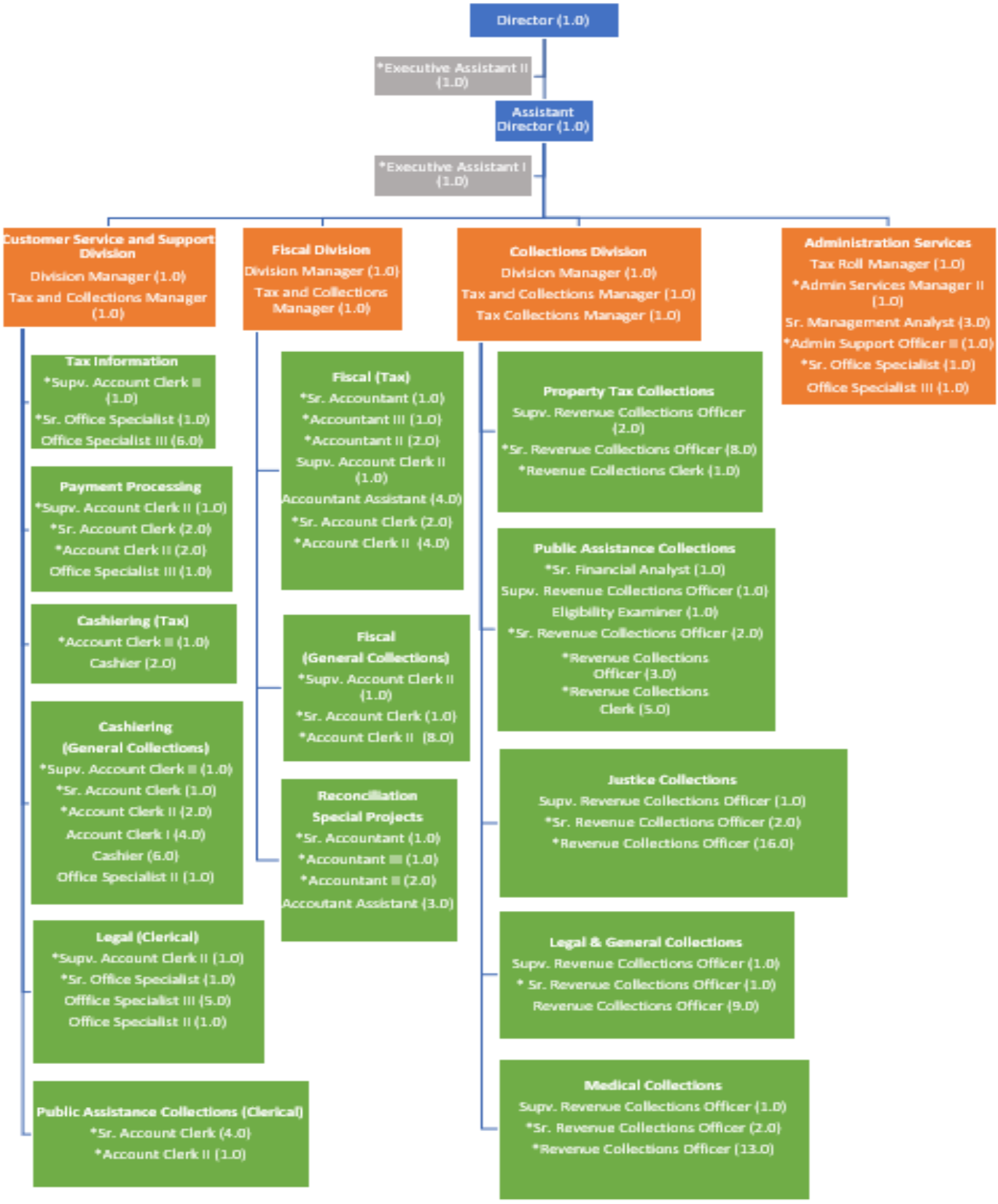
Note: (1) General Fund revenue portion of parking collections. While total collections from parking citations add up to $5.6 million, the majority of this is for surcharges and handicap revenue from the County and Cities. These are pass-through revenues to various entities and departments, and distribution of these surcharges—with the exception of Disabled parking revenue—is handled by the Controller-Treasurer Department.

6 DTAC cannot collect from debtors if they are currently on an assistance program.

Organizational Structure and Budget

DTAC is managed by a Director and Assistant Director. Executive management oversees three main divisions—Customer Service and Support, Fiscal, and Collections—as well as an Administrative Services unit. Each division is supervised by a DTAC Division Manager and Tax and Collection Manager. During FY 2020–21, the Department was authorized for 164 permanent full-time equivalent positions, 20 of which were vacant. See Figure I.3 on page 14 for a full organization chart. In addition, the Department had eleven Extra Help positions.

Figure I.3: *Department Organization Chart*



Source: Created by Management Auditor based on the organizational chart provided by the Department.

Note: Positions marked with an asterisk [*] are alternatively staffed with positions in the same job class series.

Department Division Responsibilities

The Customer Service and Support Division is primarily responsible for collecting payments from the public through its cashiering units located at 70 West Hedding and 852 N. 1st Street, as well as processing payments and providing clerical support to collections staff. The Division also includes a Tax Information Unit that researches inquiries from taxpayers about property tax bills and payments. Job classifications within this Division consist of Office Specialists, Account Clerks, and Cashiers.

The Fiscal Division is split into two groups—one for property tax and the other for general revenue collections. Both groups perform similar accounting functions such as balancing and reconciliation and posting financial adjustments, payments, and refunds to accounts. The Division is largely comprised of Account Clerk and Accountant positions.

DTAC's collections activities are situated within the Collections Division, which is subdivided into five units: a) Property Tax (for delinquent taxes), b) Public Assistance, c) Medical d) Justice, and e) Legal and General. The most common job codes in this Division are Revenue Collections Officers, Supervisors, and Clerks. The Public Assistance Unit additionally contains a Senior Financial Analyst and Eligibility Examiner. Staff within each Collections unit are not cross-trained and only perform collections for their assigned units. This issue is discussed further in Section 6, starting on page 53, of this audit report.

DTAC Revenues and Expenditures

The FY 2020–21 Original Adopted Budget for DTAC included gross expenditures of approximately $34 million, which were offset by budgeted revenues of approximately $10.6 million, and expense reimbursements of $2.7 million, for net General Fund expenditures of approximately $20.8 million, as shown in Figure I.4 below.

Figure I.4: *DTAC FY 2020–21 Original Adopted Budget*

FY 2020–21	Budgeted Amount
Expenditures	
Salaries & Benefits	$19,985,779
Other Expenses	$14,036,097
Expenditures Total:	*$34,021,876*
Revenues	
Revenues	$10,588,400
Expense Reimbursements	$2,667,146
Revenues Total:	*$13,255,546*
Net Expenditures:	***$20,766,330***

Source: SAP Report ZFMP013.

TOPICS REQUIRING ADDITIONAL REVIEW

During the course of a management audit, certain issues may be identified and brought to the attention of the agency being audited and the Board of Supervisors, even though a specific finding is not included in the report. Three such matters are described below.

Information System Upgrades

DTAC uses multiple collection and payment systems that have exhibited issues with user experience and outages, interfacing with one another, and allocating staff work. However, at the time of our audit, many of these systems were in the process of being replaced or updated. As such, identified problems from existing systems and considerations for future technical solutions are summarized below.

Ongoing Tax Collection and Apportionment System Enhancements

The County's Tax Collection and Apportionment System (TCAS) is the system of record for over $7 billion in collections annually. TCAS bills and collects property taxes, calculates tax rates, calculates apportionment amounts, and manages roll corrections. TCAS is a homegrown system that was rolled out in 2010 as a replacement for the County's previous 40-year-old system. According to an independent assessment of TCAS that was conducted in 2014, there is very little market for a vendor-supplied California property tax system, and most California counties have developed their own systems as a result.

At its deployment in 2010, TCAS was not a fully functional system and had only 40–45% of the functionality that was available in the previous system. During the FY 2011–12 Mid-Year Budget Review, the Board of Supervisors allocated $5.9 million to TCAS for stabilization and key enhancements, and the stabilization of TCAS began in 2012. The TCAS Steering Committee, formed in 2013 and comprised of stakeholders in the Office of the Tax Collector[7] and the Controller's Office, created a comprehensive TCAS Stabilization, Enhancement, and Support (SES) Master List where TCAS initiatives were prioritized and categorized as follows:

- **Stabilization projects** are projects that bring TCAS functionality up to the level of the previous mainframe system.
- **Enhancement projects** are key functionalities that improve business processes.
- **Support** is the ongoing maintenance and upgrade of items that were developed as either stabilization or enhancements.

7 The Office of the Tax Collector was a separate office until July 2017 when it merged into the new Department of Tax and Collections.

By 2016, 95% of stabilization projects had been completed and the focus shifted to TCAS enhancements and ongoing maintenance. The Department maintains a master list of TCAS enhancement requests that are prioritized by the Steering Committee. Based on the Steering Committee priorities, DTAC develops 6-month work plans for TCAS enhancement projects. The work plans covering January 2020–June 2020 and July 2020–December 2020 included the following enhancement projects:

- A comprehensive replacement collections system.
- Trust system: the creation of a more stable, secure, and extensible interface for property roll data between the Assessor's Office and DTAC.
- Unsecured 4-year plans: system enhancements related to the processing of 4-year installment payment plans (option to default the plan, partial payments on unsecured 4-year plans, roll correction on bills in a 4-year plan, bill printing, etc.).
- Bills rolling to unsecured keep original ownership: enhancement to have bills that roll from secured to unsecured keep the original ownership on the bill, not the current owner if different than the original.
- Partial payments for secured bills – roll corrections – redemption bills partially paid in the prior fiscal year: enhancement to allow redemption bills partially or fully paid in the prior fiscal year to be corrected by roll correction.
- Cloud infrastructure implementation.

Depending on the type of problem, without these enhancements DTAC staff may have to perform manual workarounds or labor-intensive reconciliations to ensure that payments are applied properly in TCAS and that partial payment plans reconcile correctly. For instance, partial payments for Redemption Plans are tracked in the County's Installment Redemption Fund instead of TCAS and are manually transferred for distribution by Department staff when the plans are paid in full.[8] The Management Audit Division suggests that the TCAS Steering Committee continue to monitor the progress on these enhancements, and in future work plans, prioritize enhancements that would either eliminate labor-intensive workaround processes or reduce the risk of errors on property tax bills.

After our March 2021 exit conferences with the Department, DTAC management provided the Management Audit Division with an updated TCAS Development Workplan showing that many of these projects were either underway or almost complete.

8 In the Management Audit Division's 2005 audit of the Tax Collector (DTAC's predecessor), we noted that a portion of the amount held within the Installment Redemption (IR) Fund should be transferred to the General Fund. The Tax Collector agreed with the recommendation to develop computer capability to do so. While the Department reported in February 2021 that an IR module had been added to TCAS, additional modifications are required before this recommendation can be fully implemented. The balance in the IR Fund was $1.38 million at the end of FY 2019–20.

Online Payment Portal and Payment Processing

From December 2014 to April 2019, online payments of property taxes increased more than four-fold, from 28,103 payments to 142,879 payments during each tax cycle. DTAC has an online payment portal for accepting property tax payments. This portal is maintained by the Technology Services and Solutions Department (TSS) and interfaces with TCAS. Payments made through the online portal are processed through DTAC's payment processing vendor, FIS, and are reconciled every 24 hours to show that they have been paid in all systems. There are three teams helping to support this technology: TSS, DTAC-assigned information technology (IT) personnel[9] ("DTAC-IT"), and the County's business and technical support vendor for the TCAS system.

According to TCAS Incident Report Forms completed by DTAC-IT, the online payment portal has exhibited multiple issues with downtime and reconciliation errors. Reports from November 2018 and January, February, and May 2019 describe unplanned or longer-than-expected downtime of the payment portal. While the cause is listed as "unknown" on several of these reports, other reports describe a lack of communication between the TSS team managing the portal, DTAC-IT, and DTAC itself. In some cases, updates or corrections were made to the system without all parties being apprised, making it impossible to alert taxpayers of planned maintenance in advance.

Further, reports from October 2018 through January 2019 detail reconciliation errors between the payment portal database, FIS payment processing file, and TCAS. For example, in November 2018, there were over 200 missing tax payments over a period of five days. Payments from the FIS file were either not in TCAS or the payment portal database, or—conversely—payments listed in TCAS were not in the payment portal database. For one of these incidents, the issue was due to a connectivity problem between TCAS and an upgraded version of the payment portal database. In other cases, the root cause was unknown.

In addition to these technical concerns, DTAC customers have also submitted complaints around the payment portal's usability and fines. Frequently cited issues included the following:

1. Portal would not accept payment by eCheck or credit card.
2. Customers were charged an $85 penalty for erroneously entering eCheck account information.[10]
3. There is no way to schedule payments in advance.
4. There is no way to make payments on multiple properties at once.

Several of these payment portal user experience issues, such as advance payment scheduling, have previously been submitted by DTAC as projects to TSS.

9 DTAC used to have in-house IT staff before the IT Career Compass restructuring of County-wide IT personnel in 2016. During this period, DTAC's IT staff were integrated into TSS as part of the Financial and Employee Systems (FES) division. As such, DTAC's former IT staff are now funded through TSS's budget, although they still provide specialized support exclusively to DTAC. This DTAC-IT team is distinct from the TSS staff that maintain and update DTAC's payment portal.

10 In April 2021, DTAC reported eCheck processing enhancements on the payment portal that include account validation. This validation should reduce the number of erroneous eCheck entries.

Given the steadily increasing proportion of tax payments being made online, particularly following the 2020 COVID-19 crisis, it is critical that DTAC's payment portal functions from both a technical and customer-facing perspective. Some of the communication issues leading to the downtime and missing payment problems have been addressed with a more robust change authorization process between departments. During peak tax season, DTAC, DTAC-IT, and TSS have agreed to put a freeze on all tax collection-related applications, servers, and network equipment. Change requests are put on hold until after the peak to reduce the amount of customer-facing downtime of the payment portal. For the April 2020 tax cycle, March 3 through April 10 was designated as a "black out window." Further, the technical teams supporting DTAC have developed a documented escalation procedure for payment portal issues with emergency contacts and expected turnaround times. In light of these developments, DTAC-IT and DTAC Executive Management reported no outages during the April 2020 tax season. The Management Audit Division suggests that DTAC, DTAC-IT, and TSS continue with these "black out windows" and adherence to the new escalation procedure.

Some of the portal's reconciliation problems and usability may also be mitigated through DTAC's planned acquisition of a new vendor that will provide both payment portal and payment processing services. The Management Audit Division reviewed materials and attended a training session by one such vendor, and at least some user areas such as eCheck authentication and a single "shopping cart" for multiple properties were addressed by this vendor. In its acquisition of a new payment portal and processing vendor, we suggest that DTAC continue to consider the results of its customer satisfaction surveys in developing the new payment portal interface.

While DTAC had not yet finalized its contract with a new payment portal vendor by April 2021, the Department had made multiple modifications to its payment website by this point. Improvements included a simplified secured property search, additional columns showing the date of the user's last property tax payment, an added direct link to penalty appeals information, and a "Pay in Full" checkbox, among others. Customer satisfaction surveys from March 2021 showed 302 of 359 respondents (84%) selecting "Extremely satisfied" to describe their experience with DTAC's payment website.

Debt Collections Systems

DTAC uses separate collections systems for three general debt collections (i.e., non-property tax) areas, as shown in Figure I.5 below:

Figure I.5: ***Overview of Non-Tax General Debt Collections Systems***

System	Collection Area
Columbia Ultimate Business Systems (CUBS)[1]	Collection of delinquent court-ordered debt, victim restitution, delinquent medical debt, and other government debt referred by various County departments
CUBS	Collection of unsecured property taxes
Ventura Automated Collections System (VACS)	Recovery of public assistance aid provided by the County's Social Services Agency

Source: DTAC Request for Proposals for new collections system.

Note: (1) Formally named the Ontario Systems debt collection system, Revenue Plus Collector System. This system was formerly Columbia Ultimate Business Systems and is still referred to as the acronym CUBS in reference to the former system name.

Within these systems, DTAC staff reported the following issues with generating collection amounts, interfacing with other systems, and managing collector workflows:

- CUBS generates multiple DTAC performance reports (e.g., collector performance reports, collector activity reports, and collection statistics reports) that are internally inconsistent, even when the parameters of these reports are identical. This impairs DTAC's ability to reliably monitor its internal activity and limits these reports' usefulness for external performance reporting.
- When business users ask for payment details, CUBS is unable to produce results by date and time.
- CUBS does not always interface properly with DTAC's tax system TCAS, which may result in a paid tax debt being shown as outstanding.
- In CUBS, debts are assigned to collectors by debt type, and individual collector assignments are typically determined through an alphabetical system (i.e., a collector may be assigned to collect from all debtors with a last name ranging from A-D). However, collection assignments have been restructured in CUBS such that the system no longer assigns by alphabetical range for certain debt types (e.g., unsecured property tax debt). As a result, debts for a single entity with multiple locations may be worked by different collectors, diminishing efficiency.
- Expired accounts may continue to appear in CUBS collector assignment reports, and collectors must continuously extend these accounts by 90 days.
- VACS does not always properly interface with CalWIN, the County Social Services Agency's benefits system, which requires collectors in the Public Assistance Collections unit to make manual adjustments so that VACS correctly reflects the information in CalWIN.
- CUBS does not differentiate between amounts collected on new and pre-existing accounts for its aggregate collections tracking.

An upgrade of DTAC's collections systems was included in the FY 2020–2022 Technology Services and Solutions Strategic Plan. In February of 2019, the County issued a Request for Proposals for a comprehensive replacement collections system for debt collection and delinquency management for DTAC. The solicited system will replace all three existing systems described above and will contain features that support management of the full life cycle and automation of the flows of the debt collection process (e.g., management of debtor communications, payment processing, skip tracing, collaboration with partner agencies, legal action, bankruptcy, probate, and reporting). The new collection system is planned to address the interfacing issues described above and will manage multiple interfaces with other software applications and data exchanges.

The Management Audit Division reviewed the proposal from the selected vendor and the consolidated score sheets for the proposal. As of May 2020, the Department was in the final stages of confidential negotiations with the selected vendor for the new collections system and planned to have a contract in place by the end of FY 2019–20. The Department anticipates, at a minimum, a one-year implementation phase, which would put the launch of the new collections system in July 2021 at the earliest. During the implementation phase, the Management Audit Division recommends that DTAC identify the existing problems with CUBS and VACS for the vendor and ensure that measures are in place to prevent the occurrence of these problems in the replacement system.

Information Technology Support and Funding

Information technology (IT) support to DTAC has multiple service delivery channels. Prior to FY 2018–19, DTAC had its own, in-house IT personnel. This IT team, in conjunction with DTAC's tax system vendor, provided ongoing support for DTAC's in-house property tax and revenues collections systems. Separately, the County's IT Department (formerly the Information Services Department) contained a group that managed DTAC's online property tax payment portal, and this group worked with DTAC's in-house team to coordinate updates and ensure appropriate reconciliation of all tax payments.

Following the consolidation of most County IT staff into the Technology Services and Solutions Department (TSS) on July 1, 2018, and the reclassification of this staff through the IT Career Compass initiative, DTAC's in-house IT team was integrated into TSS as part of the Financial and Employee Systems (FES) division. Largely, aside from losing several members due to promotions, the TSS-FES group is identical to DTAC's former in-house IT team and provides similar support services. Moreover, DTAC's former IT staff (now TSS-FES) and DTAC management reported a smooth working relationship with the TSS payment portal team and service improvements following the IT consolidation. Further, TSS-FES noted an absence of help desk tickets and investigations into outages, indicating fewer technical issues and better coordination mechanisms to prevent unexpected payment portal downtime.

However, as of May 2020, there was no finalized Letter of Understanding (LOU) between TSS and DTAC outlining tasks that TSS will continue to perform and tasks that could be considered operational for DTAC. This lack of a formal LOU between the departments is problematic in that there is no memorialization of the existing

functional relationship between DTAC, TSS-FES (i.e., DTAC IT), and the payment portal TSS team. While intra-departmental LOUs are not legally binding, such agreements document commitments and responsibilities and serve as a reference in the event of significant staff turnover or altered County IT priorities.

DTAC's former in-house IT staff reported that TSS's prioritization of DTAC's needs has been heavily linked to the specific TSS staff members working on DTAC projects at any given point. Additionally, outside of normal work hours, TSS-FES is "on call" to monitor payment portal issues, but there is no established schedule of staff to work these issues. While existing staff have managed this after-hours support through "unofficial shifts" and escalation chains, it is questionable whether future staff will understand these workarounds without written guidelines. Further, a lack of documentation around minimum service levels and support tasks may result in TSS-FES being shifted to non-DTAC work, thereby reducing IT support to the Department. Thus, we suggest that TSS and DTAC prioritize completing this LOU as soon as possible.

The other branch of IT support to DTAC is long-term business objectives that are accomplished through funded IT capital projects. TSS facilitates an annual project request cycle, and DTAC works with TSS starting in late August to define project needs for the upcoming fiscal year. However, with the restructuring of TSS, there have been communication issues between TSS and DTAC on departmental steps for releasing funds approved for prior projects. For instance, in spring of 2019, TSS noted that funds would not be fully released for two previously approved DTAC projects, including the Department's collections systems upgrade.

TSS requested project charters detailing scope and fund breakdowns, noting that these items are a requirement to initiating a project. However, DTAC responded that departments were not informed of this process, and this prerequisite was not in place when the projects were first approved. TSS conceded that, following the consolidation, some processes may have been lost in communication between their staff and DTAC. To avoid such confusion in the future, we suggest that TSS work with DTAC and other departments on clearly establishing requirements for requesting funds for new business needs, as well as releasing funds for previously approved IT projects.

Levy and Collection Reports from Tax System

The Department's in-house Tax Collections and Apportionment System (TCAS) generates reports that show both the levy and collected amounts on annual secured, supplemental, and unsecured property tax rolls. These reports are used to prepare the County's Comprehensive Annual Financial Report, as well as calculate the County's total tax charges and payments reported to the California State Controller.

However, when auditors reviewed spreadsheets created by DTAC's Fiscal Division to calculate total tax charges and payments, there was a $384.29 discrepancy between supplemental collection amounts in these spreadsheets and collection amounts in TCAS supplemental roll reports sent to the Management Audit Division by DTAC. This discrepancy was due to a data fix that occurred on July 9, 2019 for a single bill. TCAS reports received by the Management Audit Division were run in October 2019, while DTAC Fiscal ran this same report from July 7, 2018 to July 5, 2019 for its charges and collections calculations. The Fiscal Division's calculations therefore did not capture the July 9 correction because it was outside the date range for which Fiscal ran the TCAS report. While this error was not material enough to affect the overall delinquency rate (which would've prompted a correction to the State Controller), we suggest that DTAC Fiscal adjust the date range it runs on its future TCAS reports to capture any potential bill corrections made throughout July. Doing so will help prevent future reporting inaccuracies.

In addition, the "levy" amounts in the TCAS reports are not used for either Comprehensive Annual Financial Report or external reporting purposes because—in programming these reports—there was no consensus on a definition of "levy" that would work for both sets of documents. Whereas the Comprehensive Annual Financial Report looks at bills *issued and paid* in a single year, TCAS queries all active annual and value increase bills for the enrollment fiscal year. This may include increases and other adjustments on prior year bills so long as these adjustments were created and billed in the current fiscal year. Also included are current-year collections on Escape Payment Plans generated during previous years. The levy in the TCAS report is a summation of all tax charges and penalties in these bills, less roll correction amounts.

DTAC Fiscal reported that they ignore this report field entirely and perform their own "levy" calculation by adding the year-end unpaid bills to actual collections, and then subtracting purged bills. Information Technology (IT) support staff and DTAC Fiscal reported that they are working on coming to a consensus on a levy definition that works for DTAC's purposes. We suggest that DTAC's IT staff and its Fiscal Division continue to reconfigure this report field, so that it is usable by Fiscal staff in determining the yearly levy. This may eliminate the need to manually "back out" levy calculations each year.

At the March 2021 exit conferences, DTAC reported that the Department is in the process of working with its TCAS team and Tax Roll Control staff from the Controller-Treasurer Department to address these issues.

DEPARTMENT ACCOMPLISHMENTS

While management audits focus on areas for improvement within the audited entity, these entities also have accomplishments that should be highlighted to enable the reader to understand operations in their entirety, including those areas that are not the subject of audit findings. We have asked the Department of Tax and Collections to provide comment on its recent accomplishments. Management furnished the memo which is provided as Attachment D on page 105.

RECOMMENDATION PRIORITIES

The priority rankings shown for each recommendation in the audit report are consistent with the audit recommendation priority structure adopted by the Finance and Government Operations Committee of the Board of Supervisors, as follows:

Priority 1: Recommendations that address issues of non-compliance with federal, State and local laws, regulations, ordinances and the County Charter; would result in increases or decreases in expenditures or revenues of $250,000 or more; or, suggest significant changes in federal, State or local policy through amendments to existing laws, regulations and policies.

Priority 2: Recommendations that would result in increases or decreases in expenditures or revenues of less than $250,000; advocate changes in local policy through amendments to existing County ordinances and policies and procedures; or, would revise existing departmental or program policies and procedures for improved service delivery, increased operational efficiency, or greater program effectiveness.

Priority 3: Recommendations that address program-related policies and procedures that would not have a significant impact on revenues and expenditures, but would result in modest improvements in service delivery and operating efficiency.

Section 1: Remittance Processing Errors

Background
In June 2016, the Board of Supervisors approved processing of mailed property tax payment checks by the County's banking vendor, rather than County staff. Taxpayers mail payments to a "lockbox" address maintained by the County's bank in City of Industry, CA. The vendor opens, inspects, and deposits these payments into the County's banking accounts and sends a remittance report to the Department of Tax and Collections (DTAC) detailing the checks that were received and processed. The vendor also sends a exceptions report showing stubs for checks that were unable to be posted for reasons such as an illegible account number. During the Fiscal Year 2019–20 tax seasons, the lockbox processed 278,061 checks valued at over $2 billion.

Problem, Cause, and Adverse Effect
DTAC reported that the lockbox vendor's business model initially did not align with the varied ways in which County taxpayers would submit payments. While DTAC does not centrally track its vendor's remittance processing errors, thereby making its overall error rate unknown, we found multiple potential issues over the FY 2018–19 and 2019–20 tax cycles. For instance, we identified four "lost check" penalty appeals in which only one of multiple payments mailed in a single envelope had been correctly processed, indicating a remittance error rather than a lost mail issue. In addition, within DTAC's penalty appeal and taxpayer inquiry logs, we identified 18 distinct cases of mishandled or uncashed checks, checks applied to the incorrect parcel number, or check issues that were erroneously excluded from the vendor's exceptions report and were therefore never manually verified by the Department's Payment Processing Unit. These 22 cases likely represent only a portion of overall remittance errors, although an envelope tracking service DTAC initiated in July 2020 may have improved the Department's ability to locate payments. Further, contrary to best practices, the County's lockbox contract does not contain an error tolerance provision that defines the acceptable degree of remittance errors. Failures to remit all received tax payments and accurately transmit this information to DTAC can result in inefficiencies as staff have to research missing payments and manage taxpayer appeals of late-payment penalties. Further, taxpayers are burdened as they have to place stop notices on lost checks, resend payments, and pay late penalties.

Recommendations
The Department should amend its lockbox agreement to include an error tolerance provision that states the level of acceptable error from its vendor and develop a coordinated system to track these errors. In addition, upon expiration of its current agreement, DTAC should consider processing its payments in-house through its batch payment processing system, Teller.

Savings, Benefits, and Costs
Amending the lockbox agreement would clarify expected service levels for the County's remittance processing vendor, as well as define remedies for when those standards are not met. Switching to in-house remittance processing would require a one-time cost of approximately $632,000 for updated mail-opening equipment. However, based on billings from the lockbox vendor, we estimate net savings of $348,018 annually thereafter. An additional potential benefit is quicker resolutions to lost payments, as DTAC would only need to coordinate among its own staff instead of reaching out to a third party.

FINDING

The County's Tax Collection Lockbox

The County of Santa Clara receives property tax payments through a lockbox located in City of Industry, CA. Taxpayers mail payments to the lockbox's address, and the County's contracted third-party vendor opens, inspects, and deposits these payments into the County's accounts as if the payments were mailed to the County's bank directly. A remittance report is also transmitted to the County detailing the checks that were received and processed, as well as an exceptions report showing stubs for checks that were unable to be posted for reasons such as an illegible account number. Department of Tax and Collections (DTAC) staff manually review these stub images and approve posting of these checks.

Until June 2019, Wells Fargo Bank provided these lockbox services via a remittance processing subcontractor ("lockbox vendor") through an Operational Banking Services Agreement with the County that was approved in August 2015. In June 2019, Wells Fargo, the lockbox vendor, and the County signed an agreement reassigning lockbox responsibilities directly to the lockbox vendor (thereby removing Wells Fargo as an intermediary party).

In theory, lockbox services may result in quicker access to funds due to immediate depositing of payments, which can subsequently contribute to increased interest earnings. Additionally, third-party lockbox providers make it possible to process large volumes of payments without the County having to hire additional staff. During the Fiscal Year 2019–20 December and April peak tax seasons, the lockbox vendor processed 278,061 checks valued at over $2 billion.

Potential Remittance Processing Errors

While lockboxes can improve the speed of remittance processing, lockbox vendor errors can contribute to payments not being received or posted timely. These errors are sometimes difficult to identify, as payment issues can stem from multiple sources such as taxpayer mistakes or late mailings, taxpayer bank issues, postal carrier delays, or the County mailing the bill to the incorrect taxpayer address. However, DTAC is able to identify *potential* lockbox errors through numerous channels within its Customer Service and Support and Collections Divisions.

For example, the Management Audit Division identified multiple cases in which lockbox errors may have resulted in the submission of penalty appeals. When property tax payments are not received by their due dates, DTAC assesses a 10% penalty on the late payment, as well as a $20 charge. Taxpayers who believe they should not have been assessed a penalty can submit a penalty appeal to contest these fees. For instance, if the taxpayer believes they paid timely but their check was lost in the mail, they can submit a penalty appeal with documentation indicating that a check was sent by the due date.

