



REPRESENTING
ALEX SINK
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

BROWARD COUNTY
CLERK OF CIRCUIT COURT
BUDGET REVIEW

REPORT DATE:
June 3, 2008

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CHIEF FINANCIAL OFFICER

INTRODUCTION

The Department of Financial Services (DFS) has completed a review of the budget certifications made by the Broward County Clerk of Circuit Court's Office to the Clerks of Court Operations Corporation (CCOC), pursuant to Section 28.35(3)(b), Florida Statutes (F.S.). The scope of our review focused on validating the processes and methodologies utilized in the development of the Clerk's budgets for fiscal years 2005-2006 (FY 05-06), 2006-2007 (FY 06-07) and 2007-2008 (FY 07-08).

The Chief Financial Officer (CFO) has contracted with CCOC to establish a process for review and certification of court-related budgets submitted by the Clerks of Circuit Courts. The CCOC is responsible for calculating the maximum authorized annual budget, identifying budgets exceeding the maximum expenditure amounts for a standard list of court-related functions and identifying budgets that have insufficient revenues to cover court-related expenditures, pursuant to Section 28.36, F.S.

SUMMARY

- The FY 05-06, FY 06-07 and FY 07-08 approved budgets were \$36,835,120, \$39,367,674 and \$41,394,555 respectively.
- Broward County has a population of 1,765,829 and had 857.00, 932.50 and 914.50 Full Time Employees (FTEs) budgeted to support court-related activities for FY 05-06, FY 06-07 and FY 07-08 respectively.
- Budgeted revenues and expenditures for FY 05-06 were \$37,581,200 and \$36,835,120 respectively, resulting in a budgeted surplus of \$746,080. Actual revenues and expenditures as reported by the Clerk for FY 05-06 detailed a surplus of \$465,139. The Clerk remitted the FY 05-06 surplus to the Department of Revenue (DOR) on December 13, 2006 for deposit in the General Revenue Fund, pursuant to the provisions of Section 28.37(4), F.S.
- Budgeted revenues and expenditures for FY 06-07 were \$39,727,077 and \$39,367,674 respectively, resulting in a budgeted surplus of \$359,403. Actual revenues and expenditures as reported by the Clerk for FY 06-07 detailed a surplus of \$2,740,765. The Clerk remitted the FY 06-07 surplus to DOR on December 27, 2007 for deposit in the General Revenue Fund, pursuant to the provisions of Section 28.37(4), F.S.

- Budgeted revenues and expenditures for FY 07-08 are \$42,328,000 and \$41,394,555 respectively, resulting in a \$933,445 budgeted surplus. Monthly payments to the Clerks of the Court Trust Fund are scheduled to liquidate the Clerk's projected surplus pursuant to CCOC directive.
- The Clerk has an internal system and reporting procedures for measuring and reporting on all required performance standards.

SCOPE, OBJECTIVES AND METHODOLOGY

Scope

The Scope of our review included an analysis of the development of the Clerk's FY 05-06, FY 06-07 and FY 07-08 budgets. Our review was conducted on February 12 - 14, 2008 at the Broward County Clerk of Circuit Court's Office.

Objectives and Methodology

The budget review was conducted with the following objectives:

- Each Clerk shall develop a budget funded from fees, services charges, court costs and fines, pursuant to Sections 28.35, 28.36 and 28.37, F.S. Clerks must provide detailed information on expenditures necessary for the performance of court-related functions using the court-related codes in the Uniform Accounting System Manual (UASM). The budget shall be submitted annually to CCOC for review and approval. The CCOC budget approval process focuses on the following key components:
 - Overhead Cost Allocation – The Broward County Clerk's Office applied a 97.83 and 97.90 percent cost allocation rate to the FY 05-06 and FY 06-07 certified annual budgets. A 97.86 percent cost allocation rate is being utilized for the FY 07-08 budget.
 - Our review of supporting documentation disclosed that the methodologies used to calculate and distribute overhead costs were reasonable.
 - Distribution of Court-Related FTEs – The Broward County Clerk's Office budgeted 857.00 of 876.00, 932.50 of 952.50 and 914.50 of 934.50 FTEs for FY 05-06, FY 06-07 and FY 07-08 respectively, to support court-related functions.
 - General Fund Expenditures – The final approved budget for FY 05-06 was \$36,835,120. Major expenditure categories were: Personal Services (\$34,463,565), Operating Expenses (\$2,342,675) and Capital (\$28,880). The final approved budget for FY 06-07 was \$39,367,674. Major expenditure categories were: Personal Services (\$36,082,814) and Operating Expenses (\$3,284,860).

