



**JEFF ATWATER
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA**

Florida Department of Financial Services

**FLAGLER COUNTY
CLERK OF THE CIRCUIT COURT
PERFORMANCE AND COMPLIANCE REVIEW**

**Report No. 2010-13
January 26, 2011**

SUMMARY

The Chief Financial Officer for the State of Florida is authorized by law to conduct performance and compliance reviews for each of the Clerk of the Circuit Court's accounting of Article V State funding. The Department of Financial Services has completed a review of the Flagler County Clerk of Circuit Court's Office as required by Section 28.36(8), Florida Statutes. It is the practice of the Department of Financial Services to conduct these reviews for each Clerk of the Circuit Court every three years.

- The Flagler County Clerk of Circuit Court serves a population of 95,512.
- The review verified the Clerk's budgeting practices for each county fiscal year (CFY), October through September, and each state fiscal year (SFY), July through June, are in compliance with the Florida Clerks of Court Operations Corporation (CCOC) guidelines.
- The review verified the Clerk's remittances and recording of revenues/liabilities due to the State to be accurate and timely, as required by Section 28.245, Florida Statutes.
- The review verified the Clerk's court-related expenditures were allowable and compliant with Sections 28.35(3) and 29.008, Florida Statutes.
- The Clerk's office was able to meet or exceed all performance standards established by the CCOC except for juror payments for CFY 07-08. Pursuant to Section 40.32(3), Florida Statutes, Clerks are required to issue juror payments within 20 days after completion of juror services.

BACKGROUND

In 1998, revisions to Article V, Section 14, of the Florida Constitution, specified portions of the state courts system and court-related functions that were to be funded from State revenues derived from statutory fines, fees, service charges, and court costs collected by the Clerks of Court.

Prior to July 1, 2009, Clerks prepared budgets using a revenue-based model independent of the State appropriations process. Clerks collected fines, fees, service charges, and court costs to fund their approved budgets and remitted any excess revenues to the Department of Revenue for deposit into the Clerks of Court Trust Fund. The Florida Legislature passed Florida Laws Chapter 2009-61 and Chapter 2009-204, placing the Clerks court-related budgets under the State appropriations process beginning July 1, 2009. The Florida Legislature appropriates the total amount for the Clerks budgets in the General Appropriations Act (GAA).

The organization that governs the Clerks, the CCOC, is now administratively housed in the Justice Administrative Commission. The CCOC is responsible for developing the budgets and certifying a uniform system of performance measures for Clerks. Under the current model, all fines, fees, service charges, and court costs, except as otherwise provided in Sections 28.241 and 34.041, Florida Statutes, are collected by the Clerks’ offices and remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund, in accordance with Section 28.37, Florida Statutes. Beginning in July 2009, Section 28.245, Florida Statutes, requires Clerks collections of court-related fines, fees, service charges, and costs to be considered liabilities due to the State and is required to be remitted to the Clerks of Court Trust Fund by the 20th of the month immediately following the month in which the monies are collected. Beginning July 2010, Section 28.245, Florida Statutes, requires Clerks to remit liabilities to the Clerks of Court Trust Fund by the 10th of the month following the month in which the monies are collected. The Clerks are now funded by the State appropriations process.

SCOPE

The Article V performance and compliance review of the Flagler County Clerk of the Circuit Court’s Office covered CFY 06-07, CFY 07-08, CFY 08-09, and SFY 09-10 court-related budgets certified by the CCOC, pursuant to Section 28.35, Florida Statutes. The review was conducted on July 27-30, 2010, at the Flagler County Clerk of Circuit Court’s Office.

OBJECTIVES & METHODOLOGY

The performance and compliance review was conducted to ensure Clerk budget methodologies, expenditures, revenues/liabilities due to the State, and performance measures were accurately implemented and recorded according to law.

BUDGETS

The review of the Clerk’s budgets verified that the budgets were funded from fines, fees, service charges, and court costs, pursuant to Sections 28.37(1), Florida Statutes, and were prepared according to the CCOC instructions.