In a sample of 28 FY 2019–20 penalty appeals that DTAC categorized as "lost in mail," we found four cases (14%) in which the problem potentially lay with the lockbox vendor rather than the postal carrier. For these appeals, which were all approved with supplemental documentation, taxpayers claimed that multiple checks were sent in the same envelope, but that only one of the checks was processed. If these checks were indeed sent in a single envelope, and one of the checks in each batch was received and processed, this scenario precludes the possibility that the envelope was

lost in the mail. Rather, according to reports from DTAC staff, it is more likely that the lockbox vendor failed to process one of the checks. Within the Department's penalty appeal tracking logs, we found two additional cases from FY 2018–19 that DTAC staff had identified as potential mishandling of the payment by the lockbox vendor.

DTAC also maintains a taxpayer inquiry log through its Customer Service and Support Division that contains customer phone and walk-in inquiries directed to its Tax Information Unit. The Management Audit Division reviewed this log and found 16 unique inquiries ranging from June 2018 to February 2020 that suggested lockbox errors. The majority of these cases exhibited the situation discussed above, in which multiple checks were mailed in the same envelope, but only a portion of the checks were processed. Other issues included the following:

- Separate checks were sent for multiple parcels, but the total amount of these checks was only applied to a single parcel.
- A payment was applied to the incorrect parcel number.
- A payment was unable to be located despite the taxpayer providing a tracking number with a "received" date by the lockbox.
- Notices of check exceptions unable to be processed by the Lockbox were never included in the report transmitted to DTAC.

Further, the lockbox vendor's exceptions reports show instances in which checks for the vendor's other customers were erroneously included with DTAC's batch. DTAC's Payment Processing Unit staff also reported cases where the lockbox vendor posted a check to the taxpayer's annual bill instead of their supplemental bill or vice versa. Misapplied payments must be reversed by DTAC's Fiscal Unit.

DTAC does not have a system in place to centrally track potential lockbox errors. While the Tax Information and Payment Processing Units, Fiscal Division, and Tax Collections Unit coordinate to respond to taxpayers on payment issues, information from the taxpayer inquiry log, exception reports, and penalty appeals and associated tracking logs are not compiled into a single document. Further, the Payment Processing Unit also reports lockbox operational issues to a County information technology liaison, which may include additional lockbox errors. Due to the disparate ways in which this information is tracked, the true volume of potential lockbox errors is unkown.

Lockbox vendor errors have consequences for both DTAC and taxpayers. Researching lost or incorrectly applied payments, reversing payments, and completing penalty appeals all require staff time from the Department. On the taxpayer end, these customers are burdened as they have to place stop notices on lost checks, resend payments, and pay penalties—even if the penalties are eventually reversed following an approved penalty appeal.

A portion of these errors might be attributable to the lockbox vendor's original business model, which was "one check, one stub." DTAC executive management reported that County taxpayers send payments in a variety of ways that challenge this model, and DTAC had to train the lockbox vendor to meet the County's business needs. This made for "difficult" implementation. In July 2020, the Department initiated an "informed delivery" service with the U.S. Postal Service (USPS) that scans the customer's property tax stub/coupon and tracks this coupon as it travels through the USPS system from mailing to delivery. This service may help reduce errors, as DTAC can verify whether 1) the bill was sent to the correct address and 2) whether the coupon was scanned—and therefore presumed received—at the lockbox location.

Provisions of the County's Lockbox Agreement

Best practices promulgated by the Government Finance Officers Association state that government lockbox contracts should dictate an error tolerance level. Contrary to this best practice, the County's Operational Banking Services Agreement does not include an error tolerance provision. In the absence of documented service level requirements, the County has little recourse for situations in which mitigating the lockbox vendor's errors outweighs the efficiency benefits of this service. We recommend that DTAC amend its lockbox agreement to include an error tolerance provision that states the level of acceptable error from its vendor, as well as remedies for when this requirement is not met.

Pinpointing lockbox vendor errors can be challenging due to the fact that remittance issues can also arise as a result of County, taxpayer, or postal carrier actions. However, several of the situations discussed earlier in this section such as misapplied payments, rejected checks that were not included in reject reports, non-County checks that were erroneously included in reject reports, and payments that were verified as "received" can be directly tied to the lockbox vendor mistakes. Consequently, we recommend that the new error tolerance standard explicitly outline the different error types that apply to this requirement. DTAC's Payment Processing and Tax Information Units, Fiscal Division, and the Collections Division should coordinate a system to track these specified errors from sources such as daily exception reports, reversed payments, and penalty appeal and customer inquiry results.

In-House Batch Processing System

Prior to instituting a tax collection lockbox, the County processed all remittances in-house through its financial transaction automation machine, BancTec. Since then, DTAC has acquired a new point-of-sale system, Teller. This system has bulk check scanning capabilities, and staff from DTAC's Information Technology, Customer Services and Support, and Payment Processing Divisions reported that moving remittance processing in-house with Teller may allow for greater efficiency and quality assurance. DTAC's supplemental payment processing had already moved in-house as of July 2020. In addition, Department executive management reported plans for acquiring a new mail opening and sorting machine when DTAC moves its operations to the County's Tasman Campus, which would improve the speed of processing these payments.

Between Teller's bulk scanning capabilities, the planned new mail machine, and a trend towards online rather than mailed tax payments, the Department estimated that no new permanent staff would be necessary for in-house remittance processing. Rather, DTAC executive management projected needing to hire five Extra Help staff

during the two peak tax seasons, who would be supervised by permanent staff from the Department's Payment Processing Unit. As such, following the expiration of DTAC's lockbox contract, the Management Audit Division recommends that the Department consider transitioning to an in-house remittance processing system using Teller's bulk check scanning capabilities. If implemented, DTAC should assess the performance of the system after one year and determine whether to keep in-house processing or revert to its outside lockbox vendor.

Under this new workflow, the Department should also institute appropriate measures to ensure payments processed in-house are guarded against potential theft or loss. DTAC should follow all applicable guidelines within the County's Cash Handling Administrative Guide, including segregation of cash handling duties and procedures contained within the Guide's "Payments Received through the Mail" section. DTAC should also perform periodic monitoring to identify potential theft, including reviewing trends in customer complaints and examining account balances to identify increases in accounts not paid.

CONCLUSION

Third-party lockboxes can expediate remittance processing for tax payments, thereby increasing interest earnings and reducing the need for in-house payment processing staff. However, DTAC's penalty appeal records, taxpayer inquiry logs, and reject reports received from its lockbox vendor indicate potential remittance processing errors that burden both Department staff and taxpayers. Further, lockbox payments that have not been deposited timely can result in lost interest earnings, counteracting the financial benefits of utilizing a lockbox system. DTAC should ensure that its remittance processing system maximizes revenue and minimizes staff time allocated to correcting payment receipt and posting errors.

RECOMMENDATIONS

The Department of Tax and Collections should:

1.1 Following the expiration of its lockbox contract, consider transitioning to an in-house remittance processing system using Teller's bulk check scanning capabilities. If implemented, the Department should assess the performance of the system after one year to determine whether to keep in-house processing or revert back to its outside lockbox vendor.

Under this new workflow, the Department should also institute appropriate measures aligned with the County's Cash Handling Administrative Guide and best practices to ensure payments processed in-house are guarded against potential theft or loss. This includes segregation of cash handling duties, periodic monitoring of customer complaints and account balances, and background checks for Extra Help staff. (Priority 2)

1.2 Amend its lockbox agreement to include an error tolerance provision that states the level of acceptable error from its vendor, as well as remedies for when this requirement is not met. The new provision should explicitly outline the different error types that apply to this requirement. (Priority 2)

1.3 If Recommendation 1.2 is adopted, instruct its Payment Processing and Tax Information Units, Fiscal Division, and the Collections Division to coordinate a system to track specified error types from sources such as daily reject reports, reversed payments, and penalty appeal and customer inquiry results. (Priority 2)

SAVINGS, BENEFITS, AND COSTS

Implementation of Recommendations 1.2–1.3 may require additional efforts in the form of error tracking, but not enough to warrant extra staff. Meanwhile, these measures would help define acceptable service level standards and allow for recourse when contractor performance is unsatisfactory.

We estimate that a new mail-opening system to facilitate in-house remittance processing per Recommendation 1.1 will incur a one-time equipment cost of $632,000. DTAC staff reported that no new permanent positions would be necessary with an in-house remittance system. Rather, the Department would rely on Extra Help staff retained during peak tax seasons to process payments. We estimate the total cost of this Extra Help to be $77,125 annually. Based on FY 2017–18 through FY 2019–20 billings from the lockbox vendor, we estimate a net annual savings to the County of $348,018 per year. An additional potential benefit of this pilot would be quicker resolutions to lost payments and other remittance issues, as DTAC would only need to coordinate among its own staff instead of reaching out to an outside vendor.

Section 2: Property Tax Penalty Appeals Outcomes

Background
When taxpayers miss deadlines for secured and unsecured property tax payments, they are assessed a penalty equivalent to 10% of the unpaid taxes plus an additional collection fee. Taxpayers who believe that there was an error on their tax bill or that extenuating circumstances prevented timely payment can file a penalty appeal to gain a refund on these penalties. Collections staff from the Department of Tax and Collections (DTAC) review these appeals, and final dispositions are approved by senior or supervising staff within 45 days, per Department policy. During Fiscal Year 2018–19, taxpayers filed 1,244 unique secured tax penalty appeals and 63 unsecured tax penalty appeals.

Problem, Cause, and Adverse Effect
Approvals and denials of penalty appeals are largely subject to the judgment of individual reviewers. These reviewers determine, based on documentation accompanying these appeals, whether late payments occurred in absence of taxpayer neglect. However, in a judgmental sample of penalty appeals from FY 2018–19, we identified inconsistencies in outcomes of appeals with similar justifications and supporting documentation. For instance, one "lost in mail" appeal appended a carbon copy of the original check and was denied for "insufficient documentation." However, another appeal with the same evidence was approved with DTAC staff noting, "benefit of doubt." In other cases, appeals citing payment portal issues and emergency travel were accepted with minimal or no documentation, while others were rejected. While every appeal case is unique, different outcomes for similar circumstances raise equity concerns for taxpayers, particularly when documentation is lacking.

Recommendations
To ensure more uniform documentation from taxpayers, DTAC should publicly post guidelines for acceptable supporting documentation for the most commonly cited penalty appeal reasons. Suggested examples of such documentation can be found in the Department's penalty appeals policy. While the policy states that penalty appeal decisions are subject to reviewer judgment and only lists these documents as evidence for "*possible* basis for approval" (emphasis added), including these documents as guidelines for taxpayers may reduce variation in the amount and types of documentation submitted. Further, if appeals are approved in absence of this information or denied despite the submission of these documents, the rationale for these decisions should be clearly documented in the penalty appeal response. In addition, DTAC supervisory tax collections staff should perform annual audits of a sample of appeal results, verifying whether sufficient documentation was provided and comparing the outcomes of similar appeals for consistency. If discrepancies exceed thresholds determined by supervisors prior to the audit, DTAC should institute additional training for staff in this area.

Savings, Benefits, and Costs
Implementing these recommendations would better ensure fairness and consistency in appeal results. Further, posting documentation requirements could help prevent unnecessary back-and-forth caused by DTAC staff requesting additional evidence from taxpayers. This will improve efficiency of the Department and allow the taxpayer to receive their refunds sooner, should their appeals be approved.

FINDING

Penalties for Late Property Tax Payments

Secured taxes on real property have two due dates each fiscal year: December 10 and April 10. Meanwhile, the last day to pay unsecured taxes is August 31. Following these dates, tax payments are considered delinquent, and taxpayers are assessed a penalty equivalent to 10% of unpaid taxes plus an additional collection fee—$20 for secured taxes and $50 for unsecured taxes. After June 30, unpaid secured property taxes are placed on the "redemption" roll and accrue additional penalties. Outstanding unsecured taxes begin to accrue a monthly 1.5% penalty after two months, and the County's Office of the Clerk-Recorder charges a $20 fee for releasing a Certificate of Tax Lien if it is recorded on the unsecured property.

California Revenue and Taxation code allows for the cancellation of penalties under certain circumstances, contingent on "satisfactory proof."[11] Taxpayers can file a penalty appeal to recoup penalties if they believe that an error was made on the part of the tax collector, auditor, or assessor. Alternatively, taxpayers may seek a refund if they believe that extenuating circumstances prevented them from paying their tax bill timely, through no fault of their own. For appeals to be considered, taxpayers must submit the full outstanding tax amount and penalties, the latter of which get refunded if the appeal is approved. During Fiscal Year 2018–19, taxpayers filed 1,244 unique secured penalty appeals and 63 unsecured penalty appeals.

Department of Tax and Collections (DTAC) Review of Penalty Appeals

Penalty appeals are reviewed by collections staff. Final dispositions are approved by the Department's Tax Collection Manager, supervising and senior collectors, or Collections Division Manager within 45 days, per Department policy. Approvals and denials of penalty appeals, other than those filed for reasons explicitly cited by California Revenue Taxation Code (e.g., tax collector error or cancellation ordered by a local, state, or federal court), are largely subject to the judgment of individual reviewers. While the Department's policy details scenarios that are a "possible basis for approval" for an appeal, as well as suggested documentation for these scenarios, "Criteria for approval/denial of waiver requests are only guidelines and not meant to substitute for sound judgment."

The Management Audit Division reviewed a judgmental sample of 60 secured and 12 unsecured penalty appeals from FY 2018–19. Of this sample, 28 secured appeals and 6 unsecured appeals were approved (48% and 50%, respectively). However, while every penalty appeal case reflects a unique circumstance, we identified inconsistencies in outcomes of multiple appeals with similar justifications and supporting documentation.

For example, one taxpayer claimed that they had mailed a check before the due date, but that it was never deposited. The taxpayer submitted a carbon copy of the original check as supporting documentation. However, DTAC rejected this penalty cancellation request and noted that the appeal may be reconsidered if the taxpayer submitted a copy of their check register, monthly bank statements showing that adequate funds were available to cover payment, and a Stop Payment Order, if available. Yet, in another case, a taxpayer explained that one of their two property tax checks was not

11 CA Rev & Tax § 4985.

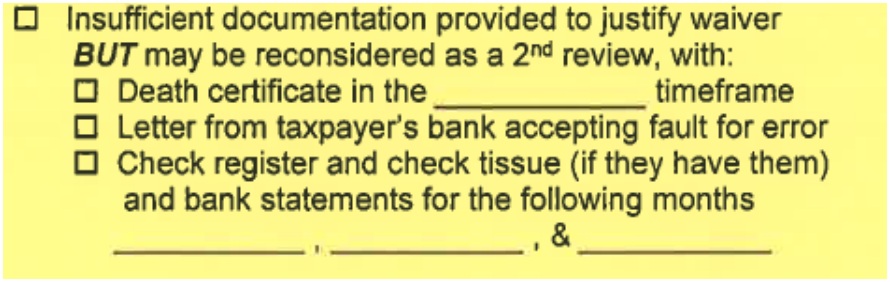
deposited, and provided the same exact documentation: carbon copies of the mailed checks. Penalties were waived for this taxpayer with DTAC staff noting, "Benefit of Doubt. T/P claims 2 checks were in one env." It is unclear why this taxpayer was not required to provide the same level of documentation as the one whose appeal case was denied.

Further, we identified two instances of penalties being waived with no supporting documentation. One of these cases involved a taxpayer traveling out of the country for family medical reasons, and the other was for a taxpayer who couldn't pay through the online payment portal due to technical issues. In a third case, a taxpayer was in the country on the final due date, but claimed that preparations for a family emergency trip prevented them from paying their bill on time. The only evidence provided for this situation was airline ticket payment and flight information. In contrast, DTAC denied two analogous cases, wherein one taxpayer had issues with their electronic check being accepted by the online portal, and another whose evidence for family emergency-related travel was deemed to not support the narrative provided on the appeal request form. Again, while every case is unique and evaluated as such, it poses equity concerns when some penalty appeals are approved with minimal or no supporting documentation—particularly when others noting similar circumstances are rejected.

Inconsistent decision making around appeals can have significant financial impacts for County taxpayers, as many penalties range in the hundreds to thousands of dollars. The Department reported that information about required appeal evidence is usually provided during one-on-one conversations between staff and individuals submitting appeals. To improve fairness and uniformity of supporting penalty appeal documents received by DTAC, the Management Audit Division recommends that the Department include guidelines for acceptable supporting documentation for the most commonly cited penalty appeal reasons on their website and penalty appeal forms. This is a practice exercised by San Mateo and San Diego Counties.

While DTAC noted that there are many different types of appeals, even in our limited sample of 60 secured appeals (less than 5% of all those filed), multiple responses to penalty cancellation applications shared the same requested documentation: a death certificate; a letter from the taxpayer's bank accepting fault for error; and check registers, check carbon copies, and bank statements. These same documents are listed in the Department's internal forms noting final dispositions (see Figure 2.1 below).

Figure 2.1: *Department's Internal Disposition Form*



Source: Provided by the DTAC.

Additionally, examples of supporting evidence are outlined in a chart within DTAC's penalty appeals policy. As discussed earlier, the policy states that the possible penalty appeal approval scenarios and associated documentation are "only guidelines and not meant to substitute for sound judgment." However, within our review of penalty appeal records, DTAC staff repeatedly requested this same documentation from taxpayers in their processing of appeals. Increasing transparency of appropriate evidentiary documentation for appeals can create more uniformity around received materials. Further, if penalty appeals are approved in absence of this information or denied despite the submission of these documents, the rationale for these decisions should be clearly documented in the penalty appeal response.

To further ensure consistency of penalty appeal outcomes, we also recommend that DTAC supervisory tax collections staff perform annual audits of a sample of appeal results, verifying whether sufficient documentation was provided and comparing the outcomes of appeals with similar reasons, which are recorded in the Department's penalty appeals log. Such audits would provide a clearer overall picture of how staff are evaluating and treating penalty cases. If discrepancies exceed thresholds determined by supervisors prior to the audit, DTAC should institute additional penalty appeals training for staff.

CONCLUSION

Property tax payments made after final delinquency dates accrue penalties equivalent to 10% of the unpaid tax amounts, plus collection fees. Under California Revenue and Taxation Code, penalties may be canceled under certain circumstances, so long as sufficient proof is provided by the taxpayer. DTAC is responsible for reviewing and making final determinations on these penalty appeals. While some reasons for approving appeals are explicitly cited in the Revenue and Taxation Code, most scenarios outlined in these appeals are subject to the judgment of DTAC staff. In our review of a sample of FY 2018–19 penalty appeals, we found inconsistencies in the provided documentation and outcomes of appeals with similar justifications. Such variance raises equity concerns for taxpayers.

RECOMMENDATIONS

The Department of Tax and Collections should:

2.1 To ensure more uniform documentation from taxpayers, include guidelines for acceptable supporting documentation for the most commonly cited penalty appeal reasons on their website and penalty appeal forms. Further, if penalty appeals are approved in absence of this information or denied despite the submission of these documents, the rationale for these decisions should be clearly documented in the penalty appeal response. (Priority 2)

2.2 Require supervisory tax collections staff to perform annual audits of a sample of appeal results, verifying whether sufficient documentation was provided and comparing the outcomes of appeals with similar reasons, which are recorded in the Department's penalty appeals log. If discrepancies exceed thresholds determined by supervisors prior to the audit, DTAC should institute additional penalty appeals training for staff. (Priority 2)

SAVINGS, BENEFITS, AND COSTS

Implementing these recommendations will allow for more consistency in the outcomes of penalty appeals, reducing the likelihood that results will be arbitrarily contingent on the specific departmental staff member reviewing the appeal. Further, increased public transparency around required penalty cancellation evidence may reduce back-and-forth document requests between the taxpayer and DTAC staff. For instance, we found that 8 of 32 denied secured appeals (25%) noted that the case may be reconsidered if the taxpayer sent additional documentation. Noting required documents from the outset could prevent such cases and prevent the extension of review timelines. This would increase the efficiency of staff reviewing appeals and also generate shorter turnaround times of penalty refunds for the taxpayer.

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Section 3: Cost Recovery Agreements and Fees

Background
The Department of Tax and Collections (DTAC) performs collections for over 20 County departments and external entities. Medical and justice-related debts comprise the largest proportion of accounts, and DTAC has Memorandums of Understanding (MOU) with the Santa Clara Health and Hospital System (HHS) and the Santa Clara Superior Court that govern cost recovery provisions for these collections efforts. In addition, DTAC generates revenue through charging fees—many of which are authorized by State statute—for tasks such as processing returned checks, setting up payment plans for delinquent property taxes, and selling tax-defaulted property. During Fiscal Year 2018–19, DTAC recouped $6.4 million through its 24 active fees, approximately 75% of which was comprised of court cost recovery fees, parking citations, and the Sheriff's Weekend Work Program for inmates.

Problem, Cause, and Adverse Effect
While DTAC has MOUs with HHS and the Court system, as of September 2020, the Department did not have a written agreement detailing cost recovery mechanisms with Valley Health Plan (VHP), the County's insurance plan. Rather, DTAC recovers 20% of its VHP collections through a "verbal agreement." Further, as of August 2020, 20 of 24 active fees (83%) charged for tax and revenue-related tasks had not been updated since 2012, with 13 of these fees not having been updated since 2003. Collectively, these 20 fees generated over 99% of DTAC's fee revenue during FY 2018–19. Several of these fees were determined through a cost recovery formula that relied on now-outdated staff costs and time estimates for administrative tasks. Others did not have sufficient documentation for auditors to determine the specifics behind how these fees were calculated. Having outdated fees and charges means that taxpayers are subsidizing certain costs for services only furnished to specific individuals. We estimate that updating all cost recovery fees from 2012 and earlier would generate an additional $591,000 or more in annual revenue, and that the lost reimbursement since 2003 likely exceeds $1 million in total.

Recommendations
DTAC should finalize its written cost recovery agreement with VHP to memorialize the details of its cost recovery methodology. The Department should also immediately update all fees and charges older than two years, prioritizing rates that have not been updated since 2003. Per the Controller-Treasurer's Fees and Charges Policy, DTAC should review and update its rates at least every three years to include current costs, and all calculations used to determine these updated rates should be documented.

Savings, Benefits, and Costs
These recommendations will ensure that the Department's fees and charges accurately reflect the actual costs of performing its services and are updated on a schedule that complies with County policies. We estimate a net benefit of over $591,000 from these fee and charge updates, due to inflation and significant salary changes that have occurred since 2003. Further, the 2005 audit of DTAC's fees and charges by the Controller-Treasurer—many of which have still not been updated since 2003—found that rates did not include all direct and indirect costs. Adding in these additional costs will likely increase fees and charges and overall revenue.

FINDING

Departmental Cost Recovery Mechanisms

The Department of Tax and Collections (DTAC) performs collections activities for over 20 County departments and external parties (see Attachment C on page 103 for the full list). During Fiscal Year 2018–19, the Department collected $44.9 million[12] on accounts referred to the Department by these clients. Medical and justice-related debts comprised the largest proportion of these accounts, totaling $14.3 million and $20.0 million in gross collections, respectively.

DTAC recoups a portion of its administrative costs through cost recovery provisions documented in Memorandums of Understanding (MOU) with the Santa Clara Health and Hospital System (HHS) and the Santa Clara Superior Court. HHS compensates DTAC 20% of the total amount collected each month. Meanwhile, the Department's MOU with Santa Clara Superior Court states, "County and Court agree to cooperate and to seek the full extent of cost-recovery allowed under Penal Code section 1463.007."[13]

In addition, DTAC generates revenue through charging fees for tasks such as processing returned checks, setting up payment plans for delinquent property taxes, and selling tax-defaulted property. Authority for setting fees is granted under California Government Code Section 54985, Revenue and Taxation Code, Penal Code, and the County Ordinance Code. While some fee amounts are statutorily defined, the majority of rates are determined through a cost recovery formula. The Controller-Treasurer Department's Fees and Charges policy states the following:-

> "Fees and charges that are imposed by County Agencies and Departments for services to outside agencies, businesses, individuals, and other County Agencies and Departments are to be based on full cost recovery to the extent legally allowable. Full cost recovery requires that departments' calculations of fees and charges include appropriate indirect costs."

Once determined, fee amounts are generally approved by the Board of Supervisors, set forth in the County's Ordinance Code, and published annually in the County-wide Master Fee Schedule. Revenues from DTAC's 24 active fees amounted to $6.4 million during FY 2018–19.[14] (See Attachment E on page 111 for a list of fees and their descriptions.)

12 While DTAC staff performed the necessary work (e.g., skip tracing, contacting debtors, etc.) to collect this $44.9 million, $39.1 million was collected by the Department—the remainder was billed out by the Health and Hospital System to outside providers.

13 While not a "client," the Social Services Agency (SSA) also has an MOU with the Department for its Public Assistance Unit collections. DTAC charges SSA through an Intracounty Seller Relationship on a quarterly basis for the unit's Full-Time-Equivalent positions and a 15% indirect cost charge.

14 This $6.4 million covers costs that were recouped exclusively by DTAC and does not include distributions to external parties such as the State. In addition to these 24 active fees, there was also $35,218 in revenue generated through a Work Furlough Fee. While this fee is no longer actively imposed, revenue for this item is still collected on old accounts.

No Formal Cost Recovery Agreement for Valley Health Plan

Despite performing collections activities for a wide range of entities, DTAC has very few formal agreements detailing cost recovery provisions for the collections. In large part, this is because the majority of DTAC's client departments have operational budgets that—like DTAC—are financed by the County's General Fund, and costs for DTAC's services are allocated to County departments through the County-wide cost allocation plan. For entities not budgeted out of the County's General Fund, referrals have been minimal, and gross collections for many of these departments and agencies amounted to $0 during FY 2018–19.

Of DTAC's departmental clients, Valley Health Plan (VHP), the County's insurance plan, is one of the few entities for which DTAC performs substantial collections. During FY 2018–19, DTAC collected over $2 million in gross collections for VHP, with approximately $227,000 of this amount being available for disbursement to VHP and cost-sharing with DTAC.[15] Yet, there is no written MOU that details cost recovery provisions for DTAC's VHP-related collections. DTAC reported that these collections are not covered under the HHS MOU; rather, the Department receives 20%of collections from VHP via a "verbal agreement." However, this amount sometimes varies depending on what proportion of accounts is billed to third-party providers, and DTAC's Fiscal Division has an internal charge distribution report through which it calculates its cost recoupment from VHP.

DTAC reported that it is currently in the process of finalizing its MOU with VHP. While MOUs between County departments are not legally binding, documenting cost recovery provisions would 1) memorialize this arrangement in the event of staff turnover and 2) clarify cost-sharing methodologies, given that DTAC's Fiscal Division makes adjustments to VHP collection amounts prior to calculating its 20% cost recovery share. The Management Audit Division thus recommends that DTAC finalize this written agreement, along with provisions for cost recovery and exceptions to the 20% recoupment amount, as soon as possible.

83% of Fees Not Updated Since 2012

As of August 2020, 20 of 24 active fees (83%) charged for tax and revenue-related tasks had not been updated since 2012, with 13 of these fees not having been updated since 2003—a period of 17 years. Collectively, these 20 fees generated over 99% of DTAC's total fee revenue during FY 2018–19. The Management Audit Division had noted in our 2005 audit of the then-Tax Collector that Department staff were unable to recreate the cost recovery calculations used to determine fee amounts at that time. Further, an internal audit by the Controller-Treasurer Department found that maximum fees were not being charged for services, and that rates did not include all indirect and current costs. Yet, despite these findings, the 2003 fees covered in these audit reports have not been updated due to a reported lack of time by the Department.

15 The remainder of the $2 million was billed to outside insurers.

Many of the fees in question were already inaccurate in 2005 due to miscalculation of indirect costs. Since then, it is likely that these fees have become even less accurate, given that the majority of these outdated fees were determined through a cost recovery formula that reportedly factored in staff costs and the time to perform these tasks. All seven job codes referenced in these cost recovery formulas have had significant salary increases ranging from 48% to 74%, making it very likely that existing fee rates from 2003 are not sufficient to cover current costs (see Figure 3.1 below for Step 3 salary comparisons for referenced job codes).

Figure 3.1: *Step 3 Salary Comparisons Between 2003 and 2020*

Job Classification	2003 Step 3 Hourly Salary	2020 Step 3 Hourly Salary	% Change
Account Clerk II	$17.41	$27.32	57%
Accountant Assistant	$19.22	$30.40	58%
Accountant I[(1)]	$22.88	$34.28	50%
Office Specialist III	$17.99	$26.69	48%
Revenue Collections Officer I	$21.51	$33.78	57%
Senior Revenue Collections Officer[(2)]	$24.33	$37.06	52%
Supervising Account Clerk II	$26.30	$45.63	74%

Source: Employee Services Agency Salary Report and County-wide Salary Plan as of August 2020.

Notes: (1) Was equivalent to Accountant/Auditor-Appraiser position in 2003.
(2) Was equivalent to Revenue Collections Officer II position in 2003.

While it is likely that the time to complete services—another component in the cost recovery calculations—has gone down with increased efficiency and technological advancements, it is unlikely that reduced staff hours have entirely offset the substantial salary increases shown above. Additionally, other fees such as parking penalties have not been adjusted for inflation. We estimate that the lost reimbursement since 2003 likely exceeds $1 million in total.

Multiple State laws governing these fees assert that counties may set a fee equivalent to the *actual* administrative costs of providing various services. Further, the Controller-Treasurer Department's Fees and Charges policy states that fees and charges are "to be based on full cost recovery to the extent legally allowable." The same policy states, "County Agencies and Departments must identify fees and charges that have not been updated within the last three years and work with the Controller-Treasurer Department CMU [Cost Management Unit] to update them."

Then, by charging fees that are likely unaligned with the actual costs to perform work, and that are outdated by 17 years, DTAC is out of compliance with County policy. DTAC reported that it was beginning a process to work with the Controller-Treasurer Department's Cost Management Unit to update its fees, and Department staff showed Management Auditors workpapers surrounding one updated fee calculation. However, competing priorities have reportedly made it difficult to complete this project.