The final approved budget for FY 07-08 was \$41,394,555. Major expenditure categories are: Personal Services (\$37,777,697) and Operating Expenses (\$3,616,858).

- Revenue Forecasting – Budgeted revenues of \$37,581,200, \$39,727,077 and \$42,328,000 were calculated for FY 05-06, FY 06-07 and FY 07-08 respectively, based on prior period data and management’s assessment of future operational activities.
 - Our review determined the Clerk’s FY 05-06, FY 06-07 and FY 07-08 budgets were prepared pursuant to CCOC instructions and submitted in accordance with the provisions of Section 28.36, F.S.
- Expenditures during the review period were limited to court-related functions as specified in Section 28.35(4)(a), F.S.
 - Revenues for fees, services charges, court costs and funding for court-related functions for FY 05-06 and FY 06-07 were assessed pursuant to the provisions of Chapter 28, F.S. The Clerk’s budget for FY 07-08 was based on projected revenues from the same sources, pursuant to Section 28.36, F.S.
 - Clerks are required to maintain a partial fee payment system, pursuant to Section 28.246, F.S. The Broward County Clerk’s Office is currently utilizing an internal database system to account for partial fee payments. The Clerk is contracting with an external collection agency to assist with collecting delinquent accounts more than 90 days past due. However, our review concluded that the Broward County Clerk’s Office is receiving administrative fees from the contracted collection agency.
 - Broward County Clerk of Court was designated a “donor” office for FY 05-06 by CCOC based upon a budgeted surplus of \$746,080. Monthly remittances to the Clerks of the Court Trust Fund were scheduled to liquidate the Clerk’s projected surplus pursuant to CCOC directive. The Clerk reported a FY 05-06 surplus of \$465,139 based on actual revenues and expenditures of \$37,644,946 and \$37,179,807 respectively. The Clerk remitted the FY 05-06 surplus to DOR on December 13, 2006 for deposit in the General Revenue Fund, pursuant to the provisions of Section 28.37(4), F.S.
 - Broward County Clerk of Court was designated a “donor” office for FY 06-07 by CCOC based upon a budgeted surplus of \$359,403. Monthly remittances to the Clerks of the Court Trust Fund were scheduled to liquidate the Clerk’s projected surplus pursuant to CCOC directive. The Clerk reported a FY 06-07 surplus of \$2,740,765 based on actual revenues and expenditures of \$40,792,364 and \$38,051,599 respectively. The Clerk remitted the FY 06-07 surplus to DOR on December 27, 2007 for deposit in the General Revenue Fund, pursuant to the provisions of Section 28.37(4), F.S.

- The Broward County Clerk of Court is designated a “donor” office for FY 07-08 by CCOC based upon a budgeted surplus of \$933,445. Projected revenues and expenditures for FY 07-08 are \$42,328,000 and \$41,394,555 respectively. Through the time of our review (based on report data through December 2007), the Clerk’s Office reported an actual FY 07-08 surplus of \$1,727,896 based on revenues and expenditures of \$10,603,332 and \$8,875,436 respectively.
- The following performance measures were adopted by CCOC, pursuant to Section 28.35, F.S., for FY 05-06, FY 06-07 and FY 07-08:
 - Outputs – The outputs consist of the number of civil cases filed and the number of criminal defendants handled, by Court Divisions, as identified by the Clerk’s Office. The Clerk reported 444,383 new cases filed and 108,523 defendants during FY 05-06. The Clerk reported 508,984 new cases filed and 117,579 defendants during FY 06-07.
 - Outcome Measures – Timeliness and Collection Rate:
 - Timeliness – New cases opened within a designated number of business days after the initial filing. The Clerk has the ability to collect data and report timeliness measures on new cases. The Clerk reported meeting or exceeding 17 of 20 performance standards to CCOC for FY 05-06. The Clerk reported meeting or exceeding 17 of 20 performance standards to CCOC for FY 06-07.
 - Collection Rate – The collection rate is calculated by dividing collections by the adjusted assessments. The Clerk reported meeting or exceeding 7 of 9 collections performance standards to CCOC for FY 05-06. The Clerk reported meeting or exceeding 7 of 9 collections performance standards to CCOC for FY 06-07. The Clerk reported meeting or exceeding 7 of 9 collections performance standards to CCOC for the first quarter of FY 07-08.
 - Fiscal Management Measures – Fiscal Management Standards
 - Status Report – The Clerk reported meeting or exceeding 9 of 9 fiscal management standards to CCOC for FY 05-06.