The table below reflects the budgeted expenditures and revenues/liabilities for each fiscal year reviewed, and reflects the budgeted surplus amounts certified by the CCOC:

Fiscal Year	Expenditures	Revenues/ Liabilities	Surplus/ (Deficit)
CFY 06-07	1,675,903	1,978,517	302,614
CFY 07-08	1,633,125	1,766,675	133,550
CFY 08-09	1,886,438	2,128,101	241,663

The Clerk’s office was budgeted as a “donor” county by the CCOC for CFY 06-07, CFY 07-08, and CFY 08-09. The Clerk’s office was scheduled to make monthly payments to the Clerks of Court Trust Fund based on the “donor” county designation. The Clerk’s budgeted surplus decreased by approximately 20.14% from CFY 06-07 to the beginning of CFY 08-09.

The table below reflects the revised budgeted expenditures and revenues/liabilities following the budget reductions implemented in May 2009:

Fiscal Year	Expenditures	Revenues/ Liabilities	Surplus/ (Deficit)
CFY 08-09 ¹	1,284,231	1,439,203	154,972
SFY 09-10 ²	1,557,865	1,768,429	210,564

Note 1: CFY 08-09 budgeted expenditures and revenues/liabilities are for the nine month period of October 2008 through June 2009.

Note 2: SFY 09-10 budgeted expenditures and revenues/liabilities are for the twelve month period of July 2009 through June 2010.

Clerks are now required to budget according to State Fiscal Year (July 1 through June 30) and are provided funding through the State GAA. The CCOC released appropriations in the amount of one-twelfth of each Clerk’s approved budget each month for SFY 09-10.

The table below reflects the budgeted FTEs for each fiscal year reviewed and the court-related allocation percentages applied for shared overhead:

Fiscal Year	Direct Court- Related FTEs	Indirect Overhead FTEs	Total Court- Related FTEs	Total Court & Non-Court FTEs	Cost Allocation Percentage
CFY 06-07	27.00	2.69	29.69	60.75	48.87%
CFY 07-08	31.00	5.25	36.25	69.00	52.54%
CFY 08-09	24.00	7.81	31.81	57.00	55.81%
SFY 09-10	20.50	5.66	26.16	48.50	53.94%

The cost allocation percentages are applied to overhead costs budgeted to support court-related activities for all fiscal years. The allocation is based on the percentage of time each overhead position’s duties are performed for court-related activities. The allocation methodologies applied by the Clerk’s office are within the approved budget guidelines set by the CCOC. The budgeted total court-related FTEs decreased approximately 11.89% from CFY 06-07 to SFY 09-10. The budgeted cost allocation increased approximately 10.37% from CFY 06-07 to SFY 09-10.

EXPENDITURES

The review sampled various court-related expenditure accounts and transactions to determine if the Clerk’s office was in compliance with Section 28.35, Florida Statutes. The expenditure sample confirmed court-related expenditures were in compliance with Section 28.35, Florida Statutes, and funds were expended for allowable court-related costs. The Clerk’s CCOC Technology Expense Monthly Tracking Report was in compliance with guidelines set by the CCOC. The Clerk’s salary was within the salary requirements developed by the Florida Legislative Committee on Intergovernmental Relations. The Clerk provided 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 review confirmed the accuracy of the expenditures listed on the Clerk’s General Ledger by reconciling with the expenditures reported on the CCOC Clerks’ Trust Fund Collections Tracking Report for each fiscal year.

The table below reflects the budgeted and actual expenditures for each fiscal year reviewed:

Fiscal Year	Budgeted	Actual
CFY 06-07	1,675,902	1,675,901
CFY 07-08	1,633,125	1,633,125
CFY 08-09¹	1,284,231	1,280,458
SFY 09-10²	1,557,865	1,404,567

Note 1: CFY 08-09 budgeted and actual expenditures are for the nine month period of October 2008 through June 2009.

Note 2: SFY 09-10 budgeted and actual expenditures are the for the twelve month period of July 2009- through June 2010.

The budgeted expenditures decreased 7.04% from CFY 06-07 to SFY 09-10. The Clerk’s actual expenditures were below budgeted expenditures in CFY 06-07, for the nine month period of CFY 08-09, and SFY 09-10. The Clerk’s actual expenditures equaled budgeted expenditures in CFY 07-08.