While DTAC has taken on many large projects over the last several years such as updating its collections system and implementing its new cashiering system Teller, maximizing County revenues is an critical priority. Undercharging for services means that County taxpayers must ultimately subsidize costs that the Department has failed to recover. The Management Audit Division recommends that DTAC work with the Cost Management Unit to immediately update all fees and charges, prioritizing rates that have not been updated since 2003. Per the Controller-Treasurer's Fees and Charges Policy, DTAC should review and update its rates at least every three years to include current costs, and all calculations used to determine these updated these rates should be documented.

To note, the Department reported that five active DTAC fees in the Countywide Fee Schedule—while collected by DTAC—are not set by the Department. These fees include the following:

- Civil Assessment Fee and Restitution Administration Fee (set by the Superior Court)
- Public Service Program Fee and Weekend Worker Fee (set by the Santa Clara County Office of the Sheriff)
- Returned Check Fee for general collections (Countywide fee per master list).

Consequently, our recommendations to the Department do not cover these five fees.

CONCLUSION

DTAC recoups administrative costs for its collections and tax services through written agreements and 24 different active fees. However, the Department does not have a written MOU with VHP, one of its major clients, and 83% of its fees have not been updated in eight years or more. To maximize revenues, comply with County cost control policies, and prevent County taxpayers from subsidizing its operations, DTAC should ensure that it is recovering all possible costs in a manner that reflects actual costs of its services.

RECOMMENDATIONS

The Department of Tax and Collections should:

3.1 Enter into a written Memorandum of Understanding with Valley Health Plan for collections activities that includes cost recovery provisions and any exceptions to these requirements. (Priority 1)

3.2 Work with the Cost Management Unit of the Controller-Treasurer Department to immediately update all fees and charges, prioritizing rates that have not been updated since 2003. Per the Controller-Treasurer's Fees and Charges Policy, DTAC should review and update its rates at least every three years to include current costs, and all calculations used to determine these updated these rates should be documented. (Priority 1)

SAVINGS, BENEFITS, AND COSTS

Implementing these recommendations will ensure that DTAC is able to consistently recover costs from VHP via a written agreement. Further, revisiting highly outdated fees will place the Department in compliance with County requirements around charge rates and updating timelines.

Recalculating these fees—particularly those computed through a cost recovery formula—will also likely lead to revenue increases for the County, given that these fees are a function of hourly rates and work hours necessary to complete the tasks covered by these fees. While technological improvements may have led to work hour efficiency gains, the reduced time to complete these tasks is likely more than offset by substantial increases to 2003 salaries. For instance, if fees from 2003 or earlier were increased by 40%, 8% lower than the lowest salary increase from Figure 3.1 on page 40, and other fees from 2012 and earlier were adjusted for inflation (excluding fees not set by DTAC), we estimate an additional $591,000 or more in annual revenue. Further, the 2005 internal audit by the Controller-Treasurer Department found that DTAC's indirect costs were being underestimated in its rate calculations. Adding these indirect costs into updated cost recovery formulas may increase revenues further.

Updating these fees and charges on a regular will likely require additional staff hours, and this was cited as a challenge by DTAC in updating fees thus far. As such, DTAC may want to roll out new fees in phases, starting with fees generating the highest annual revenues and cost recovery fees associated with the largest salary increases.

Section 4: Physical Security and Cash Handling

Background
Cashiers from the Department of Tax and Collections (DTAC) accept payments at two sites in San Jose: 70 West Hedding for secured and unsecured property tax payments, and 852 N. 1st Street for public assistance, justice, medical, and general debt payments. Prior to shelter-in-place orders due to the pandemic, both locations were open to the public from Monday through Friday (with the exception of County holidays) and accepted payments by check, cash, or credit/debit card. Collection activities, payment processing, and cash reconciliation occur at these sites as well.

Problem, Cause, and Adverse Effect
The Department, which receives and processes a high volume of cash and checks, requires heightened security. However, auditors observed that doors leading to "authorized personnel only" back offices at 70 West Hedding were propped open, which staff reported to be a frequent occurrence. Additionally, DTAC had several practices that were out of compliance with the County's Cash Handling Administrative Guide at the time of our audit. As of January 2021, DTAC had not posted receipt reminders for customers at its 70 West Hedding payment site, and the Department was not disseminating cash handling policies to its volunteers in accordance with the Guide's specifications. Although the Guide mandates physical cash safeguards for departments that handle this asset, DTAC also had no inventory system for keys that unlock cash file drawers and money bags as of December 2019. During the December 2019 peak tax season, auditors observed that unused keys at 70 West Hedding were kept in an unlocked box during work hours, where anyone in the area could access them. Keys for DTAC's 70 West Hedding location were not engraved with "Do Not Duplicate" (a Guide requirement). These practices raise the risk of keys being lost, inappropriately used, stolen, or copied.

Recommendations
While the Department reported that the "authorized personnel only" doors at 70 West Hedding cannot be locked due to these doors leading to the bathroom and emergency exit, DTAC should minimally ensure that these doors are closed to discourage customers from accessing the back office area. Supervisors within the DTAC Cashiering Unit should develop an inventory and check-in/check-out system for cash-access keys and require relevant personnel to use this system. All keys should be engraved with "Do Not Duplicate" and be kept in a secured area during the workday. DTAC management should also ensure that all requirements of the Cash Handling Administrative Guide are met, including appropriate signage and dissemination of cash handling policies to all individuals who handle cash for DTAC. The Department confirmed that several of these recommendations were underway as of April 2021.

Savings, Benefits, and Costs
These recommendations will bring the Department in compliance with County policies and improve the security of County assets. Developing the recommended inventory system will prevent keys from being lost, accidentally taken home, or stolen—all of which pose a security risk to cash-holding bags and drawers.

FINDING

Departmental Cashiering Locations

The Department of Tax and Collections (DTAC) has two main cashiering locations for in-person payments. Current-year secured and unsecured property tax payments are accepted at 70 West Hedding Street in San Jose. Meanwhile, the Department's 852 N. 1st Street location accepts public assistance, justice, medical, and general debt payments. Prior to implementation of shelter-in-place orders due to the pandemic, both locations were open to the public from Monday through Friday (with the exception of County holidays) and processed payments by check, cash, or credit/debit card.[16] As of April 2021, the Department had reinstated in-person payments, but with limited hours and by appointment, only.

Typically, DTAC's full-time Cashiers receive payments at these sites throughout the fiscal year. During its two peak property tax seasons, the Department retains Extra Help employees and volunteers from other County departments to accommodate its increased volume of customers. The Department reported that all new Extra Help employees must undergo a background check. Meanwhile, County volunteers are sourced from departments that also have controlling capacities or augmented security protocols such as the Assessor's Office, the District Attorney's Office, and other Finance Agency departments.[17]

In addition, DTAC's two payment locations house activities such as payment processing, cash reconciliation, and debt collection activities (e.g., skip tracing, mailing letters to debtors, etc.). These tasks occur away from the cashiering windows—either in back-office cubicles at 70 West Hedding or upstairs levels at 852 N. 1st Street.

Physical Security Risks at DTAC Locations

Due the nature of DTAC's work, the Department requires appropriate safeguards to protect its assets and information. DTAC payment sites receive and process a high volume of cash and checks. Further, DTAC's non-public offices contain checks mailed directly to the Department, as well as personal information of taxpayers and debtors in both hard copy and electronic form. For instance, a penalty appeal file might contain a taxpayer's bank statement, while certain debt collection staff have online access to debtors' medical information, criminal justice history, and Department of Motor Vehicle records on a need-to-know basis.

16 Due to the Coronavirus pandemic, the Department was only accepting online payments as of March 2020.

17 Best practices by the Government Finance Officers Association recommend that all new employees who handle money be "properly vetted via a criminal background check or a similar process." However, County volunteers for DTAC are not vetted under the assumption that the County-wide hiring process and nature of their day-to-day roles have already served as screening mechanisms for these individuals. In addition, DTAC reported that many of their volunteers are "repeat customers," and these individuals are only granted restricted permissions to cashiering systems.

In addition, Department staff have reported cases of irate customers at payment sites, and DTAC has a Disruptive Conduct policy that addresses such incidents. During Fiscal Years 2018–19 and 2019–20, the County Communications Department recorded four 9-1-1 calls regarding DTAC's 70 West Hedding location and three calls from 852 N. 1st Street. These calls demonstrate a potential need for DTAC to ensure the safety of its staff as well as the cash and data in its possession.

However, the Management Audit Division found that the Department does not always ensure its physical safety measures are in place. For instance, during one visit we observed that the doors to DTAC's staff-only area at 70 West Hedding were propped open (see Figure 4.1 below). Department staff reported that this is a frequent occurrence.

Figure 4.1: *Open Door at 70 West Hedding*

Source: Management Auditor photograph.

These glass doors lead to the cashier stations and cubicles where cash reconciliations occur daily. While there are additional badged doors between these areas and the hallway shown in the above image, leaving the main door open in a lobby that is frequented by the public removes a layer of security. This is especially true during tax peak seasons, when customers sometimes arrive before the cashiering station is officially "open," as reported by DTAC staff. Having a door that is propped open poses a safety risk to DTAC staff as they navigate between cubicles, conference rooms, the cash vault, and other workspaces.

The Department reported that these glass doors cannot be locked or secured with a badge reader because these are the only doors that lead to the 6th floor's bathroom and emergency exit. As an alternate security measure, the floor is equipped with security cameras, and DTAC management reported that the public-facing area is scheduled for additional security modifications. Further, the Department is in the process of moving its cash reconciliation activities from its office cubicles to its locked cash vault room. In April 2021, the Department estimated that this project would be complete in 3–6 months.

However, while the Department is unable to secure the glass doors at 70 West Hedding and has installed multiple security controls at this payment site, keeping these doors closed would reduce the likelihood of unauthorized access to DTAC's personnel-only spaces. As such, we recommend that the Department minimally ensure that these doors are closed to discourage customers from accessing the back office area.

Departmental Practices Unaligned with County Cash Handling Administrative Guide

At DTAC's two cashiering locations, cash payments are kept in locked money drawers as they're collected, and Cashiers have access to keys that open these drawers. DTAC Administration holds an extra set of keys as well, and there is a set of master keys at another location.

There was no formal inventory or check-in/check-out system for these cash keys at the time of our audit. In December 2019, during peak tax season, auditors observed that, during work hours, unused keys at 70 West Hedding were kept in an unlocked box. Between shifts, staff did not have to sign keys in or out when money drawers switched hands. While all keys were returned to either a secured file cabinet or cashier station drawer at the end of the day, DTAC staff reported that there is no mechanism to verify that all keys and their duplicates are accounted for. Rather, DTAC staff stated that Cashiers are verbally instructed on handling and returning keys during "on-the-job training."

The County's Cash Handling Administrative Guide requires departments to safeguard cash in their possession, including through physical controls. Further, the Guide requires that a record of all keys and badges to office doors be maintained, and that one employee is tasked with making sure keys are returned by terminated or transferred employees. While this guideline pertains to keys to office doors, applying this requirement to keys that open cash drawers and bags would ensure better compliance with the Cash Handling Administrative Guide's requirements around physical safeguards. The Guide also states that keys be engraved with "Do Not Duplicate," which DTAC has not done for its cash keys at 70 West Hedding.

Having no inventory or check-in/check-out system for keys and failing to engrave them with "Do Not Duplicate" increases the likelihood of keys being misplaced, stolen, copied, or accidentally taken home. For instance, when auditors observed a cash reconciliation in December 2019, DTAC staff were initially unable to open one of the cash bags due to having the wrong key. One of the cashiering staff, who was absent the previous day, then revealed that they had the correct key with them and were able to open the bag. Accounting for all keys throughout and at the end of each workday would allow the Department to have more control over these items and ensure that they are available when needed. This is especially critical during peak tax seasons, when cashiering counters are heavily staffed by Extra Help and County volunteers from other departments.

The Management Audit Division recommends that DTAC develop an inventory and check-in/check-out system for cash-access keys and require relevant personnel to use this system. Under this system, Department staff should not be permitted to leave the premises with their assigned keys; keys should be engraved with "Do Not Duplicate" and checked in and out between shifts; and supervisors should verify that all keys have been returned at the end of each workday. As of April 2021, following receipt of the Management Audit Division's initial audit report draft, the Department had already begun implementing these recommendations. The Department developed a check-in/check-out spreadsheet for keys and reported that they were in the process of engraving all keys at 70 West Hedding with "Do Not Duplicate."

Further, during the period of our audit, the Department was out of compliance with at least two additional procedures from the Cash Handling Administrative Guide. At all locations where cash is accepted, the Guide requires departments to post signs reminding members of the public to obtain a receipt for their payments. However, as of January 2021, such signage was only posted at DTAC's 852 N. 1st Street location, and not at 70 West Hedding. The Department also reported that County volunteers retained during peak season do not receive a copy of the Guide, despite this manual stating that, "All employees with cash handling responsibilities must read sections of the Cash Handling Policy that apply to them." While an Account Clerk from DTAC is present to monitor volunteers during peak tax season, the Guide contains a number of specific guidelines around verifying customer identification and payment details (particularly around checks) that should be reviewed by volunteers before accepting payments.

The Management Audit Division recommends that DTAC management ensure that all requirements of the Cash Handling Administrative Guide are met, including signage guidelines and dissemination of cash handling policies to all individuals who handle cash for DTAC. As of April 2021, the Department had posted new receipt signage at its 70 West Hedding location.

CONCLUSION

DTAC holds custody over significant financial assets and taxpayer and debtor information. In addition, the collection aspect of DTAC's work can result in upset customers, which poses safety risks to the Department's staff. Certain security measures such as closing doors to "authorized personal" spaces are not practiced, increasing the likelihood of unauthorized access to the Department's workspaces. In addition, there are limited formal mechanisms in place to control and track cash keys for customer payments. Addressing these areas will improve DTAC's ability to secure payments and clients' personal data, as well as protect its staff.

RECOMMENDATIONS

The Department of Tax and Collections should:

4.1 Ensure that the "Authorized Personnel Only" doors at 70 West Hedding are closed at all times. (Priority 1)

4.2 Direct its supervisors within the Cashiering Unit to develop an inventory and check-in/check-out system for cash-access keys and require relevant personnel to use this system. Under this system, Department staff should not be permitted to leave the premises with their assigned keys; keys should be engraved with "Do Not Duplicate" and should be checked in and out between shifts; and supervisors should verify that all keys have been returned at the end of each work day. (Priority 1)

4.3 Ensure that all requirements of the Cash Handling Administrative Guide are met, including posting receipt signage for customers at all cashiering locations and disseminating relevant portions of the Cash Handling Administrative Guide to all individuals who handle cash for DTAC, including volunteers. (Priority 1)

SAVINGS, BENEFITS, AND COSTS

One-time costs of these recommendations include the cost of engraving keys and the cost of signage to be posted at cashiering locations. These recommendations are not estimated to require any additional positions or staff time, and implementation will allow the Department to better prevent theft and unauthorized access to financial assets and information, as well as improve staff safety. As of April 2021, the Department had begun implementing portions of Recommendations 4.2 and 4.3.

Section 5: Health Insurance Portability and Accountability Act Compliance

Background
As a requirement of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the U.S. Department of Health and Human Services (HHS) developed the HIPAA Privacy Rule and the HIPAA Security Rule to establish standards for protecting patient health information. Typically, HIPAA guidelines are meant to safeguard information held by "covered entities" such as health plans, health care clearinghouses, and health care providers. However, the County is a "hybrid" covered entity, meaning that—while HIPAA does not apply to some departments—other departments that handle protected health information (PHI) must follow Privacy and Security Rules. The Department of Tax and Collections (DTAC) is one such entity, and its Medical and Legal Unit collectors have access to PHI through HealthLink, a database of Valley Medical Center records.

Problem, Cause, and Adverse Effect
Under HIPAA's minimum security rule, covered entities must make "reasonable efforts" to limit PHI to what is "minimum necessary to accomplish the intended purpose." In following these requirements, the County's Santa Clara Valley Health and Hospital System (SCVHHS) has an administrative policy stating that, "all access, uses, and disclosures of, and requests for, PHI/ePHI shall be limited to the minimum amount that is reasonably necessary to accomplish the intended purpose of the request, access, use, or disclosure." However, DTAC staff reported that collectors have access to HealthLink screens that are not necessary to their work, including correspondence screens and diagnostic coding and medical record summary tabs. This potential disclosure of superfluous PHI raises the risk of noncompliance with County administrative procedures and HIPAA requirements. Further, any patient information transmitted to the Department is subject to inappropriate use of PHI and information breaches, which incentivizes restricting this information to the greatest degree possible.

Recommendations
SCVHHS information technology analysts should work with DTAC management and line staff and DTAC's Technology Services and Solutions team to create a custom HealthLink template that contains only the minimum amount of information that collectors need to perform their work, which is a practice used in the City and County of San Francisco.

Savings, Benefits, and Costs
Implementing this recommendation will better ensure County compliance with federal and SCVHHS requirements and prevent the Department's Collectors from receiving excessive patient information.

FINDING

County and Health Insurance Portability and Accountability Act Standards

To meet the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the U.S. Department of Health and Human Services published two sets of standards for the protection of patient health information: the HIPAA Privacy Rule and HIPAA Security Rule. These standards outline requirements for ensuring the privacy of protected health information (PHI) and define safeguards for securing electronic records containing this data. Under law, only covered entities such as health plans, health care providers, and health care clearinghouses are subject to the HIPAA Privacy Rule, while the HIPAA Security Rule dictates technical and physical protections for PHI that is created, received, used, or maintained by covered entities.

The County of Santa Clara operates as a "hybrid" entity that performs both covered and non-covered functions. Board Policy 3.40 on HIPAA lists the health care and health care-adjacent County departments subject to HIPAA requirements. These covered functions fall into three categories: providers within the County's Santa Clara Valley Health and Hospital System (SCVHHS), health plans, and departments that provide healthcare support services or otherwise fulfill functions that require the disclosure of PHI. The Department of Tax and Collections (DTAC) falls into the third category.

SCVHHS's Patient Billing Services Unit provides DTAC's Revenue Collections Officers (RCO) with access to HealthLink, the hospital's electronic information system. RCOs in the Medical and Legal Collections Units use this system to research the nature of provided health services, charges, and account history for individuals owing hospital-related debt. This aids RCOs in collecting on these accounts.

Restricting PHI to Comply with Minimum Security Rule Requirements

The HIPAA Privacy Rule contains a "minimum necessary" standard that requires covered entities to "make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure, or request."[18] In keeping with these requirements, SCVHHS has an administrative policy stating that, "all access, uses, and disclosures of, and requests for, PHI/ePHI shall be limited to the minimum amount that is reasonably necessary to accomplish the intended purpose of the request, access, use, or disclosure." However, DTAC's RCOs may be receiving patient information in excess of what they require for collections purposes.

SCVHHS's Patient Billing Services grants DTAC Medical and Legal Unit RCOs read-only access to 16 different HealthLink screens. These screens contain information and documents such as hospital statements and bills, conditions of admission, scanned patient documents, breakdowns of hospital and physician services, insurance information, and debt account history. DTAC staff reported that several of these screens, such as correspondence, diagnosis coding, and medical records abstracting (i.e., summaries that contain information such as family medical history, current medications, allergies, etc.) are not utilized by RCOs.

18 45 CFR 164.502(b)

To compare, the City and County of San Francisco has developed a custom report for its medical collectors that contains only collections-relevant information on summarized and itemized charges (see Attachment F on page 113). Creating such a report minimizes the transmission of superfluous patient information that is not useful for collection activities. To better ensure that the requirements of the HIPAA Privacy Rule's "minimum necessary" standard, as well as SCVHHS administrative procedures, are met, we recommend that DTAC work with its Technology Services and Solutions team and SCVHHS's information technology staff to create a custom HealthLink template that only contains the minimum necessary patient information required for collection activities. Information technology staff from SCVHHS estimated that this process would take approximately one month, and that no additional staff would be necessary to complete this project.

CONCLUSION

HIPAA Privacy and Security Rules establish standards and safeguards for protecting PHI. Due to the County's "hybrid" entity nature, certain County departments that handle PHI, such as DTAC, are subject to these requirements. Medical and Legal RCOs are granted access to health information screens through HHS's Patient Billing Services Unit. DTAC RCOs may be receiving patient information that exceeds what is necessary for collections activities, which is unaligned with the "minimum necessary" standard of the HIPAA Privacy Rule and SCVHHS policy. Restricting RCO access to unnecessary patient information will help ensure County compliance with local and federal requirements.

RECOMMENDATIONS

The Department of Tax and Collections should:

5.1 Direct its management and line staff to work with its Technology Services and Solutions team and the Santa Clara Valley Health and Hospital System's information technology analysts to generate a HealthLink collector template that only contains the minimum necessary patient information required for collection activities. (Priority 1)

The Santa Clara Valley Health and Hospital System should:

5.2 Direct its Billing Services Unit to work with the Department of Tax and Collections on generating the collector information report described in Recommendation 5.1. (Priority 1)

SAVINGS, BENEFITS, AND COSTS

Implementing these recommendations will better ensure County compliance with federal and SCVHHS requirements. Further, limiting the amount of PHI that is transmitted vis-à-vis the HIPAA Privacy Rule's "minimum necessary" requirement will also reduce the amount of data vulnerable to data breaches.

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Section 6: Siloed Collections Units and Cross-Training of Revenue Collections Officers

Background
The Department of Tax and Collections' (DTAC) Collections Division is divided into five collections units, which includes a Medical Collections Unit. Each unit is managed by a Supervising Revenue Collections Officer who oversees a team of Revenue Collections Officers (RCOs). RCOs that perform medical collections have access to debtor medical information that is protected under the Health Insurance Portability and Accountability Act (HIPAA). Under HIPAA, access to protected health information (PHI) should be granted only to individuals who need it to perform their job function.

Problem, Cause, and Adverse Effect
Only DTAC's Medical Collections Unit has been designated as a "covered entity:" a party that receives PHI and is subject to HIPAA requirements. For this reason, the five collections units within DTAC are entirely separate, and RCOs are not cross-trained across collections units. Consequently, DTAC management cannot maximize RCO efficiency by re-assigning RCOs to the collections units of highest workload throughout the year. In addition, the separation of collections units may lead to duplication of RCO efforts and negatively impact DTAC's public image if debtors are contacted multiple times by the Department. DTAC managerial staff report that multiple RCOs may conduct skip tracing and other collections-related activities for *the same debtor* if this individual has multiple types of debt accounts.

Recommendations
According to the Office of the County Counsel, it may be possible to expand the group of RCOs who can access PHI to allow for cross-training while maintaining compliance with HIPAA. As of December 2020, DTAC had submitted a formal request to expand the number of DTAC staff who have access to County health system data. If this request is approved, DTAC should work with County Counsel and the Privacy and Compliance Office of the Health and Hospital System on this data access expansion and implementation of RCO cross-training. According to the Privacy and Compliance Office, this expansion would require DTAC to 1) ensure that all staff receive an annual HIPAA training and training on breach notifications; 2) review their policies and procedures and develop a breach notification policy; and 3) engage the Information Security Team to conduct a security assessment.

Savings, Benefits, and Costs
These recommendations would increase DTAC's efficiency by allowing the Department to cross-train RCOs and flexibly respond to fluctuations in workload, which could result in increased collections activity and revenue for the County. These recommendations could also increase DTAC's efficiency by eliminating duplication of RCO effort in cases where debtors with medical accounts also have other types of debt. However, we have been unable to estimate the extent to which such "overlap" occurs and thus cannot estimate potential time savings or increased collections due to improved efficiency. Increasing the number of RCOs with access to medical debt accounts would marginally increase the risk of an accidental breach. Large breaches can result in large fines and other costs. Depending on the results of the security assessment, DTAC may incur one-time materials and supplies costs if it needs to procure new equipment or redesign RCO workstations as part of HIPAA expansion.

FINDING

Siloed Collections Units

The Department of Tax and Collections' (DTAC) Collections Division performs the core collections functions of the Department and is divided into five collections units: 1) Property Tax Collections for delinquent unsecured taxes; 2) Medical Collections for debts referred by the Santa Clara Valley Health and Hospital System; 3) Public Assistance Collections for public assistance overpayments and other welfare assistance debts; 4) Justice Collections for court-ordered debt; and 5) Legal and General Collections for small claims actions and debts referred by other County Departments. Each collections unit is managed by a Supervising Revenue Collections Officer, who oversees a team of Revenue Collections Officers (RCO).

RCOs in the Medical Collections Unit have access to debtor medical information that is protected under the Health Insurance Portability and Accountability Act (HIPAA). Pursuant to HIPAA and County policy, units of DTAC that provide support services to County healthcare providers and health plans must follow HIPAA requirements. These requirements include the limitation of access to Protected Health Information (PHI), such as debt account numbers and patient names, to only individuals who need the information to perform their job function. In order to ensure compliance with HIPAA, the five collections units in DTAC are siloed as a means to isolate the Medical Collections Unit, which receives PHI, from DTAC staff who are not authorized to receive and view this information.

DTAC's RCOs Are Not Cross-Trained or Flexibly Assigned to Different Collections Units Throughout the Year as Needed

To maintain compliance with HIPAA, DTAC does not cross-train RCOs or assign RCOs to different collections units throughout the year. However, according to the Office of the County Counsel, it may be possible to expand the group of RCOs who can access PHI while maintaining compliance with HIPAA, which would allow for RCO cross-training. In addition, the County's RCO job classifications and DTAC's Departmental Agreement provide the opportunity for RCO cross-training. Further, all DTAC staff undergo annual HIPAA training, so collectors outside the Medical Collections Unit already have a degree of understanding around handling and securing health information.

Job classifications within DTAC's collections units are distinguished by their level of responsibility for subordinates and ability to perform complex collections activities, but not by the subject or type of collections activities. The job descriptions for RCOs and Revenue Collection Clerks (RCCs) each include the ability to handle and safeguard sensitive and/or confidential information as part of the employment standards for the positions. Nothing in these positions' employment standards or listed typical tasks precludes RCO cross-training or assignment to multiple collections units. In addition, the Departmental Agreement between DTAC and SEIU Local 521, the labor union that represents RCOs, specifies that temporary employee assignments to different units may be made based on needs identified by DTAC.

Despite the opportunity for cross-training and temporary collector assignments to different units, DTAC does not have a formal program to cross-train collectors. Consequently, DTAC management cannot maximize staffing efficiency by re-assigning RCOs to the collections units of highest workload throughout the year or by adjusting collections units staffing levels according to other identified needs.

The Siloed Nature of DTAC's Collections Units May Lead to Duplication of RCO Efforts

The siloed nature of DTAC's collections units can also result in unnecessary work for RCOs. Because RCOs from different units are restricted from conferring with one another, DTAC managerial staff reported that multiple RCOs may conduct skip tracing, research, and other collections-related activities for *the same debtor* if this individual has multiple types of debt accounts. In addition to having a negative effect on Departmental efficiency, this duplication of effort has the potential to negatively affect DTAC's public image if individuals are contacted by multiple RCOs from the County. Further, if RCOs are unaware of multiple debts for the same debtor, they cannot coordinate on realistic payment plans to maximize collections.

DTAC does not have a report that shows the extent to which such duplication of effort occurs, and we were thus unable to verify the extent of the problem. However, in general, departmental staff spend a substantial portion of their workdays researching debtor whereabouts, contacting these individuals, and recording follow-up activities. As such, reducing any redundancies in this area may lend to improved collections outcomes.

Working With the Health and Hospital System's Privacy and Compliance Office to Expand PHI Access for DTAC Staff

According to the Privacy and Compliance Office of the Health and Hospital System, expanding RCO access to health information outside the Medical Collections Unit would require DTAC to make the following changes:

- Ensure that all staff receive an annual HIPAA training through the County's online training platform, which provides guidance for staff to comply with HIPAA requirements. Annual HIPAA trainings are already a departmental practice, and, insofar as any additional trainings are developed as a result of expanded access to health information, collections staff should complete these new trainings as well;
- Review and revise, as necessary, any policies and procedures that relate to HIPAA requirements, expand these policies and procedures to the entire department, and train staff on the revisions;
- Engage the Information Security Team to ensure that a security assessment has been completed on DTAC's systems that will house HIPAA covered information (e.g., encryption, physical safeguards, etc.), which could involve providing new equipment or redesigning RCO workstations; and
- Develop a breach notification policy and provide training to staff regarding breach notifications, including the importance of notifying management of any potential breaches.

In December 2020, DTAC reported that it had submitted a formal request for expanded access to County Health System data. As of January 2021, DTAC was still in the process of working on items related to this request with the Office of the County Counsel and the Health and Hospital System. If this request is approved, we recommend that DTAC continue to coordinate with these two entities to take the aforementioned steps listed by the Privacy and Compliance Office (as well as any others) in order to expand the group of RCOs who can access PHI. These efforts should be coordinated with efforts to develop a health collections data template outlined in Section 5, starting on page 49, of this audit report.

Additionally, as discussed in the Introduction of this audit report, an upgrade of DTAC's collections system was included in the Fiscal Year 2020–2022 Technology Services and Solutions Strategic Plan. When upgrading this collections system, DTAC should ensure that that the system has sufficient privacy measures to prevent cross-trained RCOs from accessing accounts from other units to which they are not assigned. For example, a cross-trained Justice Unit RCO should not be able to view a medical debt account unless the system has directly assigned them this account.

Once all the required privacy and security measures have been met, we recommend that DTAC develop a cross-training program for RCOs that gives them key knowledge and skills to work in collections areas outside their primary assignments, so that they be efficiently reallocated to other units when necessary. DTAC might want to consider the following approaches in implementing a cross-training program:

1. Identify 1–2 high-performing and experienced RCOs in each collections unit to be cross-trained as a pilot program;
2. Ask RCOs to volunteer if interested in cross-training opportunities; or
3. Implement a universal cross-training program for the entire Collections Division.