FINDINGS AND RECOMMENDATIONS

Finding Number 1:

Based upon our review, we found the Clerk's budgeting practices and expenditure and revenue methodologies for State funds to be efficient and accurate. We concluded the Broward County Clerk's Office is currently able to report on all required performance standards. However, the Clerk's office is receiving administrative fees from the contracted collection agency. The Clerk of the Court is not authorized to charge a fee to the collection agent or attorney for support services provided by the Clerk, when an unpaid amount owed to the Clerk is referred to an agent for collection, pursuant to the Florida Attorney General's opinion (AGO 2007-52). Any administrative support costs incurred by the Clerk after referring unpaid fines and fees for collection should most appropriately be paid from "filing fee, services charges, court costs, and fines" as provided in section 28.35(4)(a), Florida Statutes.

Recommendation Number 1:

The Broward County Clerk's Office should closely adhere to the Attorney General's Opinion regarding unauthorized collection of administrative fees received from collection agents.

Clerk Response:

The Clerk has concluded that recovering of a portion of the administrative costs associated with providing the contracted collection agency public information is appropriate and lawful. The Clerk will clarify the contractual language with the collection agency to reflect the proper payment of an administrative fee associated with the contracted collection agency for sharing public information regarding delinquent payments.

DFS Response:

Attorney General Opinion (AGO 2007-52) states that a Clerk is not authorized to charge a fee to a collection agent or attorney for support services provided by the Clerk when an unpaid amount owed to the Clerk is referred to an agent for collection. Attorney General Opinion (AGO 2005-34) states that "The provision of access to public records is a statutory duty imposed by the legislature on all records custodians and should not generally be considered a revenue generating operation."

In addition, a Clerk proposing to charge a contracted collection agency a fee for generating additional revenues is considered inconsistent with the requirements of Chapter 119, Florida Statutes.

REVIEW TEAM

Burton Marshall, *Chief, Bureau of Local Government*
Priscilla Bailey-Brown, *Financial Administrator*
Mark Gressel, *Professional Accountant Specialist*
Bob Johnson, *Professional Accountant Specialist*
Angie Lawson, *Professional Accountant Specialist*
Jessica Robinson, *Professional Accountant Specialist*

APPENDIX

Appendix A

4/24/08

Hi Priscilla:

Below is the Clerk's response to the DFS finding.

The Clerk acknowledges receiving administrative fees from the contracted collection agency and has reviewed the Attorney General's opinion AGO 2007-52.

As authorized under section 28.24(28), the Clerk may charge a fee for "furnishing an electronic copy of information contained in a computer database: a fee as provided for in chapter 119." Chapter 119 permits a special service charge for the public records information that is sent to our contracted collection agent as follows: "If the nature or volume of public records requested to be inspected or copied pursuant to this subsection is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or both, the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the agency or attributable to the agency for the clerical and supervisory assistance required, or both."

The Attorney General's opinion does not reference the chapter 119 fee as indicated in section 28.24(28). Absent an Attorney General's opinion specifically regarding the receipt of a fee under section 28.24(28) from a contracted collection agency, the Clerk has concluded that a recovery of a portion of the administrative costs associated with providing public information to the contracted collection agency is appropriate and lawful.

Accordingly, the Clerk will clarify the contractual language with the collection agency to reflect the proper payment of an administrative fee associated with his providing the contracted collection agency public information regarding delinquent payments on specific cases.

Jeffrey K. Sutton, Esq.

Chief Financial Officer

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