The table below reflects the budget categories that make up total budgeted expenditures for each fiscal year reviewed:

Fiscal Year	Personal Services	Operating Expenses	Capital Outlay	Budget Reserve	Total Expenditures
CFY 06-07	1,457,535	114,166	0	104,202	1,675,903
CFY 07-08	1,320,509	312,796	0	0	1,633,305
CFY 08-09	1,558,571	170,451	502	156,914	1,886,438
CFY 08-09 ^{1,3}	N/A	N/A	N/A	N/A	1,284,231
SFY 09-10 ^{2,3}	N/A	N/A	N/A	N/A	1,557,865

Note 1: CFY 08-09 represents revised CFY 08-09 budgeted figures for the nine month period of October 2008 through June 2009, based on the May 2009 budget reductions implemented by the CCOC.

Note 2: SFY 09-10 represents the budgeted expenditures for the twelve month period of July 2009 through June 2010.

Note 3: The categories of Personal Services, Operating Expenses, Capital Outlay and Budget Reserve are listed as N/A in CFY 08-09 and SFY 09-10 due to the implementation of budget reductions in May 2009.

The Clerk’s office budgets personnel related costs (employee salaries and benefits) in the budget category of personal services. The total budgeted expenditures in each fiscal year reviewed were approximately 84% personnel related.

REVENUES/LIABILITIES DUE TO THE STATE

The review confirmed that fines, fees, service charges, and court costs collected by the Clerk’s office were remitted to the Department of Revenue for deposit into the Clerks of Court Trust Fund in a timely manner. Pursuant to Section 28.245, Florida Statutes, funds are required to be remitted to the Clerks of Court Trust Fund by the 20th of the month immediately following the month in which the monies were collected. Beginning July 2010, Section 28.245, Florida Statutes, requires Clerks to remit liabilities to the Clerks of Court Trust Fund by the 10th of the month following the month in which the monies are collected. The review confirmed the accuracy of the revenues/liabilities listed on the Clerk’s General Ledger by reconciling with the revenues/liabilities reported on the CCOC Clerks’ Trust Fund Collections Tracking Report for each fiscal year. The Clerk’s office is in compliance with Florida Laws Chapter 2008-111, and is timely and accurate in remitting and recording the collections provided to the State General Revenue Fund.

The table below reflects the budgeted and actual revenues/liabilities for each fiscal year reviewed:

Fiscal Year	Budgeted	Actual
CFY 06-07	1,978,517	1,774,566
CFY 07-08	1,766,675	2,012,078
CFY 08-09 ¹	1,439,203	1,418,056
SFY 09-10 ²	1,768,429	1,563,448

Note 1: CFY 08-09 budgeted and actual revenues/liabilities are for the nine month period of October 2008 through June 2009.

Note 2: SFY 09-10 budgeted revenue/liabilities are for the twelve month period of July 2009 through June 2010.

The budgeted revenues/liabilities decreased 10.62% from CFY 06-07 to SFY 09-10. The Clerk’s actual revenues/liabilities were below budgeted revenues/liabilities for CFY 06-07, for the nine month period of CFY 08-09, and SFY 09-10. The Clerk’s actual revenues/liabilities were above budgeted revenues/liabilities for CFY 07-08.

The table below reflects the budgeted and actual remittances made to the Clerks of Court Trust Fund for each fiscal year reviewed:

Fiscal Year	Budgeted Surplus Remittances	Actual Remittances during the Year	Settle Up Remittances at Year End	Total Remittances
CFY 06-07	302,615	80,391	18,274	98,665
CFY 07-08	133,550	132,376	246,577	378,953
CFY 08-09 ¹	154,972	59,025	78,573	137,598
SFY 09-10	210,564	5,583 ²	153,298 ³	158,881

Note 1: CFY 08-09 budgeted surplus remittances were based on the nine month period of October 2008 through June 2009.

Note 2: Section 28.37(2), Florida Statutes, considers all court related fines, fees, services charges, and costs collected by the Clerks to be state funds and requires the funds to be remitted to the Clerks of Court Trust Fund. For SFY 09-10 the surplus of \$5,583 is the difference of the liabilities remitted of \$1,563,448 less the appropriations received of \$1,557,865.

Note 3: Based on the financial information submitted through June 2010, the Clerk’s office is projected to submit a settle up of \$153,298 by August 15, 2010. The settle up was not due at the time of our review.