CONCLUSION

In order to ensure compliance with HIPAA, DTAC siloes its five collections units and does not cross-train or cross-assign RCOs across multiple units. Consequently, DTAC management cannot maximize RCO efficiency by re-assigning RCOs to the collections units of highest workload throughout the year or by adjusting collections units staffing levels according to other identified needs. According to the Office of the County Counsel and the Privacy and Compliance Office of the Health and Hospital System, it may be possible for DTAC to expand the group of Revenue Collections Officers who can access PHI to allow for cross-training while maintaining compliance with HIPAA, and preliminary steps have already been taken towards this end. Expanding the group of RCOs who can access PHI could also reduce some of the duplication of effort if RCOs in multiple units have overlapping debtors. In order to accomplish this expansion, DTAC would need to undertake some administrative procedures, including a policy and procedures review and staff training, and conduct a security assessment on the systems that house HIPAA covered information.

RECOMMENDATION

The Department of Tax and Collections should:

6.1 Continue to work with the Office of the County Counsel and the Privacy and Compliance Office of the Health and Hospital System on expanding the group of Revenue Collections Officers (RCO) who can access Protected Health Information. This expansion may require implementing additional HIPAA trainings, developing or expanding upon privacy and security policies, and completing a departmental security assessment. These efforts should be coordinated with the development of the health collections data template outlined in Recommendations 5.1–5.2 of this audit, and any new collections system acquired by the Department should have security measures to prevent RCOs from viewing medical accounts to which they are not assigned. (Priority 2)

6.2 If Recommendation 6.1 is adopted, develop a cross-training program for RCOs that gives them key knowledge and skills to work in collections areas outside their primary assignments, so that they be efficiently reallocated to other units when necessary. (Priority 2)

SAVINGS, BENEFITS, AND COSTS

These recommendations would allow for the cross-training and cross-assignment of RCOs across multiple collections units, which would increase DTAC's efficiency by allowing the Department to assign RCOs based on the workload of each collections unit. Allowing DTAC to flexibly respond to fluctuations in workload could result in increased collections activity and revenue for the County. These recommendations could also increase DTAC's efficiency by eliminating duplication of RCO effort in cases when debtors with medical accounts also have other types of debt.

Increasing the number of RCOs with access to medical debt accounts would marginally increase the risk of an accidental HIPAA breach. Large HIPAA breaches can result in large fines and other costs to the County. Finally, depending on the results of the security assessment, DTAC may incur one-time materials and supplies costs if it needs to procure new equipment or redesign RCO workstations as part of HIPAA expansion.

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Section 7: More Timely Assignment of Delinquent Medical Accounts

Background
The Department of Tax and Collections (DTAC) collects unpaid medical debts referred by the Health and Hospital System's (HHS) Patient Business Services (PBS) from Medicare, Medi-Cal, private insurance and other third-party payers, and from patients who are directly responsible for paying all or a portion of their bills. Account referrals include charges for inpatient and outpatient services rendered at the Santa Clara Valley Medical Center (SCVMC) and outpatient clinics. An agreement between HHS and the Finance Agency memorializes the collection services DTAC renders to PBS.

Problem, Cause, and Adverse Effect
Our analysis found that, in Fiscal Year 2018–19, it took PBS 210 days on average from the date-of-service to transfer delinquent accounts to DTAC. This timeline exceeds the 150 to 180-day windows (depending on account status and activity) set forth in PBS internal policies and procedures. Studies of collection agencies show the odds of collection diminish by an estimated 5% per month as accounts age, and accounts are more likely to be written off after 180 days. When medical accounts are written off as uncollectible (discussed in more detail in Section 10, starting on page 85, of this audit report), HHS management reported that DTAC does not return Medicare bad debt accounts to PBS for closeout or retain detailed information on collection outcomes, making it impossible to seek partial reimbursement for these debts. The Management Audit Division estimates $1.2 million annually could be recouped from Medicare if PBS and DTAC develop documentation protocols for collection efforts. Lastly, of the $54.3 million in delinquent charges transferred to DTAC in FY 2018–19, an estimated $3.7 million should not have been referred because the patients had a third-party payor that PBS did not identify or bill. The annual cost to the County from DTAC working accounts for which the appropriate payer is not identified or billed in a timely manner by PBS is estimated to be $2.1 million.

Recommendations
DTAC should work with HHS's PBS to develop a protocol for documenting and returning uncollectible accounts to PBS with the information required to claim Medicare bad debts. Per its own policies, PBS should review its internal processes to ensure accounts are referred to DTAC within 180 days. Finally, PBS should revise procedures for obtaining patient information in order to promptly identify responsible payers and minimize referrals of collectible cases that are later discharged due to untimely billings to third parties. To this end, PBS reported in April 2021 that they had contracted with a vendor to assist with insurance verification. DTAC and HHS should incorporate all relevant changes and revisions from these recommendations into their agreement.

Savings, Benefits, and Costs
Implementing these recommendations will enhance DTAC's ability to collect delinquent accounts receivable for SCVMC. More timely account transfers by PBS could increase DTAC's likelihood of collection while documentation of collection efforts by DTAC prior to writing off accounts and returning them to PBS will enable the hospital to recoup over $1 million annually for Medicare bad debts. Improvements to the front-end financial eligibility process at HHS can reduce the County's loss of revenue on accounts that are improperly or untimely billed, or not billed at all, by an estimated $2.1 million.

FINDING

Patient Medical Debt Collection Protections

The Health and Hospital System's (HHS) Patient Business Services (PBS) performs initial billing and collections for all HHS patient care services from Medicare, Medi-Cal, insurance and other third-party payers, and from patients who are responsible for paying all or a portion of their bills ("self-pay" or "unsponsored" patients). If PBS does not receive payment, the account is transferred to the Department of Tax and Collections (DTAC) and then ultimately to an outside collection agency, as necessary.

The Centers for Medicare and Medicaid Services (CMS) requires providers to collect on an account for a minimum of 120 days from the date the first bill is mailed to the patient before the debt may be deemed uncollectible. PBS must put forth the same effort to collect from Medicare and Non-Medicare patients and be able to provide detailed information on the outcome of collection efforts to claim bad debt expenses on Santa Clara Valley Medical Center's (SCVMC) Medicare cost report. In addition, California's Hospital Fair Pricing Act, passed in 2006, requires hospitals and emergency physicians to offer discount payment plans or charity care to patients in need. It also provides a 150-day time period before a hospital or collection agency may report a patient account to a consumer credit reporting agency or commence civil action against the patient.

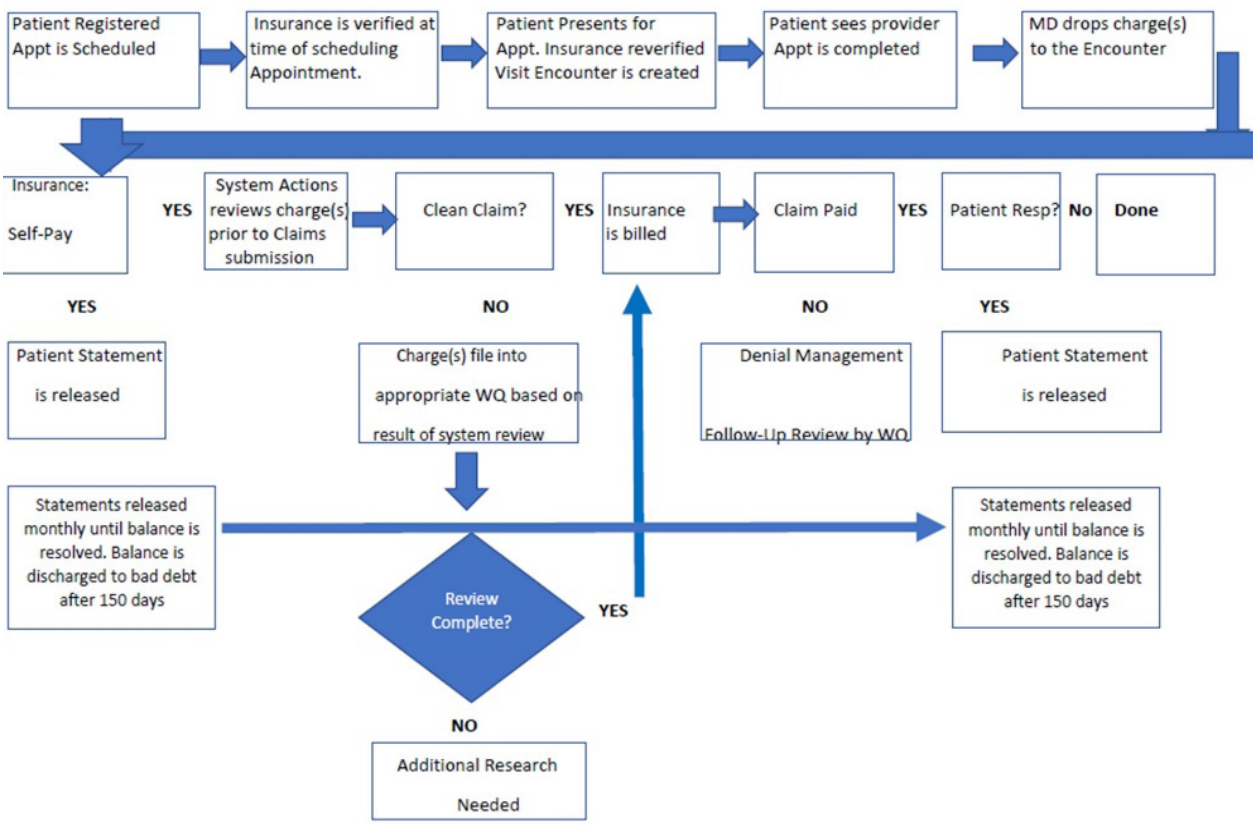
Patients who do not have access to affordable third-party health insurance coverage can apply to participate in SCVMC's Healthcare Access Program; request long-term, interest free payment plans; or receive a discount on the amount due if the bill is paid within 30 days under the Prompt Pay Patient Discount Program. Patients have up to 150 days after the service was provided to apply for the Healthcare Access Program or to negotiate a payment plan.[19] These legal requirements and County programs impact PBS's timelines for referring debts to DTAC for collection.

Patient Business Services' Internal Process for Resolving Patient Accounts

PBS sends statements to patients with a confirmed outstanding balance due indicating the amount owed by the patient. Prior to debts being transferred to DTAC, the statements are sent every 30 days over four consecutive months (beginning approximately 30 days after the first balance due bill is sent to the patient). Per PBS's Bad Debt Policy, an account will transfer automatically to Bad Debt status in HealthLink (HHS's billing and electronic health record system) at approximately 180 days if there is no payment or other action on the account.[20] Figure 7.1 on page 61 illustrates the workflow process as provided by PBS.

19 As required by Health and Safety Code Health & Safety Code §§ 127425.
20 PBS Policy #203 - Assignment of Accounts to Bad Debt.

Figure 7.1: *PBS Patient Workflow Process*



Source: Patient Business Services.

Note: 150 days is approximately four billing cycles after the first balance due bill is sent.

While PBS appears to have prompt account transfer policies and processes in place, which County Hospital management believes adhere to CMS's standards and the Hospital Fair Pricing Act, actual referral timelines to DTAC for Fiscal Year 2018–19 exceeded the timeframes in these policies (discussed further below). Additionally, HHS management informed us that SCVMC does not claim Medicare bad debts on its cost report and collect reimbursement on these accounts. This is due to DTAC and PBS having no established process for documenting Medicare accounts deemed as uncollectible by DTAC and returning this documentation to PBS.[21] Lastly, it appears there are no established guidelines for the timing of transfers in cases where PBS needs to recall accounts from DTAC due to changes or errors in a patient's financial status.

21 According to DTAC management, collection system limitations prevented DTAC from being able to report detailed information on collection outcomes as required by Medicare.

Assignment of Bad Debt Accounts to the Department of Tax and Collections

The Management Audit Division analyzed delinquent accounts assigned by the hospital to DTAC for collection during FY 2018–19 following 2010 audit findings relating to the timeliness of medical debt referrals.[22] The dataset provided by DTAC's Collections Division contained 19,595 medical accounts transferred by PBS for collection activities during FY 2018–19. Of these accounts, 13,999 (71%) were in active collections while 5,596 (29%) had been discharged or purged.[23] The cumulative balance due on the assigned accounts at the time of transfer was $63.7 million, and DTAC collected $9.4 million,[24] or 15%, during FY 2018–19 on accounts referred during this fiscal year.

In determining the average amount of time it took for PBS to transfer accounts to DTAC, the Management Audit Division excluded 1,166 accounts whose ages could not be determined because the date-of-service was either omitted or followed the assignment date to DTAC.[25] The remaining 18,429 debtor accounts included 12,879 active and 5,550 discharged, collectively valued at $54.3 million. As summarized in Figure 7.2 below, our analysis found that it took an average of 210 days, or over six months, from the date-of-service until the transferred accounts were loaded into DTAC's collection system. This average exceeds the 150 to 180-day transfer windows described in PBS's policies.

Figure 7.2: *Delinquent Medical Accounts Transferred to DTAC in FY 2018–19*

	Number of Accounts	Amount Assigned to DTAC	Avg. Days from Date-of-Service to Transfer
Active	12,879	$41,294,988	195
Discharged	5,550	$12,993,215	245
Total:	**18,429**	**$54,288,204**(1)	**210**(2)

Source: Auditor's analysis of data provided by DTAC's Collections Division.

Notes: (1) Does not include adjustments.
(2) Represents the weighted average.

Approximately 1,517 (8%) of the analyzed accounts exceeded one year from the date-of-service to transfer to DTAC, and 14% of these 1,517 accounts (more than 200 accounts) were transferred two or more years after the date-of-service.

22 In the 2010 audit of DTAC's predecessor, the Department of Revenue (DOR), the Management Audit Division found that many hospital accounts were not transferred to DOR until they were quite old – in some cases, DOR received accounts several years after the services were provided. Auditors recommended reducing the transfer timeline to achieve an estimated $3.9 million increase in annual receipts to the County, and the Board of Supervisors approved this recommendation.

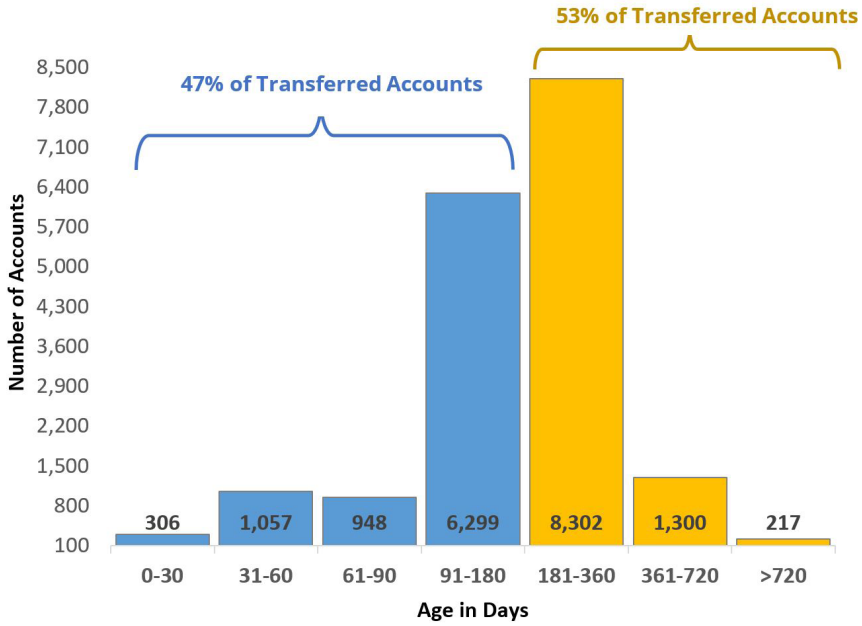
23 Of the 5,596 purged accounts, 1,785 (32%) were written off in the same fiscal year they were assigned (i.e., FY 2018–19). The outstanding balance on these accounts was $4.9 million.

24 This is the collections amount with adjustments and on medical accounts referred during FY 2018–19 only. In contrast, the $14.3 million in medical collections referred in other sections of this audit report includes collections during this time period on *all* accounts, including those referred before FY 2018–19.

25 According to DTAC staff, these discrepancies are likely attributable to a loading issue in the Department's collection software.

Figure 7.3 below illustrates the distribution of accounts referred to DTAC's Medical Collections Unit in FY 2018–19 by age, calculated as days elapsed from the date-of-service to transfer.

Figure 7.3: *Distribution by Age of Medical Accounts Transferred to DTAC in FY 2018–19*



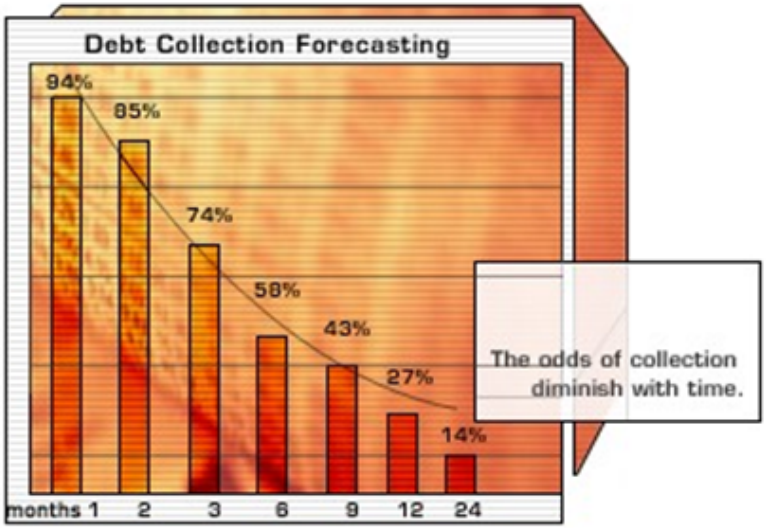
Source: Auditor's analysis of data provided by DTAC's Collections Division.

As Figure 7.3 above shows, more than half of the accounts referred to DTAC were over six months (180 days) old and nearly 10% were over one year old. Debts in these age buckets amounted to $24.3 million and accounted for 45% of the $54.3 million in delinquent principal that was assigned to DTAC in FY 2018–19. Because collection success diminishes as accounts age, the significant time elapsed before DTAC is notified of a patient's account obligation affects the County's ability to collect on any patient charges that are delinquent.

Probability of Successful Collections Decreases as Accounts Age

A poll by the Commercial Collection Agency Association (a consortium of America's leading collection agencies) of its members indicated that the likelihood of collecting on accounts begins to diminish after as few as 30 days past due.[26] If the balance remains outstanding for 180 days (6 months), the likelihood that the debtor will remit payment is 58%, but by 270 days (9 months) drops to 43% – an average depreciation of 5% per month (see Figure 7.4 below).

Figure 7.4: *Estimated Recovery Percentage Based on Age of Debt*



Source: Adapted from Caine & Weiner, 2016 .

As noted above, reducing the transfer timeline by just 30 days, or one billing cycle, could mean a 5% increase in collection likelihood. While these are general benchmarks that encompass a wide array of consumer debts rather than medical accounts exclusively, they provide a basis to determine the potential impact of more quickly transferring accounts to DTAC. For instance, if PBS shortened its 210-day average transfer timeline by 30 days to 180 days as prescribed in the Bad Debt Policy, this change of just one billing cycle could potentially improve DTAC's likelihood of collection.

The Management Audit Division recommends that PBS review its internal processes to ensure that PBS's account transfers to DTAC do not exceed the 180-day mark, per its Bad Debt Policy. This timeline allows patients ample time to apply for financial assistance programs and satisfies CMS's minimum collection period of 120 days.

26 Caine & Weiner. "Recovery Percentage Based on Age of Debt." (22 Sept. 2016). Retrieved from https://www.caine-weiner.com/client-access/reference-information/recovery-percentage-based-on-age-of-debt/.

Documenting Collection Efforts Could Facilitate Medicare Bad Debt Recoupment

HHS management reported that a pressing issue for the hospital is its inability to claim bad debts on SCVMC's Medicare cost report due to insufficient documentation of collection efforts from DTAC. Documentation required to show a reasonable collection effort for reimbursement must include the following:

- The provider's bad debt collection policy, which describes the collection process for Medicare and Non-Medicare patients.
- Patient account history documents, which show the dates of various collection actions such as the issuance of bills, follow-up collection letters, reports of telephone calls and personal contacts, etc.

Further, before claiming the unpaid amounts as Medicare bad debt, a provider that uses a collection agency to perform its collection effort must cease all collection efforts, including the collection agency efforts, and ensure that the collection accounts have been returned to the provider from the agency.[27]

DTAC's Fiscal unit reported that the Department's existing collection system cannot provide the data that PBS needs for reporting Medicare bad debts on SCVMC's cost report. However, DTAC reported that its new collection system (discussed in the Introduction of this audit report) should have the necessary capabilities to provide this data, and that DTAC and HHS were conferring to discuss the specific data elements PBS would need to claim bad debts on SCVMC's Medicare cost report.

If just 1% of the $190.6 million in medical debts written off by the Finance Agency in July of 2019 had been claimable for Medicare patients,[28] and Medicare reimburses bad debts at 65%,[29] the Management Audit Division conservatively estimates $1.2 million in foregone reimbursements is left on the table annually. We recommend that DTAC work with PBS to document a process for closing out accounts once collection efforts have been exhausted and returning them to PBS with the information necessary to claim reimbursement from Medicare for the bad debt (see Figure 7.5 on page 66).

27 CFR 413.80.

28 SCVMC's Medicare patient mix in July of 2019 was 12.5% and auditors assumed an 8% delinquency factor to derive the 1% claimable estimate.

29 Congress Passed the Middle Class Tax Relief and Jobs Creation Act of 2012, which reduced Medicare Bad Debt payments for hospitals and other providers to the current 65% beginning October 1, 2012.

Figure 7.5: *Listing of Supporting Data for Claiming Medicare Bad Debts*

1102.3 (Cont.) EXHIBIT 2 10-14

LISTING OF MEDICARE BAD DEBTS AND APPROPRIATE SUPPORTING DATA

PROVIDER _____ PREPARED BY _____

NUMBER _____ DATE PREPARED _____

FYE _____ INPATIENT _____ OUTPATIENT _____

(1) Patient Name	(2) HIC. NO.	(3) DATES OF SERVICE		(4) INDIGENCY & WEL. RECIP. (CK IF APPL)		(5) DATE FIRST BILL SENT TO BENEFICIARY	(6) *DATE COLLECTION EFFORT CEASED*	(7) *MEDICARE* REMITTANCE ADVICE DATES	(8)* DEDUCT	(9)* CO-INS	(10) TOTAL
		FROM	TO	YES	MEDICAID NUMBER						

* THESE AMOUNTS MUST NOT BE CLAIMED UNLESS THE PROVIDER BILLS FOR THESE SERVICES WITH THE INTENTION OF PAYMENT. SEE INSTRUCTIONS FOR COLUMN 4 - INDIGENCY/WELFARE RECIPIENT, FOR POSSIBLE EXCEPTION

11-14 Rev. 8

Source: CMS Provider Reimbursement Manual, Form CMS-339 Instructions.

Roles and responsibilities for maintaining a bad debt log like the one depicted in Figure 7.5 above, along with the required supporting data, should be clearly set forth in both DTAC and HHS policies and incorporated into their Memorandum of Understanding, as necessary. Once this recommendation is fully implemented, reimbursements from Medicare are estimated to exceed $1 million annually.

Issues Related to Account Returns and Adjustments

According to PBS staff, the time that it takes to transfer delinquent accounts to DTAC is driven by the patient's financial status (e.g. insured, self-pay), the length of time that it takes for a bill to be processed and paid by any applicable third-party payer(s), and the subsequent invoicing to the patient for their cost responsibility.

PBS needs to have sufficient time to ensure that clients who are eligible for reimbursement from third-party insurers or financial assistance programs are qualified and that DTAC is sent only unsponsored accounts (i.e., unpaid debt that has been determined to be the patient's responsibility). Otherwise, DTAC staff will see an increase in workload and will ultimately have to return accounts back to PBS when eligibility for third-party payment is determined. By the time DTAC discovers that a referred account has a payment source other than the patient, the deadline to bill the payor may have passed. These "no longer billable" amounts are no longer collectable and are adjusted or written off.

As shown in Figure 7.6 below, the value of such adjustments for medical accounts was $3.7 million, or 6.8% of the amount transferred to DTAC during FY 2018–19.

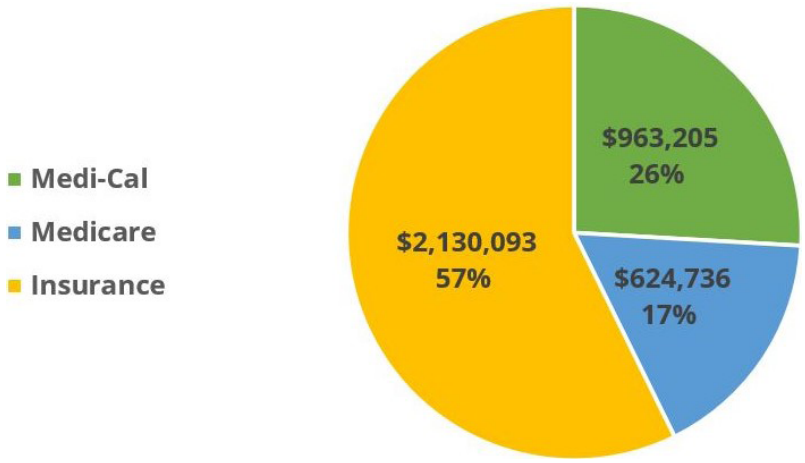
Figure 7.6: *Gross Charges, PBS Transfers to DTAC, and Collections in FY 2018–19*

	Transfer	Collections	Collection Rate
Gross Charges	$58,006,238	$12,445,398	21.5%
No Longer Billable	($3,718,034)	($3,718,034)	n/a
Net:	**$54,288,204**	**$8,727,363**	**16.1%**

Source: Auditor's analysis of data provided by DTAC's Collections Division.

We estimated that over 50% of the no longer billable amounts requested in FY 2018–19 were for debts that should have first been billed to private insurance, followed by Medi-Cal and Medicare, as illustrated graphically in Figure 7.7 below.

Figure 7.7: *Value of Account Adjustments by Type Returned to SCVMC for Proper Billing in FY 2018–19*



Source: Auditor's analysis of data from the FY 2019 MTD-YTD Report prepared by DTAC's Fiscal Unit.

Our analysis found that the $3.7 million of no longer billable accounts was for 1,119 accounts that were, on average, 313 days old by the time they got to DTAC. According to PBS staff, the County has one year from the date-of-service to bill and receive reimbursement from government payors – Medicare and Medi-Cal. The time limit to bill private insurers is typically 90 to 120 days from the date-of-service. Based on these timelines and the percentages in Figure 7.7 above, we estimate $2.1 million in foregone revenue for the County from untimely billing of private insurance companies.

HHS staff reported that eligibility and insurance verification is an area where most billing issues that may cause accounts to be misclassified as "self-pay" accounts occur. Human error by registration staff; complexity of multiple verification processes; payor delays; transiency of the population; and patient inability or unwillingness to provide the proper/requested information compound the delay in obtaining accurate and complete information. These factors may explain why DTAC sometimes identifies previously undiscovered insurance coverage on accounts they are assigned.

Improper eligibility and insurance verification impacts DTAC's workload, which should be geared toward collecting monies owed by patients rather than researching and returning accounts that should be billed to government or private insurers. As such, the Management Audit Division recommends that PBS review its front-end procedures for opportunities to implement process improvements that would minimize the number of collectible cases that are returned for proper billing (resulting in rework for both DTAC and PBS staff), or ultimately discharged due to untimely billings to third-parties. Once these process improvements are identified, PBS should revise its procedures accordingly. The Health and Hospital System and DTAC should amend both referral timeline protocols and eligibility and insurance verification procedures in their Memorandum of Understanding.

In April 2021, HHS management reported that the hospital had contracted with a vendor to provide insurance coverage discovery solutions for accounts that may have been destined as a write-off or charity. Although the full effects are yet to be seen, it is anticipated that this insurance verification service will increase reimbursement revenue for the hospital by searching proprietary databases for billable insurance coverage and reduce the number of accounts PBS manually recalls from DTAC.

CONCLUSION

On average, delinquent medical bills are being transferred to DTAC 210 days, or seven months, after the date-of-service. This timeline exceeds PBS's internal policies and procedures, diminishes DTAC's odds of successful collections, and increases the likelihood that the accounts will be written off. Further, DTAC's collections system limitations and lack of documented processes for the Department to return uncollectible accounts to PBS after collection efforts are exhausted impede HHS's ability to claim any of the bad debts on SCVMC's Medicare cost report—a foregone revenue opportunity estimated to be worth over $1 million annually. Lastly, at least $3.7 million worth of accounts coded as "self-pay" and transferred to DTAC for collections should have first been billed to a third-party payer. The cost to the County from DTAC working accounts for which the appropriate payer is not identified or billed in a timely manner by PBS is estimated to be $2.1 million.

RECOMMENDATIONS

The Department of Tax and Collections should:

7.1 Work with the management of the Health and Hospital System's (HHS) Patient Business Services (PBS) to develop a protocol for documenting and returning uncollectible accounts back to PBS after collection efforts are exhausted. This documentation should detail collection activities and outcomes consistent with requirements published by the Centers of Medicare and Medicaid Services (CMS) to claim partial reimbursement for bad debts on Santa Clara Valley Medical Center's cost report. (Priority 1)

The Santa Clara Valley Health and Hospital System's Patient Business Services Management should:

7.2 Review internal workflows pertaining to the medical accounts receivable resolution timeline to ensure delinquent accounts are transferred to DTAC within 180 days, as prescribed in the Bad Debt Policy. (Priority 1)

7.3 Review and revise procedures for obtaining patient information to ensure that all accounts coded as self-pay and transferred to DTAC for collections are billed to the appropriate third-party payer(s) and/or financial assistance program(s) prior to assigning the accounts a Bad Debt status. (Priority 1)

7.4 Incorporate relevant changes from 7.1 and 7.3, if approved, into the Health and Hospital System's Memorandum of Understanding with the Finance Agency. (Priority 2)

SAVINGS, BENEFITS, AND COSTS

Implementing these recommendations would improve the County's collection rate for medical debts, increase reimbursement revenue for the hospital, and reduce the annual loss of revenue due to untimely third-party billings and patient accounts subsequently becoming uncollectible. More timely account transfers by PBS (Recommendation 7.2) will improve DTAC's collection likelihood, while documentation of collection efforts by DTAC prior to writing off accounts and returning them to PBS will enable the hospital to recoup over $1 million annually for Medicare bad debts. At the same time, improving the way patient financial and insurance information is collected by the hospital could mitigate annual losses from foregone revenues estimated to be $2.1 million.

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Section 8: Court-Ordered Debt Collection Performance

Background
The Department of Tax and Collections (DTAC) has collected court-ordered debt on behalf of the Superior Court of the County of Santa Clara (Superior Court) since 2005. As permitted under State law, DTAC recovers its costs for court-ordered debt collection by deducting costs from any revenues collected before distribution. In Fiscal Year 2019–20, DTAC's cost recovery revenue of $2.4 million represented 23% of the Department's total General Fund revenue of $10.5 million.

Problem, Cause, and Adverse Effect
In light of DTAC's decreasing trial court collections and findings from the State's Legislative Analyst's Office (LAO), there is a risk that the Superior Court may not renew the agreement for court-ordered debt collection in June of 2021. The agreement between the Superior Court and the County states that DTAC should endeavor to increase its collection of court-ordered debt by up to 5% each year. The agreement is unclear on whether the proposed increase applies to dollar amounts or collections rates, and which fiscal year's values are intended to be compared, making it difficult to translate this goal into a concrete figure. However, given declines in both dollar amounts collected and liquidation rates from FY 2016–17 to 2018–19, it is unlikely that DTAC will be able to meet this target. According to DTAC, declines have been caused by: (a) changes in State law that have impacted the Department's ability to collect on court-ordered debt and (b) an overall decline in criminal filings and decrease in account referrals since at least FY 2015–16. Between FY 2015–16 and FY 2018–19, the total principal assigned to the Justice Collections Unit decreased from $56.9 million to $34.8 million, or by 39%. Further, in 2014, LAO recommended that responsibility for collection of court-ordered debt be consolidated with the trial courts, eliminating county collections programs. During FY 2017–18, the Superior Court recalled traffic debt collections activities from DTAC. However, despite these uncertainties, a substantial share of General Fund revenue generated by court collections, and nearly a quarter of DTAC's collections staff being assigned to the Justice Collections Unit, DTAC has no written contingency plan for addressing the potential loss of this business line.

Recommendations
If the collection agreement between the County and the Superior Court is formally renewed (DTAC reported that parties have "verbally agreed" to a two-year renewal), DTAC should attempt to establish one or more mathematical calculations by which its collections performance is measured. DTAC should also develop a written contingency plan that addresses the potential revenue loss and implications for staffing should the Superior Court not renew the comprehensive collection program in 2021 and beyond. For instance, existing Justice Collections staff may need to be reassigned to other DTAC collections units.

Savings, Benefits, and Costs
Establishing a clearer methodology by which DTAC's collections performance is measured will allow the Department and its client to assess the adequacy of its performance going forward. A written contingency plan will formalize the implications and revenue loss for DTAC and its staffing should the Superior Court stop referring its collections to the Department.

FINDING

Court-Ordered Debt and Comprehensive Collection Programs

The Superior Court of the County of Santa Clara (Superior Court) oversees criminal and civil cases in Santa Clara County. During court proceedings, the Superior Court may levy court-ordered fines and fees upon individuals convicted of criminal offenses, including traffic violations. This court-ordered debt includes all fines, fees, forfeitures, penalty surcharges, assessments, and restitution levied by county trial courts in the disposition of traffic and criminal cases. In California, trial courts may either conduct debt collection activities themselves or transfer the information in the court orders to another collection entity, including a county agency or a private vendor.

In Santa Clara County, the Superior Court has engaged the County to collect court-ordered debt since 2005 as a comprehensive collection program pursuant to an agreement between the Superior Court and the County. As established by the Judicial Council of California, which serves as the governing and policymaking body of California's judicial branch, comprehensive collection programs must:

- Be a separate and distinct revenue collection activity that identifies total collections received from qualifying accounts and their related operating costs;
- Identify qualifying accounts as accounts receivable, which must be distinguished from forthwith payments as referenced in the definition in the *Guidelines and Standards Definition: Delinquent Accounts/Payments* approved by the Judicial Council;
- Satisfy at least 10 of the 17 collection activity components identified in Penal Code section 1463.007; and
- File a report of its activities once each year with the Judicial Council.[30]

The revenues collected from court-ordered debt payments are distributed according to state law to support state and county programs and services. However, Penal Code Section 1463.007 allows counties that operate comprehensive collection programs to recover the costs related to operating the program by deducting operating costs, excluding capital expenditures, from any revenues collected before distribution. As specified in the terms of the Agreement between the County and the Superior Court for the comprehensive collection program, the County's cost recovery includes the salary and benefits for each position, services and supplies, and other overhead related to all court collection efforts made by the County.

The Department of Tax and Collections (DTAC)'s Justice Collections Unit is the collections unit that collects court-ordered debt as the comprehensive collection program. In FY 2019–20, DTAC's cost recovery revenue of $2.4 million represented 23% of the Department's total General Fund revenue of $10.5 million.

30 Judicial Council of California. Guidelines and Standards for Cost Recovery. p. 2.

Ambiguous Performance Requirements in Court Collection Agreement

The collection agreement between the Superior Court and the County, which was executed in November 2018 and is effective through June 2021, contains the following performance metric:

> "Increase revenue from collection of Court-ordered Delinquent and Current Debt as measured. DTAC shall endeavor to increase its collections for such debts by up to 5% each fiscal year during the length of this agreement, based on current referrals levels from the Court to DTAC each fiscal year."

This performance metric is unclear in several ways. First, the goal to increase DTAC collections "by up to 5% each fiscal year" does not specify how the 5% increase in collections activity will be measured—by overall collections rate (i.e., percentage of total referrals collected) or by total dollar value of collections. DTAC reported that the collections percentages (i.e., the percentages that correspond to the 5% requirement) are measured by total collections. However, this measurement does not account for the rate of collections, nor does it account for the fact that total referrals have been declining, as discussed in more detail below.

Second, the performance metric establishes a maximum cap for the amount of revenue growth at "up to 5% each fiscal year (emphasis added)," but does not establish the level of growth desired by the Superior Court. And finally, because this agreement was executed in November 2018 and is effective through June 2021, the term of the agreement includes only two full fiscal years, FY 2019–20 and FY 2020–21. As a result, DTAC will only be able to assess its performance per the terms of the agreement at the close of FY 2020–21, by comparing collections in FY 2019–20 to collections in FY 2020–21.

The collection agreement between the Superior Court and the County establishes a Collections Committee composed of representatives from both the Court and County that is to meet monthly, unless otherwise mutually agreed upon, to discuss issues of mutual interest and concern related to the agreement. However, according to DTAC, the Court and the County have not formally established the Collections Committee. Instead, staff from DTAC reported having "sporadic meetings" with the Court to discuss issues and concerns. If DTAC and the Court were to establish the Collections Committee with regular meetings, the performance measure in the agreement could be clarified for both parties.

In March 2021, DTAC reported that the County and the Superior Court had reached a verbal agreement for a two-year renewal of the agreement between the Superior Court and the County for the comprehensive collection program. If the comprehensive collection agreement between the County and the Superior Court is formally renewed, DTAC should attempt to re-negotiate the performance measure in the current Agreement to define the Superior Court's desired collections rate; how the intended growth in collections is to be calculated; and whether collections are compared to the initial amount at the start of the agreement or the new amount referred each year. If the collectable amount that is referred to DTAC by the Court continues to decline, it does not make sense for DTAC to commit to remitting a larger and larger dollar amount to the Court each year. DTAC should also request that the formal Collections Committee be established to aid in the clarification and ongoing monitoring of the performance measure. A more specific metric would allow DTAC to better understand and measure its performance according to the Superior Court's standards.

DTAC Unlikely to Meet 5% Metric in Agreement

As noted above, as the current agreement is written, it is unclear whether the agreement requires an increase in dollar amounts collected, an increase in the collection rate, or both. It is also unclear whether the increase is to be calculated from the first year of the agreement or on a rolling annual basis. However, the first sentence of the increase requirement indicates that DTAC is supposed to "increase revenue" (presumably total dollar amounts) collected. It is unlikely that DTAC will be able to increase the dollar amounts collected given declines in DTAC's trial court collections amounts from FY 2016–17 to FY 2018–19. Figure 8.1 on page 75 shows DTAC's total trial court gross collections and the Justice Collections Unit's liquidation rate over this period. Between FY 2016–17 and FY 2018–19, DTAC's gross trial court collections, excluding traffic court collections,[31] declined by 14%. The Justice Collections Unit's liquidation percentage, which is calculated as the amount collected as a percentage of the total principal assigned, declined by 16% over the same period.

31 Effective June 2018, the Superior Court recalled traffic collections activities from DTAC.

Figure 8.1: *Trial Court Collections and Liquidation Percentage from FY 2016–17 to FY 2018–19*

Fiscal Year	FY 2016–17	FY 2017–18	FY 2018–19	% Change
Trial Court Gross Collections, Excluding Traffic Collections[1]	$23,285,186	$21,501,634	$20,016,674	-14%
Justice Unit Liquidation Percentage	31%	28%	26%	-16%

Source: Department of Tax and Collections Accumulated Collections for FY 2016–17, FY 2017–18, and FY 2018–19 (collections amounts); Department of Tax and Collections historical year-over-year collections report (liquidation percentage).[2]

Notes: (1) Effective June 2018, the Superior Court recalled traffic collections activities from DTAC. To ensure year-to-year comparability, the traffic collections collected in FY 2016–17 and FY 2017–18 are deducted from the total collection amounts in those years.

(2) The Management Audit Division recorded liquidation data from a report sourced from DTAC's outdated collections system that is inconsistent with other fiscal reports provided by DTAC. However, while potentially inaccurate, this report was the only document provided by the Department that contained information on collections amounts relative to total referrals.

The Department reported that the decline in collection amounts and the Justice Collections Unit's liquidation percentage has been caused by recent changes in State law that have impacted the Department's ability to collect these debts. In addition, DTAC has seen an overall decrease in account referrals since at least FY 2015–16, in keeping with a statewide decline in criminal filings. Between FY 2015–16 and FY 2018–19, the total principal assigned to the Justice Collections Unit decreased from $56.9 million to $34.8 million, or by 39%.

According to the California Judicial Council, the total statewide revenue collected from delinquent and non-delinquent accounts in FY 2018–19 declined by 7% from FY 2017–18. The most significant cause was the ongoing reduction in overall criminal filings statewide. In Santa Clara County, the number of total criminal filings declined by 44% in the ten years between FY 2008–09 to FY 2017–18. Given the overall reduction in criminal filings, it is unsurprising that justice collections revenues have also declined in Santa Clara County.

Further, the State Legislature has enacted several statutory changes to reduce the burdens associated with the high cost of court-ordered debt, including the release of driver's license hold or suspension for failure to pay; introduction of ability-to-pay determinations; and alternative sentences, including community service in lieu of cash payment for fines. Assembly Bill (AB) 103, passed in June 2017, eliminated the ability of comprehensive collection programs to initiate driver's license suspension or hold actions for unpaid fines or penalties. In 2015, the Legislature implemented an amnesty program to provide individuals the opportunity to resolve their delinquent court-ordered debt at a significant reduction and to request restoration of driving privileges. The California Judicial Council found that implementation of these strategies reduced the amount of court-ordered debt collected.

Thus, given State revenue trends, legislation to relieve court-ordered debt burden, and DTAC's declining court collections and liquidation percentages, it is unlikely that the Department will meet the 5% collections growth metric in future years, regardless of how it is calculated. While the agreement does not state that failure to meet these performance metrics alone is grounds for termination or other negative consequences for DTAC or the County, the Department's decline in court collections, combined with overall decreases in State criminal filings and court-ordered debts, may cause the Superior Court to consider moving this collections function in-house.

Legislative Analyst's Office Recommendations to Transfer Collection Responsibilities to Trial Courts

A 2014 report from the State's Legislative Analyst's Office (LAO) outlines the following statewide weaknesses in county-run collection processes for court debt:

- **Limited fiscal incentive for counties to collect debt**: According to the LAO, counties have limited incentive to maximize the collection of court-ordered debt because the majority of court-ordered debt revenue collected goes to the state, and state obligations are prioritized over county obligations.
- **Little fiscal incentive to collect non-delinquent debt:** According to the LAO, because collection programs are not reimbursed for the costs of collecting nondelinquent debt, there is little fiscal incentive to improve the collection of this type of debt, even though the collection of delinquent debt is significantly more expensive than the collection of nondelinquent debt and minimal effort to collect nondelinquent debt can negatively affect the amount of delinquent debt collected.
- **Cost-recovery approach does not incentivize efficiency:** According to the LAO, allowing collection programs to recover their operational costs—regardless of cost and the amount of debt collected—provides no incentive for programs to operate efficiently. In addition, because the current structure does not closely tie fiscal benefits to the performance of collection programs and does not incentivize nondelinquent collection, cost-effective collection programs may be penalized: a collection program that focuses on the cost-effective collection of nondelinquent debt may benefit less than a similar program that focuses on the less efficient collection of delinquent debt.

As a result of the findings above, the LAO recommended that the State Legislature consolidate responsibility for collection court-ordered debt and shift responsibility for collections from the counties to the trial courts. These inherent challenges to county court debt collection raise concerns that the Superior Court may decide to terminate its collection agreement with Santa Clara County. Indeed, during June 2018, DTAC lost one line of court-related business when the Superior Court recalled traffic collections activities from DTAC.

Consequently, there is a risk that the Court may decide to not renew the agreement for the comprehensive collection program after the current agreement expires in June of 2021, as well as in future years. This action would cause DTAC and the County to lose associated cost recovery revenue, which in FY 2019–20 represented 23% of the Department's total General Fund revenue. Further, over a quarter of the 72 full-time equivalent positions allocated to DTAC's Collections Division resided within the Justice Collections Unit during Fiscal Year 2019–20. Yet, despite the significant revenue and staffing implications of the Superior Count terminating this agreement, DTAC possesses no written contingency plan for how it would respond to such a development.

In the next agreement for the comprehensive collection program between the County and the Superior Court (if this agreement is formally renewed), the Management Audit Division recommends that DTAC attempt to re-negotiate the performance measure in the current agreement to specify intended collections rates and/or dollar amounts, and the mathematical methods for how rates and dollar amount changes are to be calculated. DTAC should also request that the formal Collections Committee be established to help develop the clarified goal and to provide a forum for addressing collections issues that may arise. In addition, DTAC should develop a written contingency plan that addresses the potential revenue loss and implications for staffing should the Court not renew the comprehensive collection program in 2021. The contingency plan should detail the re-assignment of DTAC collector staffing resources to other collection units that could benefit from additional staffing resources. For instance, Justice Collections staff may need to be re-assigned to other DTAC collections units in the event that court-ordered debt collections are retained by the Superior Court.

CONCLUSION

The performance metric in the agreement between the Superior Court and the County to increase court-ordered debt collection by up to 5% is ambiguous and does not establish a minimum standard that is acceptable to the Superior Court. Given the decrease in DTAC's Justice Collections amounts and rates in recent fiscal years, it is unlikely that DTAC will be able to meet the performance metric in this agreement. Further, the LAO recommends that the State Legislature consolidate responsibility for collection court-ordered debt and shift responsibility for collections from the counties to the trial courts.

Due to the considerations above, there is a risk that the Superior Court may decide to not renew the agreement for the comprehensive collection program after the current agreement expires in June of 2021. DTAC risks a loss of associated revenue, which in FY 2019–20 represented 23% of the Department's total General Fund revenue, and significant staffing impacts as a result.

RECOMMENDATIONS

The Department of Tax and Collections should:

8.1 Develop a written contingency plan that addresses the potential revenue loss and implications for staffing should the Superior Court not renew the comprehensive collection program in 2021. The contingency plan should detail the re-assignment of DTAC collector staffing resources to other collection units that could benefit from additional staffing resources, particularly medical collections, in the event that court-ordered debt collections are retained by the Superior Court. (Priority 1)

8.2 Re-negotiate the performance measure in the next agreement for its Court comprehensive collection program (if this agreement is renewed) to specify intended collections rates and/or dollar amounts, and the mathematical methods for how rates and dollar amount changes are to be calculated. Further, the Department should work with the Superior Court to establish the formal Collections Committee to help develop the clarified goal and to provide a forum for addressing collections issues that may arise. (Priority 2)

SAVINGS, BENEFITS, AND COSTS

A more specific metric would allow DTAC to better measure its performance according to the Superior Court's standards. A more realistic performance goal that can be accomplished with existing DTAC personnel resources will benefit the County and the Court and allow DTAC to assess the adequacy of its performance. A written contingency plan will formalize the implications and revenue loss for DTAC, and its staffing should the Court stop referring its collections to the Department.

Section 9: Improving Process to Update Policies and Procedures

Background
In October 2019, the Department of Tax and Collections (DTAC) began to update and standardize its policies and procedures. Approximately 1,700 processes from DTAC's three constituent departments (the former Department of Revenue, Office of the Tax Collector, and the Social Services Agency's Debt and Welfare Collections Unit) were consolidated into 526 policy areas. DTAC hired an Extra Help Management Analyst to work with departmental Subject Matter Experts (SME) to develop these processes into updated policies and procedures. These items are drafted, uploaded onto a SharePoint site (a web-based collaboration platform), and must undergo review by both unit supervisors and Division managers before finalization. In conjunction with this process, DTAC began developing job code-specific training guides for its newly hired staff.

Problem, Cause, and Adverse Effect
There are severe bottlenecks in the finalization of DTAC's updated policies, procedures, and training guides. As of April 2020, 179 of the 187 items (96%) on DTAC's SharePoint site had yet to undergo an initial approval by a unit supervisor. Additionally, as of May 2020, none of the 22 training manuals that had been initiated were complete. Review of policies, procedures, and training guides is constricted by availability of SMEs, and this availability has decreased even further with the COVID-19 crisis. Prioritization of policies and procedures is unclear or inconsistently followed. In addition, there appears to be no set system for reviewing and finalizing drafts. One SME reported that they only look over completed items when time permits. Other SMEs reported confusion with the finalization process and stated that the SharePoint system "causes delays for review and approval." Failing to finalize usable staff guidelines can result in inefficiencies and violation of policies and legal criteria governing DTAC's operations.

Recommendations
Given the limited capacity of permanent DTAC personnel, the Department should create and document a prioritization plan for its policies and procedures, starting with the procedures defined in its training manuals. In addition, DTAC should formalize a mechanism for SME review, approval, and finalization of drafted items by creating a set window of time for these tasks and dictating expected turnaround times for completion. Drafting, review, and finalization of departmental guidelines should be completed in batches aligned with its prioritization plan so that the Department does not continue to have large volumes of unreviewed items. Lastly, the Department should prioritize filling its vacant Management Analyst position as a long-term solution for completing this project.

Savings, Benefits, and Costs
Implementing these recommendations will maximize efficient use of existing Extra Help resources and ensure that documentation of DTAC's most critical processes are completed before this staff member's working hours are depleted. If not, a new staff member may have to be trained and spend hours retracing steps for incomplete items. Further, these recommendations will facilitate completion—and not just initial drafts—of policies, procedures, and training manuals, reducing the likelihood of operational issues and noncompliance with County and state standards.

FINDING

Project to Update and Standardize Policies and Procedures

At the outset of Fiscal Year 2017–18, three County departments, the Department of Revenue, the Office of the Tax Collector, and the Debt and Welfare Collections Unit of the Social Services Agency, merged into the new Department of Tax and Collections (DTAC). Each of the former departments had its own set of policies and procedures, and after their consolidation, DTAC staff relied on these legacy guidelines. These documented processes were in different formats and had varying revision dates—some as early as 2014.

In October 2019, DTAC began a process to update and standardize its policies and procedures. Approximately 1,700 processes from DTAC's three constituent departments were grouped by DTAC's three major divisions: Customer Service and Support, Collections, and Fiscal. These processes were then consolidated into 526 different policy areas. DTAC hired an Extra Help Management Analyst to work with departmental Subject Matter Experts (SME) to develop these processes into updated policies and procedures. While the development of policies and procedures fits within the job descriptions of several DTAC permanent administrative services and analyst staff, the Department reported that the possibility of these staff assisting on this project is "almost zero" given their other duties (e.g., budgeting, human resources and payroll, pandemic-related tasks, etc.).

The policy and procedure development process begins with meetings between DTAC's Extra Help Management Analyst and departmental SMEs. After business processes are discussed at these meetings, the Extra Help Management Analyst drafts guidelines following pre-made templates. Once items are drafted, they are uploaded onto a SharePoint site (a web-based collaboration platform) and must undergo review by both unit supervisors and Division managers before finalization. Concurrently, DTAC has also begun developing job code-specific training guides for its newly hired staff.

Bottlenecks in Drafting and Finalizing Written Guidelines

There are severe bottlenecks in the finalization of DTAC's updated policies, procedures, and training guides. As of April 2020, 179 of the 187 draft items (96%) on DTAC's SharePoint site had yet to undergo an initial approval by a unit supervisor. These written guidelines were at varying stages of completion. While some appeared ready for final review, others were missing a description of the party responsible for the procedure or included questions from the Management Analyst asking for SME clarification.

Additionally, as of May 2020, none of the 22 training manuals that had been initiated were complete. These job classification-based training manuals contain a description of roles and responsibilities, Department-wide new hire orientation information, and job-specific summaries of information systems and procedures. The first two sections were complete for the 22 manuals; however, the classification-specific information system and procedure summaries were not.

These bottlenecks can be attributed to a lack of SME availability. We emailed questions to 29 departmental SMEs and received 12 responses. Four respondents stated that setting aside time is one of the largest challenges in drafting, reviewing, and approving policies and procedures. Further, the COVID-19 pandemic has led to fewer staff available to complete this work, and the Department has prioritized responses to the public over policy and procedure updates. One staff member reported that routine SME meetings have been canceled due to the shelter-in-place order.

Based on SME responses, there is also no regular, uniform channel for reviewing, approving, and finalizing drafts. Six SMEs noted that they spend fifteen minutes to five hours a week reviewing policies and procedures, while another SME noted that they only look over drafts when they have time. Only one SME reported attending formal meetings for this process, and another reported, "The review and approval process seemed a little cumbersome and confusing to me." DTAC reported that reviewing supervisors can set up a notification on the SharePoint site that informs them when a policy or procedure is ready for their review and approval. However, two SMEs noted confusion with the SharePoint review and approval process.

Limited SME availability and a lack of set windows to review, finalize, and approve policies have resulted in a substantial volume of unusable policies that are still in draft phase. DTAC does not have a plan in place to finalize these existing drafts or produce completed documents in manageable batches before drafting another set of policies and procedures. Rather, the Department reported that they would "continue to develop as many of the identified P&P as possible and have the supervisors/ managers review them when they are able." Such an approach will likely contribute to the growing volume of unreviewed policies that cannot be utilized by staff.

Further, DTAC does not have a consistent prioritization mechanism to guide updates of its written guidelines. The Department reported that initial priority levels assigned to its 526 consolidated policy areas were found to be inadequate after SME meetings, but no replacement prioritization system has been developed. The existing drafting order of policies does not reflect the prioritization considerations outlined by the Department. For instance, DTAC supervisory staff reported that, "Cashiering transactions will have high priority over collections operations." However, over half of the 187 draft policies, procedures, and supplemental items on DTAC's SharePoint are for the Collections Division, whereas only 35% pertain to the Customer Service and Support Unit. Further, an internal tracking spreadsheet showed a high volume of uninitiated procedures for the latter Division, and customer-facing draft-phase procedures such as "accepting cash only payments" had unresolved questions directed to SMEs. The Department responded that Collections Division processes were updated first due to the relative availability of this division's SMEs during peak property tax season.

Additionally, DTAC supervisory staff highlighted the importance of the new-hire training manuals and reported that these manuals help determine policy and procedure and training needs. Yet, as discussed above, the training manuals were still in development as of May 2020. Again, the most complete manuals are for the Collections Division (a lower priority), while manuals for Cashiers and Account Clerks contain multi-page lists of procedure headings for which there are no procedures. Further, training manuals for five functional areas covering 22 job codes had not yet been initiated as of May 2020. By December 2020, only two of these outstanding manuals had been drafted, and none had been completed, demonstrating continued issues with staff finding the time to complete policy and procedure finalization tasks. While new staff have reportedly been trained using a combination of these partially completed manuals and pre-existing policies and procedures, these items are not up to date and several refer to old collection systems.

The Department characterized its policy and procedure project as a "moving target," and that priorities are created as DTAC "discover[s] the urgent need." The COVID-19 pandemic has also prompted DTAC to work on guidelines for how to handle similar crises in the future. As of December 2020, DTAC reported that their Extra Help Management Analyst had fewer than 450 hours remaining of their committed time. When these hours are expended, DTAC may have to retain another staff member to work on this policies and procedures initiative.

Once this occurs, the Department reported that they would then have to "spend time with someone else to review/train the entire project." The existing large volume of unfinalized policies and procedures lends itself to redundancies, as the new staff member will likely have to examine unreviewed drafts and reach out to SMEs to ascertain what is still required for completion. The hours spent going over the process and work of the previous Management Analyst will take away time that could go towards drafting new policies and procedures.

DTAC needs to create a more deliberate approach to updating policies and procedures, so that the Department can disseminate finalized, usable policies, procedures, and training manuals. In the context of limited SME capacity to work on this project, a substantial volume of unreviewed policies and procedures, hundreds of processes that have yet to be drafted, and an Extra Help staff member who only has a finite number of hours left, a prioritization system is necessary.

The Management Audit Division recommends that DTAC create and document a prioritization plan for updating its policies and procedures, starting with the procedures defined in its training manuals. To the extent that some of these procedures have already been drafted, DTAC should approve and finalize these drafts first to avoid replicating work for new staff. In addition, DTAC should formalize a mechanism for SME review, approval, and finalization of drafted items by creating a set window of time for these tasks and dictating expected turnaround times for completion. Lastly, drafting, review, and finalization of departmental guidelines should be completed in batches aligned with the prioritization plan so that the Department does not continue to have large volumes of unreviewed items.

To note, while our recommendations are geared towards efficient use of existing resources to finalize as many critical policies and procedures as possible, completing this project in its entirety will likely require the assistance of a full-time staff member in the future. DTAC reported that its previous requests for filling its

vacant Management Analyst position were denied due to the state of the County budget. However, in March 2021, the Department was approved to fill this position. We recommend that DTAC prioritize this recruitment as a long-term solution to completing its policy and procedure updates.

CONCLUSION

In October 2019, DTAC began a project to update and standardize policies and procedures that had once been spread across its three former constituent departments. However, this project's lack of a well-defined prioritization system and a formal review, approval, and finalization process have resulted in a substantial bottleneck of draft-stage policies and procedures. Written guidelines have not been developed in accordance with stated prioritization considerations, and the COVID-19 pandemic has further limited the capacity of DTAC staff to work on this project. A more deliberate approach to this policy and procedure development is necessary to create usable outputs and limit redundancy with turnover of Extra Help staff.

RECOMMENDATIONS

The Department of Tax and Collections should:

9.1 Create and document a prioritization plan for updating its policies and procedures, starting with the procedures defined in its training manuals. To the extent that some of these procedures have already been drafted, DTAC should approve and finalize these drafts first to avoid replicating work for any future staff retained for completing policy and procedure updates. (Priority 1)

9.2 Formalize a mechanism for Subject Matter Experts to review, approve, and finalize drafted policies and procedures by creating a set window of time for these tasks and dictating expected turnaround times for completion. (Priority 1)

9.3 Draft, review, approve, and finalize policies and procedures in batches or phases aligned with its prioritization plan to reduce backlogs of unreviewed items. (Priority 2)

9.4 Prioritize recruitment of its vacant Management Analyst position as a long-term staffing solution for completing departmental policy and procedure updates. (Priority 2)

SAVINGS, BENEFITS, AND COSTS

Implementing Recommendations 9.1 – 9.3 will increase the likelihood of policies and procedures being finalized, disseminated, and utilized by DTAC staff. In turn, having written guidelines will reduce the risk of jeopardized operations, legal noncompliance, and staff following outdated processes. Creating a more strategic and explicitly prioritized approach will also reduce the possibility of a continuously delayed initiative, which may—in turn—require the hiring of additional Extra Help staff. This represents a cost savings of approximately $44,000 annually. Given the extensive nature of DTAC's policies and procedures, Recommendation 9.4 will better ensure that the Department has permanent staff to complete this long-term project. As a position that has already been approved in the Department's FY 2020–21 budget, this recommendation will not result in any additional costs.

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Section 10: Write-Off Policies, Procedures, and Practices

Background
California Government Code authorizes the Department of Tax and Collections (DTAC) to request a discharge of accountability for debts that are either too small for collection or meet certain collectability or legal criteria (i.e., "write-offs"). A 1973 Board Resolution delegated write-off approval authority of DTAC's justice and medical and legal accounts to the County's Finance Agency Director. Meanwhile, write-offs of unsecured tax liabilities related to bankruptcies are approved by the Board of Supervisors. During Fiscal Year 2018–19, DTAC's write-offs for justice, medical and legal, and tax bankruptcy-related accounts amounted to $73.2 million, $190.6 million, and $3.3 million, respectively.

Problem, Cause, and Adverse Effect
Contrary to best practices, the Department does not have a standardized write-off policy, which resulted in bulk write-offs in 2017. For example, there was no write-off of medical debts from 2008 to 2017, resulting in a one-time discharge of $698.9 million in February of 2017. Names of the debtors, as required by Government Code, were not included in the accompanying memo, which also overstated the actual amount discharged by roughly $1.3 million. Further, $54.1 million of medical debts discharged in July 2019 corresponded to accounts that had exceeded the State's four-year statute of limitations, including accounts that were over 20 years old. Separately, in the intervening years in which DTAC did not perform medical debt write-offs, a 2011 audit of County hospital administration and support services identified ambiguities in Board-delegated medical debt compromise authority and processes. Recommendations to clarify these ambiguities were adopted by the Board of Supervisors but were not implemented as of February 2021. It is thus unclear where DTAC's medical write-off process fits within the larger framework of the County's multiple medical debt compromise channels. Additionally, there was no discharge of accountability for tax bankruptcy-related accounts from 2007 to 2017, and write-offs of justice-related debts occurred for the first time in 2019—deviating from the recommended timelines in the County's agreement with the Superior Court.

Recommendations
The Department should prioritize developing a universal write-off policy in its update of policies and procedures, as discussed in Section 9, starting on page 79, of this audit report. This policy should include account timeframes and dollar thresholds, decision-making authority, and comply with all reporting requirements outlined in State law. The policy should also outline the Department's annual discharge process and timelines. Further, per recommendations from the 2011 hospital audit, the Board of Supervisors should amend the County Ordinance Code to clarify authorizations and processes for compromise of medical debts and specify where DTAC's write-offs fit within this framework.

Savings, Benefits, and Costs
These recommendations would clarify write-off authority and criteria, prevent bulk discharges, reduce the backlog of old accounts, and potentially improve collectability of newer accounts. Further, while we found no evidence of illegitimate write-offs within the Department, improved practices may reduce the potential for debts to be improperly discharged. At present, discharge controls are weak enough to potentially permit an unscrupulous actor to discharge debts for personal associates.

FINDING

State Guidelines for Discharge of Accountability for Certain Debt Accounts

Under California law,[32] the Department of Tax and Collections (DTAC) is authorized to apply for a discharge from accountability for collecting on certain debt accounts (i.e., "write-offs") from the Board of Supervisors. These "write-off" accounts must meet at least one of three criteria: 1) the owed amount is too small to justify the cost of collection; 2) the likelihood of collection does not warrant the expense involved; or, 3) the amount thereof has been otherwise lawfully compromised or adjusted. When applying for this discharge of accountability, the Department must also provide the following information about each of the accounts in question:

- the amount owed on the account;
- the names of the persons liable and the amounts owed by each;
- the estimated cost of collection, a statement that the likelihood of collection does not warrant the expense involved, or a specific reference to the official records establishing that the amount owned has been "compromised" or adjusted;
- any other fact warranting the discharge;
- a verification by the applicant that the facts stated in the application are true and correct.[33]

These requirements also apply to court-ordered debt, and "Responsibility for collection of court-ordered debt or bail shall be demonstrated by a written agreement between the county and the court."[34] An exhibit to the collection agreement between the County and Superior Court discusses these discharge guidelines (see Section 8, starting on page 71, of this audit report for more information on this agreement).

In 1973, under the authority of State law,[35] the County's Board of Supervisors delegated the authorization of these write-offs to the County Finance Agency Director through a Board Resolution. The Finance Agency Director approves justice and medical and legal accounts. Write-offs of unsecured tax liabilities related to bankruptcies are still approved by the Board of Supervisors, although these write-offs are eligible for approval by the Finance Agency Director as well. During Fiscal Year 2018–19, write-offs for justice, medical and legal, and tax bankruptcy-related accounts amounted to $73.2 million, $190.6[36] million, and $3.3 million, respectively.

32 California Government Code Section 25257.
33 California Government Code Section 25258.
34 Government Code Section 25259.7.
35 Government Code Section 25259.5.
36 Medical accounts total $190,521,095 and legal accounts total $45,231.

No Universal Write-Off Policy for the Department

The Government Finance Officers Association (GFOA), which promulgates government financial management best practices, recommends establishing an accounts receivable write-off policy that includes timeframes, dollar thresholds, and decision-making authority. Contrary to this best practice, DTAC does not have a standardized write-off policy inclusive of these guidelines. In April 2020, the Department reported that a write-off policy was in development. However, as of December 2020, this policy had yet to be completed—likely due to the policy and procedure workflow issues described in Section 9, starting on page 79, of this audit report.

In the absence of a documented write-off policy, the Department exhibited inconsistent practices in this area until 2017. The 1973 Board Resolution delegating write-off authority advised that a list of write-off accounts be prepared "at least annually." However, there was no write-off of medical or legal debts from 2008 to 2017, resulting in a one-time aggregate discharge of accountability of $698.9 million in February of 2017. Names of the debtors, as required by Government Code, were not included in the 2017 discharge memo, which also overstated the actual amount discharged by roughly $1.3 million.[37] DTAC management attributed this discrepancy to the fact that accounts can receive payments until they are moved from the collection system's active production database into an archive/purge database, which occurs on the last weekend of the month that the discharge memo is submitted. However, no documented policies or procedures exist to support this manual balancing, reconciliation, and approval process.

Similarly, there was no discharge of accountability for tax bankruptcy-related accounts from 2007 to 2017, resulting in a one-time write-off of $11 million in June 2017. Lastly, there were no write-offs of court-ordered debts from 2008 until 2019, which runs contrary to the recommendation in the agreement between the Court and the County to discharge uncollectible debt on an annual basis.

Inconsistent Write-Off Timelines and Unclear Criteria for Discharged Accounts

While medical and tax bankruptcy write-offs occurred on a regular schedule after their respective bulk discharges in 2017[38], the timelines of these discharges have been inconsistent. The 2017 medical discharge of accountability was approved in February but was approved in May and July for the two following years. The supporting documents for these memos did not indicate when the actual transfer of accounts from DTAC's collections database into the archive/purge database occurred.

In 2017, the tax bankruptcy discharge took place in June but then changed to May during 2018 and 2019. The Department reported that it aims to complete discharges before the end of the Fiscal Year, but this did not occur for the 2019 medical debt discharge. Additionally, inconsistent approval timelines for write-offs make it difficult to compare the level and volume of write-offs from year to year.

37 Overage was revealed in supporting exhibits furnished by the Department. Since the 2017 discharge, debtor names have been added to supporting exhibits accompanying discharge memos.

38 On an annual basis for both debt types until FY 2020–21, which is when DTAC began to perform write-offs of medical debts on a more frequent, quarterly schedule.

From our analysis of discharged accounts, the Management Audit Division was also unable to ascertain clear aging and dollar amount criteria for DTAC's recommended write-offs. For example, the 2017 discharge of accountability memo for medical accounts reported that no discharges had been performed since 2008, resulting in $698.9 million of uncollectible medical debts accumulating over the nine intervening years. Following this large discharge, two more medical purges totaling $121.3 million and $190.5 million were approved in May 2018 and July 2019, respectively.[39] A review of underlying data for the 2019 discharge request revealed that $155.0 million (81%) pertained to accounts that were assigned to DTAC three or more years prior, as illustrated in Figure 10.1 below.

Figure 10.1: *Age of Medical Debts Written Off in July 2019*

Fiscal Year Assigned	Age in Years	Total Balance	% of Total
FY 2016–17 to FY2018–19	0-2	$35,495,396	18.6%
FY 2013–14 to FY2015–16	3-5	$100,926,819	53.0%
FY 2010–11 to FY2012–13	6-8	$48,096,447	25.2%
FY 1999–20 to FY2009–10	9-19	$5,148,804	2.7%
Pre-FY 1999–00	20+	$853,630	0.4%
Total:		**$190,521,095**	**100.0%**

Source: Auditor analysis of data provided by DTAC's Collections Division.

Further, $54.1 million of the $190.5 million medical accounts discharged in 2019 (28%) were over five years old. The State's statute of limitations for debt collections is four years from the date of delinquency, meaning that legal action pertaining to delinquent debt cannot be raised against the debtor after this period.[40] It is unclear why these accounts were not written off earlier, given the extremely reduced likelihood of their collectability. This is especially true for debts that would have already exceeded the State's statute of limitations by the point of DTAC's 2017 and 2018 medical account discharges.

The Department's write-offs of justice-related accounts in 2019 consisted entirely of debts that had been delinquent for ten years. There were two reasons provided for discharged accounts: 1) balance amount too small to justify cost and 2) likelihood of collecting does not warrant expense. However, there was no clear dollar threshold for either category, with account amounts ranging from one cent to over $37,000.

39 Amounts are for medical accounts only and exclude general and legal accounts that were also included in the discharge memos.

40 California Code of Civil Procedure Section 337.

Having no documented criteria or standards for write-offs is an internal control risk that opens the door for individuals to influence or attempt to influence which debts are written off. While we found no evidence of illegitimate write-offs within the Department, having clear, documented criteria for discharges reduces the backlog of old accounts, improves collectability (as discussed in Section 7, starting on page 59, of this audit report), and serves as a safeguard against improper discharge of debts. At present, discharge controls are weak enough to potentially permit an unscrupulous actor to discharge debts for personal associates. Further, clarifying write-off guidelines and processes may also allow DTAC to better document information required for the County Health and Hospital System to claim bad debts on its Medicare cost report (as discussed in Section 7, starting on page 59, of this audit report).

The Management Audit Division recommends that DTAC prioritize developing a universal write-off policy in its update of policies and procedures, as discussed in Section 9, starting on page 79 of this audit report. In following best practices, this policy should include account timeframes and dollar thresholds, decision-making authority, and comply with all discharge of accountability reporting requirements outlined in California Government Code. The policy should also outline the Department's annual discharge process (including fiscal tasks such as balancing, reconciliation, and approval) and timelines.

Clarifying Countywide Responsibilities and Processes for Medical Debt Write-Offs

During the intervening years in which DTAC did not conduct annual medical debt write-offs, the Management Audit Division performed an audit of County hospital administration and support services. This audit, published in 2011, identified ambiguities in the County's delegation of authority and processes for compromising certain medical debts (see Attachment G on page 117 for 2011 audit finding). At the time of the 2011 audit, a patchwork of Board Resolutions and Ordinance Code sections delegated compromise authority to the County Hospital Debt Review Committee, Santa Clara Valley Medical Center (SCVMC) Director or designee, the County Executive, and the Board of Supervisors.[41] There were also two separate compromise processes: one facilitated by the Hospital Debt Review Committee and the other performed by the Insurance and Claims Unit of the Employee Services Agency. The audit found inconsistencies both across and within these two processes.

To address these issues, the Management Audit Division recommended that the Board of Supervisors amend the County Ordinance Code to 1) clarify the delegation of the Board's compromise authority; 2) consolidate all compromise processes under this single authority; and 3) define what amounts, if any, should be compromised by the Board itself. In addition, the audit recommended development of procedures around the compromise of medical debts. The Board of Supervisors adopted these recommendations, and a nine-month status report noted that a multi-department committee was discussing their implementation (see Attachment H on page 131).

However, as of February 2021, these recommendations were not yet implemented. Section A18-24 of the County Ordinance Code, which discusses compromising claims for services received from SCVMC, remains as it was in 2011. DTAC additionally reported that the Hospital Debt Review Committee's compromise process has not

41 Established in 1985 and formerly known as the Hospital Lien Committee.

changed.[42] The non-implementation of these recommendations is likely due to the departure of key executive staff involved in oversight of hospital debt processes. The former Director of Finance for the Health and Hospital System, who was part of the team responsible for implementing our 2011 audit recommendations, left the County in 2013. After their departure, efforts to streamline and clarify medical debt compromise channels were de-prioritized, according to staff from the Office of the County Executive.

Given the continued ambiguity around authorization and process for compromising County medical debts, it is unclear where DTAC's annual medical debt discharge fits among the County's other write-off channels. As discussed above, DTAC reinstated these medical discharges in 2017—six years after our audit of hospital administration and support services was published. The debt compromise processes covered in our 2011 audit largely pertain to claims in cases where SCVMC patients had been treated at the hospital due to the negligence of others (thereby resulting in third-party litigation). However, the Hospital Debt Review Committee also writes off a handful of medical debt for other reasons, such as an inability of the debtor to pay. This circumstance seemingly overlaps with medical debts that are discharged by DTAC due to a status of "No ability to Pay." In the absence of an amendment to the County Ordinance Code and documented procedures around countywide medical debt compromise processes, the Management Audit Division was unable to determine which entity has formal jurisdiction over such discharges.

To better delineate these responsibilities, the Board of Supervisors should—per recommendations from the 2011 audit of hospital administration and support—amend the County Ordinance Code to clarify medical debt compromise authorizations and processes and specify where DTAC's medical write-offs fit into this framework.

CONCLUSION

Discharges of accountability for certain debt accounts, otherwise known as "write-offs," are allowable under California Government Code. Best practices dictate that government agencies have a documented write-off policy that includes timeframes, dollar thresholds, and decision-making authority. However, DTAC has no global write-off policy, and, in the absence of written guidelines, the department has exhibited inconsistent write-off practices for medical and legal, justice, and tax bankruptcy debts. Given the financial implications of this area, which range in the tens to hundreds of millions of dollars, the Department should document and standardize its write-off process. Further, the County requires clearer guidance around the multiple compromise authorizations and review channels for medical debt, including DTAC's role in medical debt write-offs.

42 DTAC is a member of this Committee.

RECOMMENDATIONS

The Department of Tax and Collections should:

10.1 Prioritize developing a universal write-off policy in its update of policies and procedures, as discussed in Section 9, starting on page 79 of this audit report. In following best practices, this policy should include account timeframes and dollar thresholds, decision-making authority, and comply with all discharge of accountability reporting requirements outlined in California Government Code. The policy should also outline the Department's annual discharge process (including fiscal tasks such as balancing, reconciliation, and approval) and timelines. (Priority 1)

The Board of Supervisors should:

10.2 Per Recommendations 9.1–9.3 on page 83 from the 2011 management audit of hospital administration and support, amend the County Ordinance Code to clarify medical debt compromise authorizations and processes and specify where DTAC's medical write-offs fall within this framework. (Priority 1)

SAVINGS, BENEFITS, AND COSTS

These recommendations would clarify write-off authority and criteria, prevent bulk discharges, reduce the backlog of old accounts, and potentially improve collectability of newer accounts as a result. Implementation would better ensure compliance with discharge of accountability requirements and recommended timelines in California Government Code, Board Resolutions, and the County's agreement with the Superior Court. Finally, clearer write-off criteria may prevent improper discharges due to potential staff conflicts of interest or pressure from unscrupulous outside parties.

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Attachments A-H

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County of Santa Clara
Finance Agency
Department of Tax and Collections
70 West Hedding Street
East Wing, 6th Floor
San Jose, California 95110
www.sccdtac.org

DATE: July 15, 2021

TO: Board of Supervisors Management Audit Division

FROM: Margarita M. Rodriguez, Interim Director

SUBJECT: Management Audit of the Department of Tax and Collections (FY 2019-2020)

Attached please find responses to findings as presented to the Department of Tax and Collections (DTAC) in the Confidential Revised Audit Draft dated June 11, 2021.

On behalf of DTAC, I wish to thank you for your diligence in examining our operations and management practices. Your observations and subsequent recommendations aligned with our discussions with you, and the areas of focus and improvements we brought to your attention at the Entrance Meeting. The recommendations reflect the ongoing work required for the recently merged department with multiple operations and systems. We are committed to improving our effectiveness within the County, as well as our responsiveness to the community.

Board of Supervisors: Mike Wasserman, Cindy Chavez, Otto Lee, Susan Ellenberg, S. Joseph Simitian
County Executive: Jeffrey V. Smith

Management Audit of the Department of Tax and Collections Audit Recommendations and Related Responses		
NO.	**AUDIT RECOMMENDATION**	**RESPONSE**
Section 1. Remittance Processing Errors		
1.1	Following the expiration of its lockbox contract, consider transitioning to an in-house remittance processing system using Teller's bulk check scanning capabilities. If implemented, the Department should assess the performance of the system after one year to determine whether to keep in-house processing or revert back to its outside lockbox vendor. Under this new workflow, the Department should also institute appropriate measures aligned with the County's Cash Handling Administrative Guide and best practices to ensure payments processed in-house are guarded against potential theft or loss. This includes segregation of cash handling duties, periodic monitoring of customer complaints and account balances, and background checks for Extra Help staff. (Priority 2)	**Partially agree**. In-house processing of supplemental tax payments was completed last year. The in-house processing of Secured tax payments is scheduled for Calendar Year 2022.
1.2	Amend its lockbox agreement to include an error tolerance provision that states the level of acceptable error from its vendor, as well as remedies for when this requirement is not met. The new provision should explicitly outline the different error types that apply to this requirement. (Priority 2)	**Partially Agree**. While in the transition period stated in 1.1, DTAC will continue to work with the lockbox vendor to provide error-tolerance reports. DTAC will explicitly outline the different error types.
1.3	If Recommendation 1.2 is adopted, instruct its Payment Processing and Tax Information Units, Fiscal Division, and the Collections Division to coordinate a system to track specified error types from sources such as daily reject reports, reversed payments, and penalty appeal and customer inquiry results. (Priority 2)	**Disagree**. Each division has developed a tracking process for its business need.
Section 2. Property Tax Penalty Appeals Outcomes		
2.1	To ensure more uniform documentation from taxpayers, include guidelines for acceptable supporting documentation for the most commonly cited penalty appeal reasons on their website and penalty appeal forms. Further, if penalty appeals are approved in absence of this information or denied despite the submission of these documents, the rationale for these decisions should be clearly documented in the penalty appeal response. (Priority 2)	**Partially agree**. Current taxpayer guidelines will be expanded to include acceptable supporting documentation, in addition to the guidelines for denials on the website.
2.2	Require supervisory tax collections staff to perform annual audits of a sample of appeal results, verifying whether sufficient documentation was provided and comparing the outcomes of appeals with similar reasons, which are recorded in the Department's penalty appeals log. If discrepancies exceed thresholds determined by supervisors prior to the audit, DTAC should institute additional penalty appeals training for staff. (Priority 2)	**Agree**. DTAC is currently updating the internal penalty appeals policy and procedure manual to establish an error tolerance threshold and will require supervisory staff to perform an annual audit of appeal decisions to ensure consistency in the results.
Section 3. Cost Recovery Agreements and Fees		
3.1	Enter into a written Memorandum of Understanding with Valley Health Plan for collections activities that includes cost recovery provisions and any exceptions to these requirements. (Priority 1)	**Agree**. DTAC will formalize current agreement with a written MOU.

3.2	Work with the Cost Management Unit of the Controller-Treasurer Department to immediately update all fees and charges, prioritizing rates that have not been updated since 2003. Per the Controller-Treasurer's Fees and Charges Policy, DTAC should review and update its rates at least every three years to include current costs, and all calculations used to determine these updated these rates should be documented. (Priority 1)	**Agree.**
Section 4. Physical Security and Cash Handling		
4.1	Ensure that the "Authorized Personnel Only" doors at 70 West Hedding are closed at all times. (Priority 1)	**Agree**. DTAC will keep the doors closed at all times.
4.2	Direct its supervisors within the Cashiering Unit to develop an inventory and checking/check-out system for cash-access keys and require relevant personnel to use this system. Under this system, Department staff should not be permitted to leave the premises with their assigned keys; keys should be engraved with "Do Not Duplicate" and should be checked in and out between shifts; and supervisors should verify that all keys have been returned at the end of each work day. (Priority 1)	**Partially agree** - As of March 2021, an inventory and check-in/check-out system for cash-access keys are in effect. Sample Key Log attached. All assigned keys have been engraved with "Do Not Duplicate."
4.3	Ensure that all requirements of the Cash Handling Administrative Guide are met, including posting receipt signage for customers at all cashiering locations and disseminating relevant portions of the Cash Handling Administrative Guide to all individuals who handle cash for DTAC, including volunteers. (Priority 1)	**Agree**. Both 852 and 70 WH have installed signage for customer receipts. Volunteers and extra helps have been provided copies of the cash handling manual.
Section 5. Health Insurance Portability and Accountability Act Compliance		
5.1	Direct its management and line staff to work with its Technology Services and Solutions team and the Santa Clara Valley Health and Hospital System's information technology analysts to generate a HealthLink collector template that only contains the minimum necessary patient information required for collection activities. (Priority 1)	**Agree**. This is current practice as of July 2021.
5.2	Direct its Billing Services Unit to work with the Department of Tax and Collections on generating the collector information report described in Recommendation 5.1. (Priority 1)	See 5.1 above.
Section 6. Siloed Collections Units and Cross-Training of Revenue Collections Officers		
6.1	Continue to work with the Office of the County Counsel and the Privacy and Compliance Office of the Health and Hospital System on expanding the group of Revenue Collections Officers (RCO) who can access Protected Health Information. This expansion may require implementing additional HIPAA trainings, developing or expanding upon privacy and security policies, and completing a departmental security assessment. These efforts should be coordinated with the development of the health collections data template outlined in Recommendations 5.1 – 5.2 of this audit, and any new collections system acquired by the Department should have security measures to prevent RCOs from viewing medical accounts to which they are not assigned. (Priority 2)	**Partially Agree.** See 5.1 above. This recommendation would prevent RCOs from fully performing counter, telephone duties or reallocated assignments to meet business needs. Please refer to 6.2 below. Item 5.1 above refers to the completion of the template developed for the DTAC team. The template is the result of the collaboration of DTAC, the Office of County Counsel and the CSCHS privacy officer.

6.2	If Recommendation 6.1 is adopted, develop a cross-training program for RCOs that gives them key knowledge and skills to work in collections areas outside their primary assignments, so that they be efficiently reallocated to other units when necessary. (Priority 2)	**Agree.** A new collection training program now in development, will launch in November 2021. This collection model is referred to as "whole person care" and will be implemented with the new software.
Section 7. More Timely Assignment of Delinquent Medical Accounts		
7.1	Work with the management of the Health and Hospital System's (HHS) Patient Business Services (PBS) to develop a protocol for documenting and returning uncollectible accounts back to PBS after collection efforts are exhausted. This documentation should detail collection activities and outcomes consistent with requirements published by the Centers of Medicare and Medicaid Services (CMS) to claim partial reimbursement for bad debts on Santa Clara Valley Medical Center's cost report. (Priority 1)	**Agree.** This recommendation will be implemented with the new collection system.
Section 8. Court-Ordered Debt Collection Performance		
8.1	Develop a written contingency plan that addresses the potential revenue loss and implications for staffing should the Superior Court not renew the comprehensive collection program in 2021. The contingency plan should detail the re-assignment of DTAC collector staffing resources to other collection units that could benefit from additional staffing resources, particularly medical collections, in the event that court-ordered debt collections are retained by the Superior Court. (Priority 1)	**Disagree**. The contract with the Superior Court was extended for 3 years with no change to the terms of the agreement. The 3-year extension without changes was the decision of the Court.
8.2	Re-negotiate the performance measure in the next agreement for its Court comprehensive collection program (if this agreement is renewed) to specify intended collections rates and/or dollar amounts, and the mathematical methods for how rates and dollar amount changes are to be calculated. Further, the Department should work with the Superior Court to establish the formal Collections Committee to help develop the clarified goal and to provide a forum for addressing collections issues that may arise. (Priority 2)	See 8.1 above.
Section 9. Improving Process to Update Policies and Procedures		
9.1	Create and document a prioritization plan for updating its policies and procedures, starting with the procedures defined in its training manuals. To the extent that some of these procedures have already been drafted, DTAC should approve and finalize these drafts first to avoid replicating work for any future staff retained for completing policy and procedure updates. (Priority 1)	**Agree**. This was effective in 2020. The current implementation of the new collection software created a prioritization of the procedures. Each procedure is a workflow in the new system and it's integrated with the collection actions to take. This is an ongoing project; meetings occur 3-5 times per week until we go live as projected on November 2021.
9.2	Formalize a mechanism for Subject Matter Experts to review, approve, and finalize drafted policies and procedures by creating a set window of time for these tasks and dictating expected turnaround times for completion. (Priority 1)	**Agree.** SMEs have been assigned a deadline of 30 days to respond.
9.3	Draft, review, approve, and finalize policies and procedures in batches or phases aligned with its prioritization plan to reduce backlogs of unreviewed items. (Priority 2)	**Agree**. Refer to No. 9.2
9.4	Prioritize recruitment of its vacant Management Analyst position as a long-term staffing solution for completing departmental policy and procedure updates. (priority 2)	**Agree**. Recruitment will be completed by end of July 2021.
Section 10. Write-Off Policies, Procedures, and Practices		

10.1	Prioritize developing a universal write-off policy in its update of policies and procedures, as discussed in Section 9 of this audit report. In following best practices, this policy should include account timeframes and dollar thresholds, decision-making authority, and comply with all discharge of accountability reporting requirements outlined in California Government Code. The policy should also outline the Department's annual discharge process (including fiscal tasks such as balancing, reconciliation, and approval) and timelines. (Priority 1)	**Agree**. The new universal policy will outline DTAC's annual discharge process.
10.2	Per Recommendations 9.1 – 9.3 from the 2011 management audit of hospital administration and support, amend the County Ordinance Code to clarify medical debt compromise authorizations and processes and specify where DTAC's medical write-offs fall within this framework. (Priority 1)	This recommendation should be directed to the Hospital Administration.

CASHIERING KEY LOG

Date out	Time out	Checked out by	Till # / Key #	Date in	Time in
3/25/2021	8:44 AM	Maria Hernandez	T#2 / K#6	3/25/2021	1:05 PM

DocuSign Envelope ID: D91D3DA1-0AD8-46A1-82B3-6616414D79C8

SANTA CLARA VALLEY MEDICAL CENTER
Hospital & Clinics

O'CONNOR HOSPITAL
A COMMUNITY HOSPITAL

ST. LOUISE REGIONAL HOSPITAL
A COMMUNITY HOSPITAL

Hospital Administration

June 29, 2021

To: Alice Hur,
Contract Principal Analyst
Santa Clara County Board of Supervisors, Management Audit Division

From: Paul E. Lorenz, CEO Enterprise Hospitals and Clinics DS PEL

Cc: Dr. Jeffery Smith, County Executive
Miguel Marquez, COO
Rene Santiago, Director, Health & Hospital System

SUBJECT: **Response to Management Audit Report, Section 5. Health Insurance Portability and Accountability Act Compliance**

Response to Management Audit Report, Section 7. More timely Assignment of Delinquent Medical Accounts

Thank you for the opportunity to review and respond to the Management Audit Division's report and recommendations.

5.2 Direct its Billing Services Unit to work with the Department of Tax and Collections on generating the collector information report described in Recommendation 5.1. (Priority 1)

Response: The Department **concurs** with the recommendation.

7.2 Review internal workflows pertaining to the medical accounts receivable resolution timeline to ensure delinquent accounts are transferred to DTAC within 180 days, as prescribed in the Bad Debt Policy. (Priority 1)

Response: The Department **concurs** with the recommendation.

7.3 Review and revise procedures for obtaining patient information to ensure that all accounts coded as self-pay and transferred to DTAC for collections are billed to the appropriate third-party payer(s) and/or financial assistance program(s) prior to assigning the accounts a Bad Debt status. (Priority 1)

Response: The Department **concurs** with the recommendation.

7.4 Incorporate relevant changes from 7.1 and 7.3, if approved, into the Health and Hospital System's Memorandum of Understanding with the Finance Agency. (Priority 2)

Response: The Department **concurs** with the recommendation.

County of Santa Clara Health System
751 South Bascom Avenue, San Jose, CA 95128
Tel: 408-885-5111 | Fax: 408-793-5117 | Web: scvmc.org

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Clients for the Department of Tax and Collections

The Department of Tax and Collections performs collections services for the following departments and external entities:

1. Assessor's Office
2. Behavioral Health Services
3. Office of the County Executive
4. Clerk-Recorder's Office
5. Controller-Treasurer
6. County Counsel
7. County Library
8. Employee Services Agency
9. Santa Clara County Health and Hospital System
10. Office of Pretrial Services
11. Office of the District Attorney
12. Office of the Public Defender
13. Planning Department
14. Probation Department
15. Registrar of Voters
16. Sheriff's Office
17. Superior Court of California
18. Stanford University
19. Environmental Health Department
20. Valley Health Plan
21. Roads and Airports
22. Parks and Recreation
23. Social Services Agency
24. Santa Clara County Law Library

In addition, the Department provides collections services for any County department that requests these services.

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County of Santa Clara
Finance Agency
Department of Tax and Collections
70 W. Hedding, 6th Floor, East Wing
San Jose, California 95110
www.sccdtac.org

Date: April 5, 2021

To: Cheryl Solow, Contract Management Audit Manager
Santa Clara County Board of Supervisors, Management Audit Division

From: Margarita Rodriguez, Interim Director – Department of Tax and Collections

cc: Margaret Olaiya – Interim Director – Finance Agency

Subject: Management Audit of the Department of Tax and Collections Department Accomplishments

Thank you for the very comprehensive review of the various processes within the Department of Tax and Collections. We appreciate the feedback and recommendations. I look forward to developing and implementing correction action as suggested with my team.

We appreciate the opportunity to provide details of our significant achievements since your audit began. The Department's achievements are listed below:

Developed enhancements to the Teller cashiering system to further increase efficiency in payment processing

DTAC has implemented many impactful systems enhancements to the cashiering system, Teller. Highlighting one of the most cost-saving achievements is the in-house processing of the secured supplemental payments. Please note that these payments were also processed by Remitco using the lockbox previously. Teller now takes a batch of payments, scans them together, processes them one at a time, creates individual electronic receipts, and posts the transaction in TCAS.

We are currently working with the vendor Can/Am to create Teller Online to improve the current online payment portal. The Teller Online Payment Portal's proposed improvement will provide a high-performance AWS hosted resident-facing portal connected to the Teller cashiering product for integrated online payment acceptance, bypassing the TSS interface. The portal will support searching data in TCAS, displaying current property tax and charge detail information, and posting the payments in real-time to the property tax system. The portal will have a shopping cart solution – solicited by our taxpayers –an optimal change to our current online portal. Teller Online will be enhanced to display – another of our operational enhancements - Envelope Tracking information and a Simple Address Search. In addition, Teller Online will allow users to authenticate and save payment methods for ease of payment in the future. Scheduled payments will also be supported in a future release.

Board of Supervisors: Mike Wasserman, Cindy Chavez, Otto Lee, Susan Ellenberg, S. Joseph Simitian
County Executive: Jeffrey V. Smith

Implemented a new Trust System- phase 1 to increase productivity and efficiency in the Fiscal Division

The new trust fund was deployed to production on Saturday, February 7, 2021. Operational efficiencies include the following:

Highlights visible to the users:	**Technological improvements:**
Developed a cleaner, more efficient visual design	Created an SAP interface
Improved and expanded workflows	Wrote UI in React & New database schema
Expanded search capability	Updated and optimized business logic
Enabled single sign-on integration with the County's Azure Active Directory	Created a Web service interface with both TCAS and SAP
Expanded comment and hold functionality for all staff	Developed a new daily reconciliation process in TCAS to ensure continuity between TCAS and Trust System
Created an entire suite of new reports in Business Objects that are cleaner and more informative	Built for cloud deployment

Enhanced current web payment portal to increase ease of use with the taxpayers

DTAC, in collaboration with TSS, improved usability of the web payment portal and has received many fabulous reviews from taxpayers – the percentage of dissatisfied customers has decreased significantly – and the feedback or wish list from the taxpayers is minimal. The following web site changes were made available to taxpayers on February 19, 2021:

a. The **Secured Property Search** screen was simplified by removing tabs and allowing the taxpayers to search by address (type-ahead) first or by APN.
b. The **List of Secured Tax Bills** screen was enhanced as follows:
    - If a bill is delinquent, a Penalty Appeals link will appear in the bar.
    - A Last Payment Date column was added.
    - A check box to make payment in full was added.
c. **E-check payment** was made the default option. This option is free of convenience fees as opposed to credit cards, and the Department is continuously educating the taxpayers of this effective option to pay.
d. A link to the **DTAC survey** was added to the **Tax Bills Transaction Record** (Payment Summary) screen.
e. **Confidential information** was redacted from confirmation email messages.
f. The **minimum payment** amount of $10.00 was added to reduce errors.

Please refer to the Attachment #1 One of the weekly survey reports received by the Department between March 21, 2021 – March 27, 2021.

Implemented Qualtrics to glean the sentiment of taxpayers

The need to know how the Department is serving the taxpayers in a systematic way brought the idea of installing Qualtrics to get the many ideas or complaints to receive better service from the County. Qualtrics provided us with the ability to design surveys, ask for feedback and connect to the respondents via mobile devices, apps, websites, emails, or phone calls. This product was implemented in time for the December 2019 peak. This topic is related to the updates to the website. Please refer to the attached documentation.

Maintained critical services during the pandemic

DTAC staff are deemed essential works and with the duty to continue the regular duties supporting the county operations. During the midst of the pandemic, in July 2020, DTAC introduced Qmatic, a queuing system that allows visitors to make appointments on the website, limiting the number of walk-in visitors during the stay-at-home order.

The system emails the proper unit when a visitor arrives and tracks the representative's response times to provide service. This new functionality helps to keep service efficient and moves the visitor through the building with unnecessary wait time in the lobby. This self-service kiosk ensures that our staff provides customer service timely, keeping our customers informed of what to expect when they walk into our location at 852 North 1st Street. Productivity reports are delivered electronically to the leadership team daily. The average wait is recorded per visitor and is currently less than 5 minutes for most services. This service will also be available at 70 West Hedding.

Created Paperless processes - enhancing the teleworking efficiency

The pandemic changed the way to provide in-person services. Needless to say, DTAC as many other government offices, was not ready for the teleworking component to continue our core function of collections. DTAC management placed an urgent priority on providing the necessary equipment to continue the work. Laptops were ordered for each employee to enable access to the various systems to do the job, receive and make phone calls, use Docusign, and use the shared folders. This change led to a greener environment by having a paperless process.

Limited in-person schedule and employee telecommute

Since August 5, 2020, DTAC has provided limited in-person services. Both office locations at 852 North 1st Street and 70 West Hedding are open from 9am to 1pm Monday- Friday.

DTAC also managed the building capacity enforced by the County and state offices. The staff is properly scheduled to have the ability to provide the customer service and safety social distancing.

Created an online process to waive late penalties and costs as mandated by the Board of Supervisors (BOS) and the CA Governor

The COVID-19 pandemic prompted DTAC to make many changes, including temporary changes to the DTAC property tax system, system of record, TCAS. The BOS directive was to waive penalties and costs for bills due from March 17, 2020, through June 30, 2020. The directive applied to the secured, unsecured, value increase, supplemental, and payment plan bills. In summary, the due date of April 10, 2020, was extended to June 30, 2020, waiving the tax bills' penalties and costs. TCAS was programmed to handle the BOS and Executive Order related to property taxes.

The Governor's executive order was iissued on May 6, 2020, and extended the penalty relief until May 6, 2021. The order allows tax collectors to relieve penalties if the taxpayer can demonstrate that the pandemic negatively affected paying the tax on time. The Executive Order significantly increased the

Department's volume of penalty appeal requests that were received. As such, the Department made some adjustments and replaced some manual processes with automation.

Please refer to Attachment #2 for more information: **Legislative File #101210 and the Governor's Executive Order (EO)**

Improved the Penalty Appeals Process - including website guidelines and online form

Penalty appeal waivers are part of the process of collecting property taxes. They are applicable when the property taxpayers miss the payment deadline of December 10, or April 10, for secured taxes and August 31, for unsecured taxes. As explained above, the Executive Order from the governor waived eligible properties from delinquent penalties and costs, which increased the number of appeals DTAC has received since April 2020.

DTAC developed guidelines for taxpayers to apply for the penalty waiver and published the guidelines on its website: https://dtac.sccgov.org/services/property-taxes/request-cancellation-penalty

The unit in charge of reviewing the appeals, the Tax Collections Unit, created a tracking process to receive systematically, review, and process the applications. Each appeal is given a unique number to track its outcome and update TCAS properly. In the future, DTAC envisions incorporating this process in the new collection software that will allow anyone in the Department to have immediate access to the appeal status, create on-demand reports, and compile stats.

Kicked-off the implementation of CSS- Impact – new collection software

DTAC started working with CSS Inc. to implement the Impact collection software solution in July 2020. The software installation is DTAC's opportunity to improve upon our collection processes by generating revenue and at the same time providing efficient customer service to Santa Clara County residents.

DTAC's goal is to consolidate and centralize three legacy systems into a single cloud and deploy streamlined and automated processes to improve efficiency. This implementation will provide the opportunity to apply workflow improvement to our current methods and make information on all of the referred debts available to the entire Department for better customer service and debt networking to maximize delinquent revenue.

The go-live date is a moving target. Its dependency is on the body of work for completion. The approximate go-live date as of March 2021 is September 31, 2021.

Planned to increase revenue of unsecured property tax using the Franchise Tax Board offset program

As part of its collection's activities, DTAC collects delinquent unsecured property taxes owed to the County. One of the enforcement collections activities available is submitting delinquent debt accounts to the Franchise Tax Board (FTB) Debt Offset Program. The FTB operates an intercept program in conjunction with the State Controller's Office, collecting delinquent liabilities individuals owe to the state, local agencies, and colleges, as authorized by California Government Code 12419.2 – 12419.12. The FTB intercepts tax refunds, unclaimed property claims, and lottery winnings owed to individuals and redirects these funds to pay the debts to the agencies or colleges.

DTAC entered into an agreement with the California State Association of Counties – Finance Corporation (CSAC FC) to mediate between DTAC and FTB to offset any available funds to pay down the unsecured debt. DTAC must file a certificate of lien for each delinquent account with the County Clerk-Recorder pursuant to Section 2191.3 of the Revenue and Taxation Code to be eligible for the

program.

The vendor will attempt to locate a valid social security number connected to the unsecured property tax debt referred to it by DTAC and submit the daily file to FTB to offset funds. CSAC FC charges a $25 cost for each successful interception, and FTB charges $2.50. The $27.50 passed to the taxpayer and is not charged to the County.

Note: Due to the COVID-19 pandemic, the State of California has suspended the tax intercept program until July 31, 2021.

Increased revenues from Transient Occupancy Tax (TOT) of short term rentals and hotels in the unincorporated areas

In October 2019, DTAC entered into an agreement with HdL. HdL provides TOT collection and auditing services. Before the agreement with HdL, the County's TOT tax was submitted by the hotels in the County's unincorporated areas. DTAC manually processed the statements and payments. The County did not pursue TOT from short-term rentals.

HdL services include contact to all hotels and short-term rentals in the unincorporated areas. HdL requires monthly filing and tax payments. Despite the pandemic, HdL has reported new revenue to the County because of the new registrations from the short-term rentals and the audits performed on some hotels located in the County.

Refer to attachment #3 for more information related to the revenues from HdL.

Developed a process to bill entities who violated Santa Clara County Public Health Order

The COVID-19 State and County orders lead to County enforcement to entities violating the stay-at-home order. The Santa Clara County Counsel unit responsible for this enforcement issued citations and provided citation remedies via an appeal process. The unpaid citations have been referred to DTAC for further enforcement actions. DTAC has received a total of 41 cases and is actively pursuing collections.

Refer to Attachment #4 for additional information on the order of the Health Officer of the County of Santa Clara.

Created an online tool to efficiently to process unclaimed monies and implemented an annual escheatment of funds for both property taxes and general collections

DTAC, in collaboration with TSS, developed an online processing tool for residents to claim a refund of overpaid taxes or debt owed to the County. The website prompts the user to file the claim providing the required documentation to validate the claimant's identification. The Fiscal Division reviews and approves/denies the claim and adequately notifies the claimant.

For FY20, Property Tax unclaimed monies transferred to the general fund was $755,624. Unclaimed monies from General Collections were transferred to the general fund in the amount of $357,006**.**

Refer to Attachment #5 For more information: https://dtac.sccgov.org/services/unclaimed-monies

Exception items handled timely.

With the Executive Order and BOS orders, Fiscal has been able to process exceptions which are overpayments on tax installments and refund the overpayment in a record time, within 30 days.

USPS Informed Delivery and Informed Visibility

DTAC, in collaboration with TSS, implemented putting the Intelligent Mail barcodes on its bills. The project was born out as the solution to a potential increase in postage cost. The USPS Informed Delivery and Informed Visibility was the additional project associated with the postage solution project. The Department welcomed this new project to enable the ability to inform taxpayers that their bills were coming, provide a convenient link to the online payment site, and the ability to track both outgoing bills and incoming payments.

Upon subscription to Informed Delivery with the USPS, taxpayers will have the ability to know when the property tax bill will be arriving at the mailing address and access the online payment link to the County online payment portal.

An additional benefit to the Department is to have the ability to track both outgoing mail envelopes and incoming payments. If the taxpayer uses the DTAC courtesy return mail envelope with the payment coupon, the barcode will be scanned and tracked by the USPS. The annual secured mailing utilizing this product was completed in October 2020. This resource is very efficient in reviewing penalty appeals to determine the date the USPS took possession of the envelope.

The USPS Informed Delivery and Informed Visibility will be expanded to all the DTAC billing and collection processes.

For more info, please refer to the below link: https://informeddelivery.usps.com/box/pages/intro/start.action

Created new enhancements in property tax reporting

The Fiscal Division has been working with TSS and the TCAS engineers to enable the system to generate collection reports. Now we get a real-time property tax report from TCAS or on-demand.

See Attachment #6 for a sample of the latest week of the property tax collection. .

Security camera systems and card reader for the vault

DTAC replaced the old non-running cameras at 70 West Hedding with new updated security camera systems. Twenty-six cameras have been installed throughout the cashier area, lobby, vault room, and hallway.

We have replaced the key system with a card reader to access the vault room for better security.

Fees and Charges Collected by the Department of Tax and Collections

Fee/Charge Name	Fee Amount	Fee Description
Assessment and Tax Collection Fees	$30 State Redemption fee	$30 State Redemption Fee (SRF) is a shared revenue between County (83.3334%) and State (16.6667%). The fee is imposed when the delinquent tax bills rolled into Redemption as one of the additional fees and penalties.
Assessment and Tax Collection Fees	$50 Unsecured Collection fee	$50 Unsecured Collection Fee is imposed when an unsecured delinquent bill goes delinquent.
Bulk Transfers Fee	$125 per Owner	This fee is imposed when a title company requests a tax clearance to sell a business.
City Account Collection Fee	1:1 spent on delinquent collections	This fee is imposed to Court per PC1463.007 for the cost of Justice Collection (i.e MUNI, CCA, and APD).
Civil Assessment Fee	$300 per case	This fee is imposed when client fails to appear in court or fails to pay.
Delinquent Tax Notice Fee	$20 per Installment	$20 Delinquent Cost per installment is imposed when a bill is delinquent from "Pay By" date. DTAC receives $20 Delinquent Cost revenue from Redemption bills. The majority of $20 fees (i.e. Secured, and Secured Supplementals) are recorded under Controller's Revenue.
Dup Mobile Home Clearance	$35 per Parcel	This fee is imposed when someone needs another mobile home tax clearance to sell their property because the 1st one expired.
Excess Proceeds	$245 per Parcel	This fee is imposed when parties of interest apply for excess proceeds per R & T Code §4674.
Extended Payment Plan	$80 per Parcel	This fee is imposed when a qualified assessee requests to pay escaped assessments in installments.
I/R Plan in Redemption	$85 per Plan	This fee is imposed when a taxpayer sets up an Installment Redemption Plan.
Parking Penalty Schedule	$45 for the base Parking Ticket	This fee is imposed when a parking citation is issue. The $45 is a base fee with parking violations collected based upon the current parking fee schedule. $12.50 of the $45 base is shared with State ($10.50) and County ($2) . County portion is $34.50 ($2+ ($45-12.5)) for a base fee. The portion for State is distributed via TC31 as part of Controller submission to State.
Parties of Interest	$215.00 per parcel /per notice	This fee is imposed when a comprehensive search by outside vendor is done. $200 is for the cost of the Parties of interest search as reimbursement to the vendor and $15 is for postage fee.
Public Service Program	$7 per Day	This fee is imposed when participating in the work release program.
Restitution Admin Fee	10% per Court Order restitution fine	10% “Restitution Admin Fee” is imposed by Court. For example, if the fine is $150 then Restitution admin fee is $15.
Returned Checks (Property Tax)	$85 per Returned Item	$85 Returned Item fee is imposed when property tax payment was made but it was returned due to various reasons with "Insufficient Funds" being one of them.
Sale of Tax Defaulted Property	$150 per Parcel	This fee is imposed when a parcel is sent to the outside auction vendor for sale.
Segregation Fee	$160 per Application	This fee is imposed when an assesse requests to segregate a tax bill for the purpose of paying taxes.
Seizure Fee	$45 per Seizure	This fee is imposed when a seizure of property occurs due to delinquent taxes.
Service Charge Acct Collection Fee	$75 per account; $30/$35 per account	This fee is imposed when cost of processing and collecting installment accounts.
Victim Restitution Collection Fee - Felony & Misdemeanor	15% up to $1,000 for Felony and 15% up to $1,000 for Misdemeanor per Court Order	15% “Victim Restitution Collection Fee” is imposed by DTAC for Felony & Misdemeanor related to restitution up to $1,000.
Weekend Worker Fee	$40 per applicant; $15 per day worked	This fee is imposed when participating in the Sheriff's Weekend Work Program.
Work Furlough Fee	$53 per day	This fee is an administration fee and is no longer imposed; collections are from old accounts.
Retype Fees	$3.5 per page	This fee is imposed when someone needs a duplicate release of lien because the 1st one was never recorded.
Returned Checks (General Collections)	$50 per Returned Item	This fee is imposed when a payment is returned by the bank for General Collection accounts.
Research Fees	Case by Case	This fee is imposed when requested information requires extensive amount of time and resources from the department to provide information. This is on a case-by-case basis.
Personal Contact (Home Visit Fee)	Case by Case	This fee is imposed when a field visit to an owner-occupied property is made.

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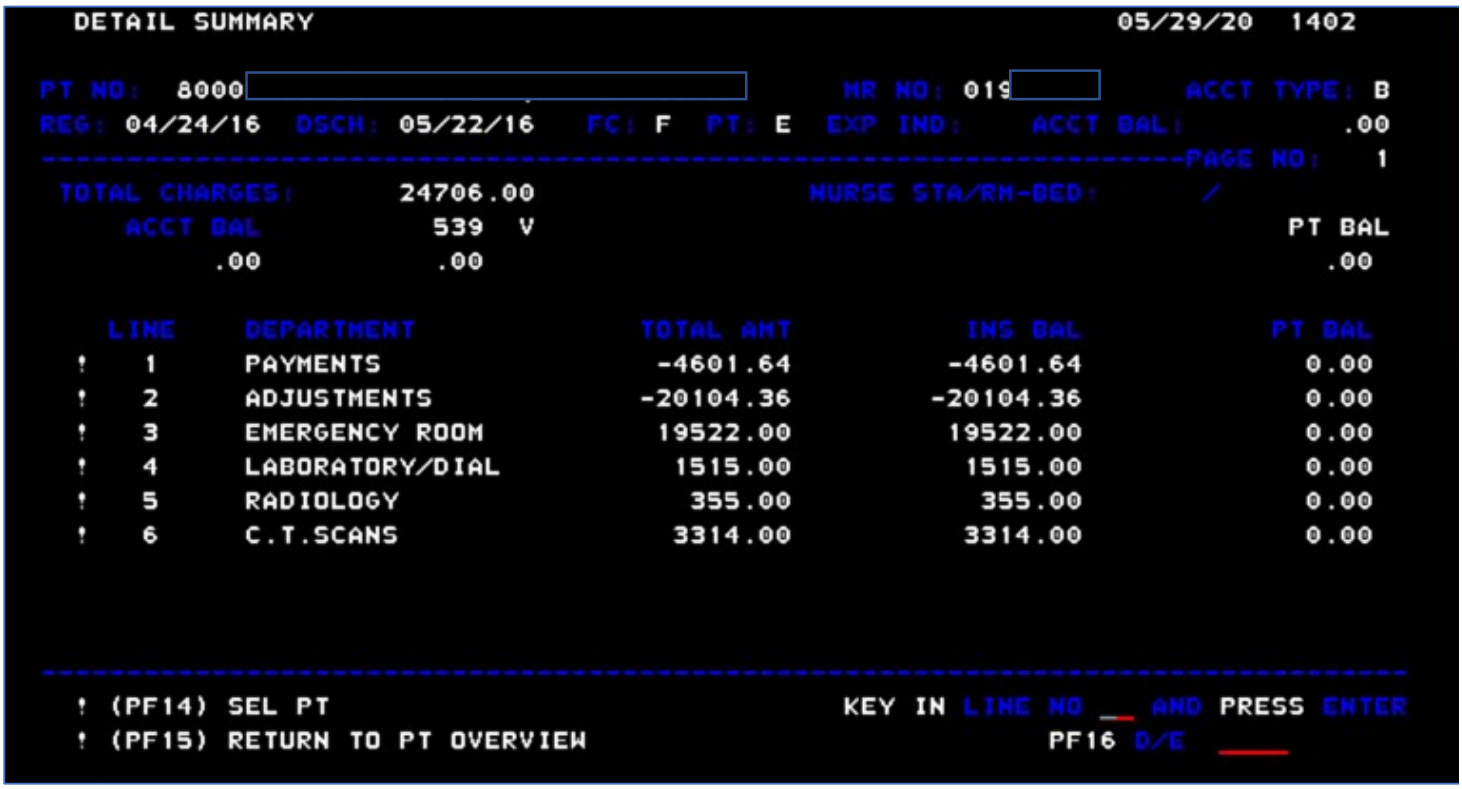
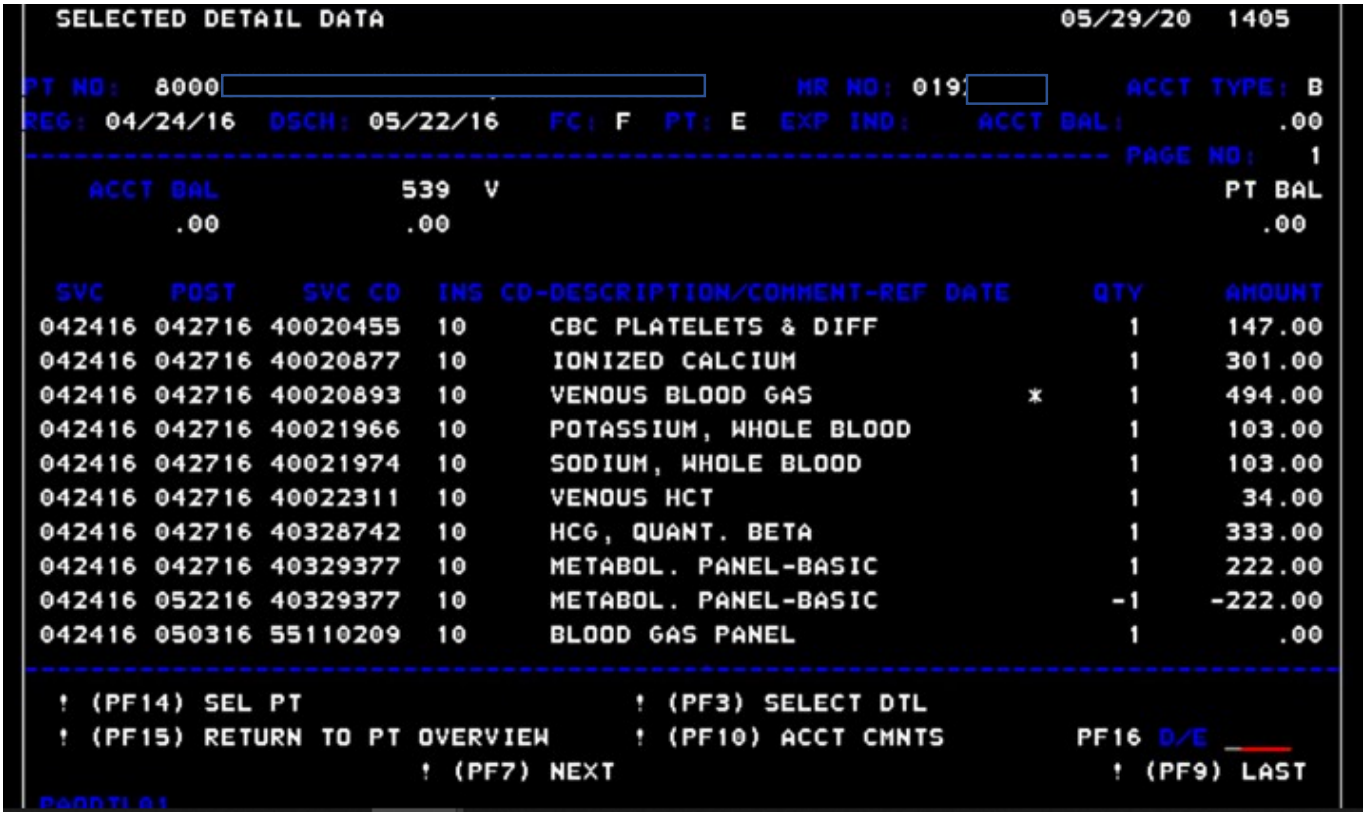
F5 Screen – Summary of Charges



F6 Itemized Charges



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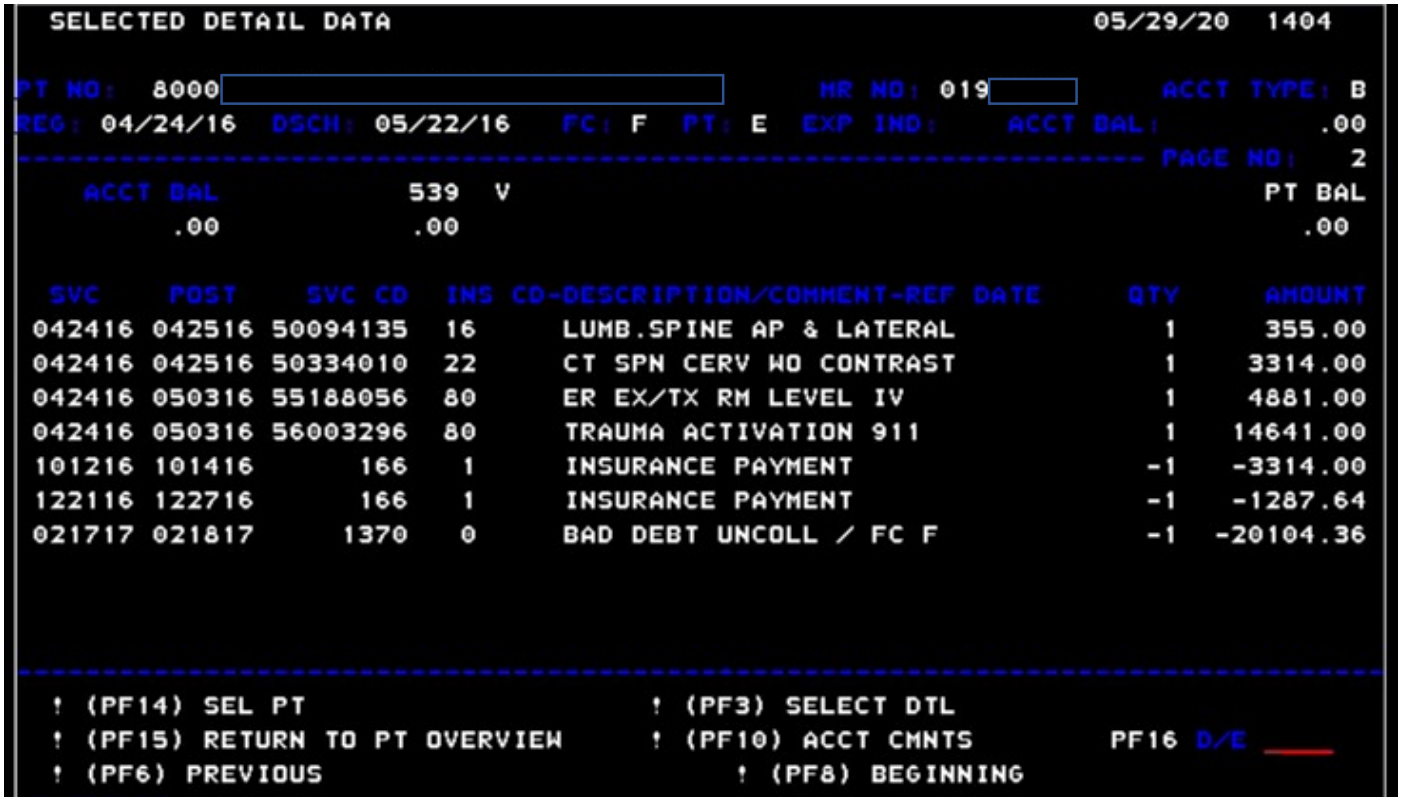
        .00            .00                                                     .00

 SVC     POST     SVC CD   INS CD-DESCRIPTION/COMMENT-REF DATE      QTY      AMOUNT
042416 042716 40020455   10      CBC PLATELETS & DIFF                 1      147.00
042416 042716 40020877   10      IONIZED CALCIUM                      1      301.00
042416 042716 40020893   10      VENOUS BLOOD GAS              *      1      494.00
042416 042716 40021966   10      POTASSIUM, WHOLE BLOOD               1      103.00
042416 042716 40021974   10      SODIUM, WHOLE BLOOD                  1      103.00
042416 042716 40022311   10      VENOUS HCT                           1       34.00
042416 042716 40328742   10      HCG, QUANT. BETA                     1      333.00
042416 042716 40329377   10      METABOL. PANEL-BASIC                 1      222.00
042416 052216 40329377   10      METABOL. PANEL-BASIC                -1     -222.00
042416 050316 55110209   10      BLOOD GAS PANEL                      1         .00
------------------------------------------------------------------------------------
 ! (PF14) SEL PT                      ! (PF3) SELECT DTL
 ! (PF15) RETURN TO PT OVERVIEW       ! (PF10) ACCT CMNTS        PF16 D/E ____
                        ! (PF7) NEXT                                ! (PF9) LAST
```

F6 Itemized Charges



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Section 9. Compromise of Patient Debts

Background

- **Pursuant to State law, County Ordinance Code and multiple resolutions of the Board of Supervisors, the County may forgive certain debts incurred by Santa Clara Valley Medical Center patients. Based on resolutions of the Board of Supervisors, County staff implemented two separate processes for forgiving certain patient debts. The combined annual write-offs for both processes total an estimated $9.8 million.**

Problem

- **In one process, a committee is tasked with reviewing patient debts of any amount for possible reduction, and may forgive up to $100,000. Compromise amounts in excess of $100,000 must be approved by the Board. However, in the second process, one staff person may compromise up to 40 percent of charges, and two individuals may compromise 100 percent of charges, regardless of the dollar amount. In that second process, there is no requirement that any compromise amount ever go to the Board.**

Adverse Effect

- **Due to the multitude of applicable Board resolutions, County ordinances and State statutes, the delegation of authority for compromising debts in these two processes is not clear. In addition, samples of case files from both processes taken for this audit identified shortcomings in each process, including insufficient criteria and documentation, and arbitrary outcomes.**

Recommendations

- **The Board of Supervisors should amend the County Ordinance Code governing compromise of patient debts to abolish the existing patchwork of authorizations and replace them with a clear and coherent delegation of its authority to compromise patient debts. The resultant responsible designee(s) should develop improved policies and procedures to standardize compromise criteria and documentation.**

Processes as Established by the Board of Supervisors

The Basis for Claims Against Third Parties

Santa Clara Valley Medical Center (SCVMC) sometimes provides care to patients who have been injured due to the negligence of others. Typically, these patients have been hurt in auto accidents caused by another driver, or while on the job, which then results in a liability claim. The California Government Code, commencing with Section 23004.1, grants the County the right to reimbursement from the proceeds of litigation against such third parties, and the Board of Supervisors the right to compromise, or forgive, such liens. Historically, the Board itself reviewed and signed off on every offer of

compromise, even when the dollar amounts were relatively small. To address this inefficiency, the Board in 1985 passed a resolution establishing a Hospital Lien Committee, consisting of the SCVMC Director or designee, the Director of Finance or designee, and the County Counsel or designee.

Committee Authority to Compromise Debts

The resolution delegated to the new committee the Board's authority to compromise liens of $25,000 or less. The resolution, which is provided as Attachment 9.1, specified that the Board itself would continue to resolve all claims exceeding $25,000. A copy of this resolution is provided as Attachment 9.1.

Subsequent resolutions passed over the years changed the name of the committee to the Hospital Debt Review Committee, increased the committee's authorized compromise amount, which was last modified in 2008 to $100,000, and expanded the committee's authority – as the County Executive's designee – to review debts of any amount. The Committee also reviews debt reduction requests from patients in which there is no third party involved. A copy of the 2008 resolution is provided as Attachment 9.2.

Asserting Claims Against Third Parties

Despite the establishment in 1985 of a committee to review third-party claims, the County was not always aware of claims in a timely manner. For example, staff would learn of third-party litigation after the fact, as a result of an attorney requesting the medical records of injured patients. To address this problem, the Board in May 1989 passed another resolution establishing a new process. The intent was to promptly identify responsible third parties against whom collections could be proactively pursued. This 1989 resolution, a copy of which is provided as Attachment 9.3, retained the previously established committee to review and settle subsequently discovered claims, but provided for a new, entirely separate process intended to assert claims up front.

SCVMC Authority to Compromise Debts

In addition, the new resolution also granted authority to the SCVMC Director or designee the exclusive authority to compromise, or forgive, up to 40 percent of a patient's debt without consideration from any other party. The resolution required that the County Executive or designee "concur" in the forgiveness of amounts in excess of 40 percent of the debt, and that the County Executive receive reports on the program. This resolution, therefore, established a process by which very large amounts of hospital debts could be forgiven by a single individual acting alone, and 100 percent of hospital debts – regardless of the amount – could be relieved by concurrence of two individuals.

To provide staff for this new effort, the County created and staffed five new positions:

- A Liability Claims Adjuster III;
- An Advanced Clerk Typist;
- A Patient Business Service Clerk ;
- A Supervising Patient Business Service Clerk; and
- An Attorney III.

None of these positions are referenced in the 1989 resolution. However, the description of their intended roles is contained in a transmittal memo to the Board that accompanied the 1989 resolution. A copy of the memo is provided as Attachment 9.4.

According to the memo, the authority for the compromise of debts was to rest with the SCVMC Director. No designee was referenced. The memo described the role of the five new staff, none of whom were described as having compromise authority. For example, the memo stated that the role of the Liability Claims Adjuster was to:

> *…review police reports for every inpatient admission where an auto or motorcycle accident is involved….The Adjuster will confer with County Counsel on any cases were (sic) liability is in question….County Counsel will provide required legal expertise and guidance to the adjuster, review potential third party claims, and pursue all necessary legal remedies in those cases where collection cannot be accomplished through agreement with the party who is liable.*

The following month, in June 1989, the then-County Executive issued a memo, a copy of which is provided as Attachment 9.5, which delegated her compromise authority to the Director of the then-General Services Agency (GSA), and that agency's Administrative Services Manager. At that time, GSA included the insurance claims function. The insurance claims function was moved to the Risk and Insurance Division of the Employee Services Agency (ESA) beginning in FY 1993-94, where it continued to reside as of late 2010. At present, therefore, it is unclear where the delegation of the County Executive's compromise authority resides, although presumably it resides with the ESA Director.

The Board's Authority to Compromise Debts

Subsequent to the adoption of the 1985 resolution establishing the committee, which, as described above, had limited authority to compromise claims, and the adoption of the 1989 resolution authorizing the SCVMC Director or designee and the County Executive or designee to compromise up to 100 percent of debts for newly asserted claims, the Board of Supervisors adopted an ordinance governing compromise of patient debts. That ordinance states that the authority to compromise claims rests with the Board itself. Originally adopted in 1997 as Section A18-42 of the County Ordinance Code, the same language was included in a 2009 revision of the Code as Section A18-24. The relevant code provision, in its entirety, is as follows:

> *The Director [of SCVMC], personally or through an assistant or employee so designated, is authorized to recommend to the County Executive compromising claims for services received from SCVMC, and may recommend agreements with patients or their legally responsible relatives or executors or administrators for the payment of less than the amount owed where full payment would result in hardship or indigency for the spouse or minor child or children of the patient; provided, however, that in recommending compromising any such claims, said Director shall give precedence to hospital care, treatment and supplies over medical services rendered in prescribing payment requirements. Final authority to compromise any such claim rests with the Board of Supervisors.*

At present, therefore, the delegation of authority for the compromise of claims is unclear, as the various resolutions and code sections are inconsistent. The Board of Supervisors should amend the County Ordinance Code and relevant resolutions to clarify its intent with respect to which staff positions are invested with the Board's compromise authority.

Processes in Actual Practice

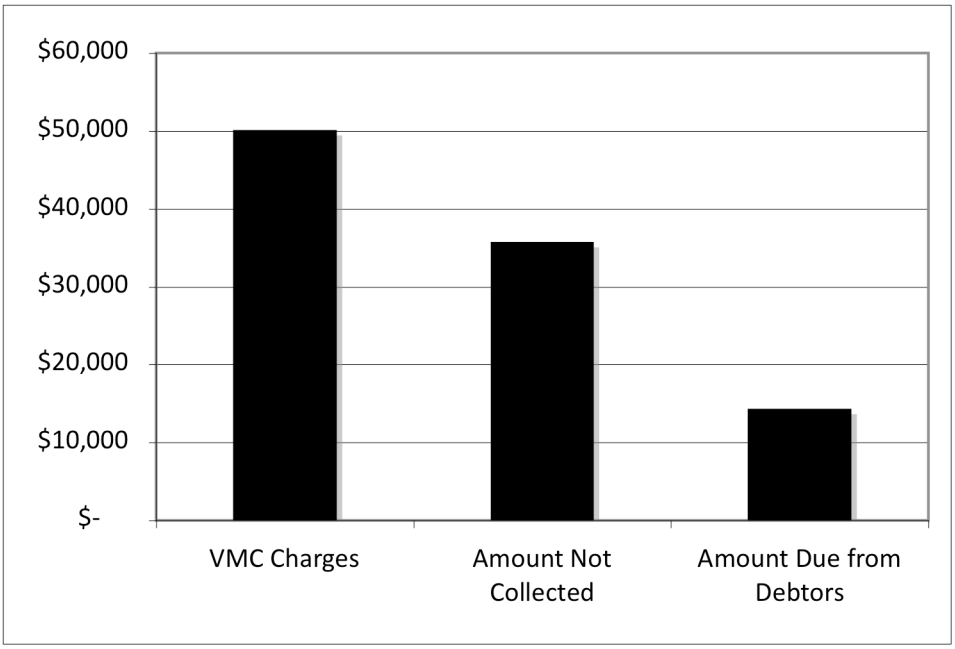
Process 1: Hospital Debt Review Committee

The Hospital Debt Review Committee is made up of an attorney from County Counsel, a SCVMC Patient Business Services Accounting Manager, and a Supervising Revenue Collections Officer from the Department of Revenue. This committee meets monthly by telephone, and reviews requests for reduction of any debt amount, whether a third party is liable or not. Audit staff estimate that the amount of debt forgiven annually by the Hospital Debt Review Committee to be $6.9 million.

The Hospital Debt Review Committee will review the cases of an estimated 193 debtors in 2010, based on the 145 cases reviewed as of the end of September 2010. Using paper case records on file with the SCVMC Patient Business Services Manager, Management Audit staff sampled 44 of these 145 cases processed through September 2010. The total charges for these 44 cases amounted to $2.2 million, with an average charge of $50,000 per case. The charts that follow summarize the characteristics of the sampled cases.

Chart 9.1

Average Charges, Amounts Not Collected and Amounts Due in 44 Sampled Cases Reviewed by the Hospital Debt Review Committee in 2010

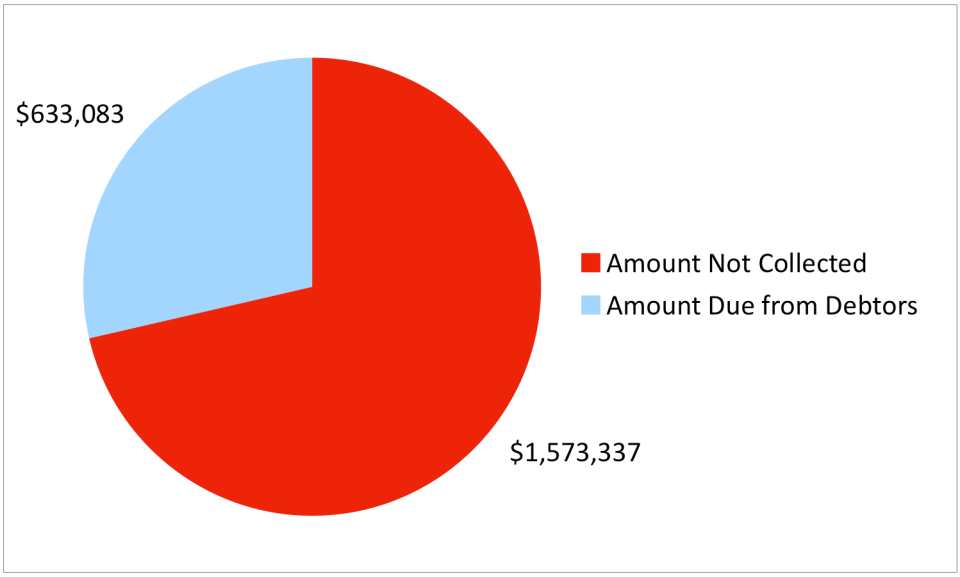


Source: SCVMC Patient Business Services, Subrogation Unit

Of the $2.2 million in SCVMC charges, the Hospital Debt Review Committee forgave 71 percent of patient debt, as shown in Chart 9.2 on the next page. As will be discussed, the bulk of "forgiven," "uncollected," "compromised" or "written off" debt is not legally collectible. However, in a minority of cases, certain debts may be written off or not collected for other reasons, such as the inability of the debtor to pay, as determined by the investigation and judgment of the Debt Review Committee.

Chart 9.2

In the Sample of 44 Cases, of the $2.2 million in SCVMC Charges, 71 Percent Was Not Collected by the Hospital Debt Review Committee



Source: SCVMC Patient Business Services, Subrogation Unit

In the majority of the sampled cases, the patients were injured in accidents caused by someone else, resulting in a claim against the liable third party. Under Government Code Section 23004.1, et. seq., the County can recover monies from judgments against third parties; under Civil Code Section 3045.1 et. seq., the County can recover monies from a settlement paid by the third party to the accident victim.

How Compromise Offers are Determined

In most of the sampled cases, the victim received payments from the responsible party's insurance company, a portion of which the Hospital Debt Review Committee (DRC) took as partial or complete payment for the SCVMC medical bills. In third-party cases, the compromise amounts are based on Civil Code Section 3045.4, which authorizes collections of up to half of the money paid under any final judgment, compromise or settlement, *after prior liens are paid*. The amount of money owed by the patient is not a factor in the statutory formula, and per the statute, the County's lien is secondary to other liens. In these cases, then, the committee can only collect a certain amount from the settlement. Therefore, in most cases, the vast majority of the amount owed is not legally collectible. This is the primary reason that an estimated 71 percent of the amount due is not collected.

In practice, in most cases[1], the amount that is legally collectible as determined by the Debt Review Committee and pursuant to the law, is the settlement amount, less attorney's fees and costs, divided by two. For example, consider a patient injured in a car accident caused by someone else, resulting in $90,000 worth of medical care at SCVMC. Imagine the responsible driver's insurance company paid the victim $20,000, and the attorney's fees were $9,000, plus $1,000 in costs. The maximum amount of the settlement that the County could collect by law is: $20,000 (settlement amount) minus $10,000 (attorney's fees and costs) divided by 2 equals $5,000. The remaining $85,000 is not legally collectible.

The committee also reviews and compromises debts that are not the responsibility of a third party. In these instances, the amounts are based on the committee's judgment. There are no written criteria for these "hardship" decisions. However, consideration is given to expected future medical treatment, eligibility for participation in charity care, available assets, working status, payment history and other relevant factors.

Process Deficiencies

Arbitrary Outcomes

Although in third-party cases the amount that the County can collect is set by statute, a significant minority of patients' attorneys offer to pay more than the law allows the County to take from the third-party settlement. In all such cases sampled, the County billed the patient for the higher amount, even when there were clear hardship circumstances for the debtor. However, in cases when a debtor simply requested a reduction in the bill due to hardship or opposition to the charges, and no third party was involved and therefore no statutory formula exists, the committee selected an amount based on its review of the patient's situation. However, there are no written criteria for these decisions, and some outcomes appeared arbitrary based on the records in the case files. For example, consider the following case circumstances and outcomes:

Patient A — Received medical care at SCVMC unrelated to any injuries. She wrote a letter complaining of her treatment and the billing of her account. The committee reduced her bill by $100,000 on August 18, 2010 for reasons not specified in the written record. Debt Review Committee (DRC) staff could not recall why the amount was reduced, but stated that the patient should have signed a promissory note for repayment of the bill.

Patient B — Was injured by a third party. She was unemployed, had no medical insurance, and was on the County's charity care (Ability to Pay) program. The committee declined on August 18, 2010 to reduce her $8,000 bill by any amount because the net settlement amount from the third party exceeded the amount of the SCVMC bills.

[1] In the case of Valley Health Plan patients, the calculation is more complex, but results in similar levels of uncollectible debt.

Patient C — Owed almost $108,000 for care at SCVMC. The committee reduced her bill by more than $107,000 on June 16, 2010. The case file indicated that the basis for the decision was because she was on the charity program. Note that the reduction amount exceeded the committee's authority under the 2008 Board resolution. According to DRC staff, the patient's debt reduction was not as a result of the DRC's review per se, but rather was due to the application of charity care criteria, which staff stated should have occurred at the hospital without the case ever going to the DRC. In comparison, although Patient B was a charity care patient, Patient B had to pay the entire medical bill due to the receipt of settlement funds.

Patient D — Incurred more than $6,800 in charges at SCVMC as a result of injuries caused by a third party. He received a settlement of $5,000, which under the law entitled the County to reimbursement from the settlement of $1,660. However, because the patient's attorney offered to pay some $2,600, the County billed the patient for that amount, even though the patient qualified for the charity program. Several patients who might otherwise have qualified for charity care or would only have had to pay the amount owed pursuant to State law were in fact billed for higher amounts because their attorneys made larger compromise offers.

Patient E — Was injured by a third party. He was unemployed, had no assets, and no insurance. - His share of the settlement from the third party was less than $8,000. The committee on January 14, 2010 declined to reduce his $6,850 medical debts by any amount, even though he was expected to incur an additional $24,000 in medical bills for surgeries and physical therapy.

The Board's designee as recommended in this audit should develop procedures to improve consistency, including specific criteria for debt forgiveness in those instances where the amounts are not established by statute, and all compromise decisions should be fully documented.

Role of County Counsel

Typically, County Counsel staff serve in an advisory role to other departments, and do not themselves serve on client department decision-making committees. In this case, Counsel is serving as a voting member of the Debt Review Committee, as opposed to serving as an advisor to voting members of the committee. As the Board of Supervisors establishes compromise authority, it should evaluate whether to replace County Counsel's voting role on the committee with the Employee Services Agency's Risk and Insurance Division instead, and have Counsel serve in an advisory capacity to review all cases considered by the committee

Process 2: The Inpatient Debt Compromise

The process per the 1989 resolution, as previously described, granted to the SCVMC Director or designee the exclusive authority to compromise, or forgive, up to 40

percent of a patient's debt without consideration from any other party. The resolution required that the County Executive or designee "concur" in the forgiveness of amounts in excess of 40 percent of the debt, and that the County Executive receive reports on the program.

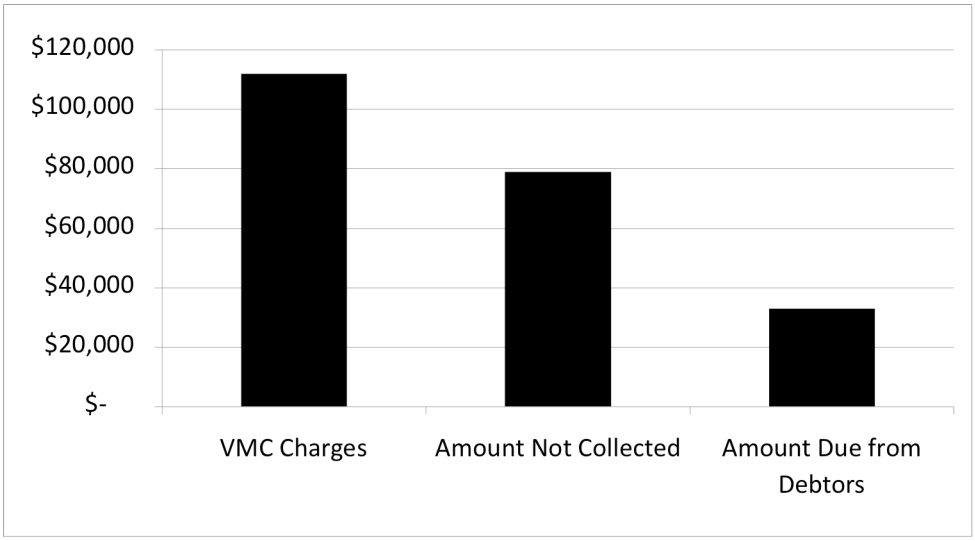
In practice, this process is managed by the Insurance Claims Unit of the Risk and Insurance Division of the Employee Services Agency. The authorization for compromise of up to 40 percent of debts has in practice been delegated to the Insurance Adjuster position established by the 1989 transmittal. Audit staff was unable to locate any written authorization for the specific delegation of authority to this position. Audit staff estimates that the total amount forgiven in this process annually is $2.9 million.[2]

For amounts in excess of 40 percent, the employee confers with the manager of the unit. These staff may also confer with SCVMC Patient Business Services regarding compromise amounts. Because the Insurance unit is making compromise offers primarily for inpatient debts, the amount of the debts involved is usually greater than those taken up by the Hospital Debt Review Committee.

Audit staff selected for review every other case that was processed by the Insurance Claims Unit in FY 2009-10, or about half of the cases. This selection included 19 files, with total SCVMC charges of $2.1 million, and an average charge of about $111,000 per case, as shown in the chart below.

Chart 9.3

Average Charges, Amounts Not Collected and Amounts Due in 19 Sampled Cases Reviewed by the Insurance Claims Unit in FY 2009-10



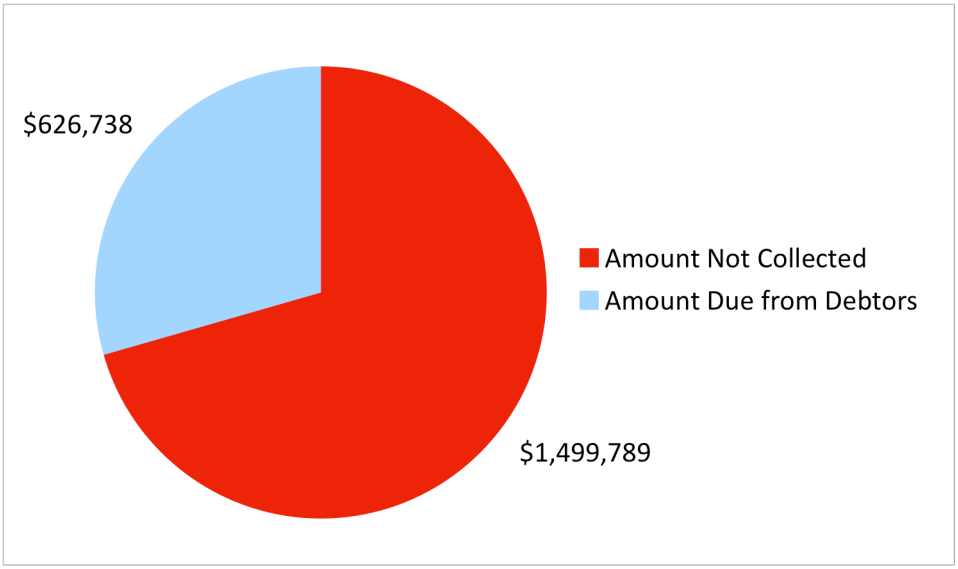
Source: County Employee Services Agency, Risk and Insurance Division

[2] The two processes combined result in forgiveness of an estimated $9.8 million annually.

Chart 9.4 illustrates that the Insurance Claims Unit forgave 71 percent of patient debt, which is similar to the compromise amounts ultimately determined in the other process. This similarity is likely due to the fact that most compromise amounts are driven by statute, as described earlier in this section, in both processes.

Chart 9.4

In the Sample of 19 Cases, of the $2.1 million in SCVMC Charges, 71 Percent Was Not Collected by the Insurance Claims Unit



Source: County Employee Services Agency, Risk and Insurance Division

Based on the sample of 19 cases reviewed by audit staff, the Adjuster usually confers with the Subrogation manager in Patient Business Services, but also may act alone.

The ESA Adjuster receives the checks that are due pursuant to the compromise through the 1989 process. The Adjuster maintains a photocopy of the check in the case file, along with deposit slips.

Unlike in the first process managed by the Hospital Debt Review Committee, ESA may compromise any amount of debt without review by the Board of Supervisors. In the sample reviewed, four[3] of the 19 compromise amounts exceeded $100,000 and were not reviewed by the Board of Supervisors per the Unit's authority under the 1989 resolution. One of the four cases originally started out under the Hospital Debt Review Committee, but, because the Board was recessed for the summer and the case required prompt resolution in order to be able to collect, was shifted to the Insurance Claims Unit specifically to get around the $100,000 cap imposed on the Hospital Debt Review

[3] There was a fifth case in which the debt reduction exceeded $100,000, but this was taken to the Board due to the complexity of the case.

Committee by the 2008 resolution. That debt was reduced by more than $163,000. Other compromise amounts in excess of $100,000 were one for about $418,000, another for about $146,000, and a third for about $105,000. In the latter case, the file indicated that the Insurance Adjuster acted alone. In this case, the $105,000 represented about 25 percent of the debt, which was well within the Adjuster's authority to compromise up to 40 percent. In 16 of the other 18 cases reviewed, the Adjuster received approval from the manager of the unit and the Subrogation manager in SCVMC, or from the Board, for the amount forgiven.

The County should not have separate processes for handling similar accounts, particularly since one requires Board approvals for compromises exceeding $100,000, and the other process authorizes a single individual to compromise many times this amount. The inefficiency of the existing situation is highlighted by the previously cited instance in which a compromise case had to be shifted from one process to the other in order to avoid loss of collections as a consequence of the fact that the Board was recessed for the summer. The Board of Supervisors should amend the Ordinance Code and any relevant resolutions to clarify what amount, if any, it deems appropriate for Board review versus delegated to staff All compromise cases should be subject to the same level of authorization and disclosure to the Board.

Process Deficiencies

Arrangements by Phone

In some cases, ESA compromise amounts appeared to have been negotiated by telephone, followed up by faxes of letters or notes. In contrast, in the Hospital Debt Review Committee process, compromise offers are sent in writing on the letterhead of County Counsel. In order to ensure consistency, compromise offers should be made in a consistent fashion, preferably on County Counsel's letterhead.

Process Improvements

The Board of Supervisors should amend the County Ordinance Code to clarify its intent with respect to which staff position (or designee) or committee it wishes to invest with the Board's compromise authority, and specify that level of authority, and consolidate all compromise processes under this single authority. This would eliminate the current system of multiple responsible parties, differing processes and varying levels of compromise authority. The Board should also amend the Ordinance Code and any relevant resolutions to clarify what amounts, if any, should be compromised by the Board itself.

There are a number of potential ways to consolidate the authority for debt compromise. Options include situating the authority in:

- The Valley Medical Center's Patient Business Services unit, which is currently handling many of these cases as part of the Debt Review Committee;

- The Employee Services Agency's Risk and Insurance Division, which is currently handling many of these cases; or

- A staff committee that combines the Debt Review Committee and the Risk and Insurance Division, reporting to the Board of Supervisor's Finance and Government Operations Committee.

In discussions for this audit, representatives from both Patient Business Services and Risk and Insurance have stated a desire to accept cases currently managed by the other. Suggested changes have included:

- Delegating the Board's compromise authority to Patient Business Services (PBS) of SCVMC, and bringing the ESA Adjuster under the auspices of PBS. PBS has direct access to total patient debts, all patient accounts, and the direct knowledge of whether the patient qualifies for charity care or other programs, the patient's level of assets and income, and other factors that may affect compromise decisions. PBS also involves County Counsel in all compromise decisions, and compromise decisions are issued on Counsel letterhead.

- Delegating the Board's compromise authority for third-party cases to the Risk and Insurance unit of the Employee Services Agency, while retaining the existing Debt Review Committee for non-third-party cases. This would ensure that third-party cases are handled by an Insurance Adjuster who can directly research police reports and assess liability. This employee has no direct access to full patient debts and other information but may access it by contacting PBS and the Department of Revenue.

Another alternative would be to delegate the Board's authority for debt compromise directly to a staff committee consisting of representatives of ESA's Risk and Insurance Division, SCVMC's Patient Business Services Unit, and the Department of Revenue, with an assigned County Counsel representative to provide advice and issue committee communications on Counsel's letterhead. Such a committee could determine settlements by a vote of its members.

CONCLUSION

Based on resolutions of the Board of Supervisors, County staff implemented two separate processes for forgiving certain patient debts, estimated to result in annual write-offs of $9.8 million. In one process, a committee is tasked with reviewing patient debts of any amount for possible reduction, and may forgive up to $100,000. Compromise amounts in excess of $100,000 must be approved by the Board. However, in the second process, one staff person may compromise up to 40 percent of charges, and two individuals may compromise 100 percent of charges, regardless of the dollar amount.

Due to the multitude of applicable Board resolutions, County ordinances and state statutes, the delegation of authority for compromising debts in these two processes is not clear. In addition, samples of case files from both processes taken for this audit identified shortcomings in each process. The Board of Supervisors should amend the County Ordinance Code governing compromise of patient debts to abolish the existing patchwork of authorizations and establish a clear and coherent delegation of its authority to compromise patient debts. The resultant responsible designee(s) should develop improved policies and procedures to improve internal controls, and develop criteria for compromise of debts that are not governed by statute.

RECOMMENDATIONS

The Board of Supervisors should:

9.1 Amend the County Ordinance Code to clarify its intent with respect to which staff position (or designee) or staff committee is invested with the Board's compromise authority, and specify that level of authority, and consolidate all compromise processes under this single authority, thus eliminating multiple responsible parties, differing processes and varying levels of compromise authority. (Priority 1)

9.2 Amend the Ordinance Code and any relevant resolutions to clarify what amounts, if any, should be compromised by the Board itself. (Priority 1)

The Board designee or committee, pursuant to Recommendation 9.1, should:

9.3 Develop procedures to:

a. Specify how claims will be compromised and what role affected departments will play in terms of researching, investigating and/or voting on compromise amounts;

b. Improve consistency in terms of compromise of amounts not governed by statute;

c. Provide for consistent and clear documentation of compromise decisions; and

d. Ensure that compromise offers are presented consistently to debtors, preferably in writing on County Counsel letterhead. (Priority 2)

9.4 If the Board designee or committee identified pursuant to Recommendation 9.1 elects to retain a staff committee process, the designee's procedures pursuant to Recommendation 9.3 should specify Counsel's role as advisory to the committee, rather than a voting committee member. (Priority 3)

SAVINGS, BENEFITS AND COSTS

There is no budget impact associated with these recommendations; however, specific department budgets could be affected if staff were to be shifted from one budget unit to another. Implementation of these recommendations would ensure that persons making debt compromises on behalf of the County are properly authorized to make those compromises, clarify roles and responsibilities, and result in improved documentation and standardization of debt compromise outcomes.

	prescribed timeframe.				
8.4*	The Controller-Treasurer Department should amend the County fixed asset policy to provide for prompt reporting to the Board's Finance and Government Operations Committee when assets cannot be located. In these reports, responsible departments should specify whether they intend to replace these items and provide an approximate description and cost of the replacements, so that Board members may determine whether the expenditures on those replacements are warranted in light of each item's replacement history, the potential de-funding of other priorities in order to fund those replacements, and the likely operational effect, if any, of non-replacement or replacement with less expensive brands.	**SCVHHS**: Agree. **Controller-Treasurer**: Agree.	Refer to Administration for implementation, and return to FGOC with draft policy for review and approval.	Implemented. The Controller-Treasurer Department has amended its Fixed Asset Policy to comply with this finding.	Controller
Section 9: Compromise of Patient Debt					

9.1*	The Board of Supervisors should amend the County Ordinance Code to clarify its intent with respect to which staff position (or	**SCVHHS**: Agree.	Refer to Administration for implementation,	Meetings of the multi-Department committee working on these recommendations took place, with action delayed due to the departure of key staff. The Committee will resume meeting in March 2012, incorporating new SCVHHS staff.	Multi-Department Committee, Leslie Crowell and Dave McGrew
	designee) or staff committee is invested with the Board's compromise authority, and specify that level of authority, and consolidate all compromise processes under this single authority, thus eliminating multiple responsible parties, differing processes and varying levels of compromise authority.		and bring a draft back to FGOC with recommendations.		
9.2*	The Board of Supervisors should amend the Ordinance Code and any relevant resolutions to clarify what amounts, if any, should be compromised by the Board itself.	**SCVHHS**: Agree.	Refer to Administration for implementation, and bring a draft back to FGOC with recommendations.	See 9.1	Multi-Department Committee, Leslie Crowell and Dave McGrew

9.3*	The Board designee or committee, pursuant to Recommendation 9.1, should develop procedures to: a. Specify how claims will be compromised and what role affected departments will play in terms of researching, investigating and/or voting on compromise amounts; b. Improve consistency in terms of compromise of amounts	**SCVHHS**: Agree.	Refer to Administration for implementation, and bring a draft back to FGOC with recommendations.	See 9.1	Multi-Department Committee, Leslie Crowell and Dave McGrew
	not governed by statute; c. Provide for consistent and clear documentation of compromise decisions; and d. Ensure that compromise offers are presented consistently to debtors, preferably in writing on County Counsel letterhead.				

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