The Clerk’s office exceeded the budgeted remittances for CFY 07-08. The Clerk’s office fell short of meeting the budgeted remittances for CFY 06-07, the nine month period of October 2008 through June 2009 of CFY 08-09 and SFY 09-10.

PERFORMANCE MEASURES

The CCOC has the responsibility of developing and certifying a uniform system of performance measures and applicable performance standards for the court-related functions, pursuant to

Section 28.35(3)(a), Florida Statutes. The review confirmed the Clerk’s office to be in compliance with the performance measure guidelines and standards defined by the CCOC except for the timely issuance of juror payments for CFY 07-08. Pursuant to Section 40.32(3), Florida Statutes, Clerks are required to issue juror payments within 20 days after completion of juror services. The Clerk’s independent audit report confirmed the Clerk’s office to be in compliance with Section 28.35, Florida Statutes, for CFY 06-07, CFY 07-08, and CFY 08-09. The review verified the Clerk maintains a partial fee payment system, pursuant to Section 28.246, Florida Statutes.

The table below reflects the standards of timeliness, collections, fiscal management, and juror payments achieved by the Clerk’s office for each fiscal year reviewed:

TIMELINESS	CFY 06-07	CFY 07-08	CFY 08-09	SFY 09-10
Standard	12 of 20	12 of 20	12 of 20	12 of 20
Clerk Reported	19 of 20	17 of 20	18 of 20	19 of 20
COLLECTIONS	CFY 06-07	CFY 07-08	CFY 08-09	CFY 09-10
Standard	5 of 9	5 of 9	5 of 9	5 of 9
Clerk Reported	N/A ²	8 of 9	8 of 9	8 of 9
FISCAL MANAGEMENT	CFY 06-07	CFY 07-08	CFY 08-09	SFY 09-10
Standard	6 of 9	6 of 9	6 of 9	6 of 8
Clerk Reported	9 of 9	9 of 9	9 of 9	8 of 8
JUROR PAYMENTS	CFY 06-07	CFY 07-08	CFY 08-09	SFY 09-10
Standard	N/A ¹	100%	100%	100%
Clerk Reported	N/A ¹	71.5%	100%	100%

Note 1: CFY 06-07 juror payments data not applicable for this time period.

Note 2: CFY 06-07 collections data was not available at the time of the review.

The table below reflects the Clerk’s cases, defendants and financial receipts for each fiscal year reviewed:

TOTAL REPORTED	CFY 06-07	CFY 07-08	CFY 08-09	SFY 09-10
Cases	24,038 ¹	21,801	20,470	18,025
Defendants	4,376 ¹	5,309	5,473	5,346
Financial Receipts	N/A ²	34,230	32,942	30,093

Note 1: CFY 06-07 cases and defendants do not include notices of appeal.

Note 2: CFY 06-07 financial receipts data not applicable for this time period.

OBSERVATIONS & RECOMMENDATIONS**Observation Number One:**

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 Flagler County Clerk's office is currently able to report on all required performance standards. However, the Flagler County Clerk's office did not meet or exceed the performance standard for juror payments issued timely for CFY 07-08. Pursuant to Section 40.32(3), Florida Statutes, Clerks are required to issue juror payments within 20 days after completion of juror services.

Recommendation Number One:

The Flagler County Clerk's office should closely adhere to Section 40.32(3), Florida Statutes, regarding timely payment for juror services.

**GAIL WADSWORTH, Clerk of the Circuit Court**

1769 East Moody Blvd., Building #1 • Bunnell, Florida 32110
Website: www.flaglerclerk.com

January 26, 2011

Jeff Atwater
State of Florida-Chief Financial Officer
Department of Financial Services
200 East Gaines Street
Tallahassee, FL 32399-0354

RE: Response to Article V Performance and Compliance Review, County Fiscal Year 2007 through State Fiscal Year 2010.

Dear Mr. Atwater,

Please accept the following as the Clerk of Courts (Clerk) response to your report:

Observation Number 1- Timely Payment for Juror Services

- 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 Flagler County Clerk's office is currently able to report on all required performance standards. However, the Flagler County Clerk's office did not meet or exceed the performance standard for juror payments issued timely for CFY 07-08. Pursuant to Section 40.32(3), Florida Statutes, Clerks are required to issue juror payments within 20 days after completion of juror services.
- For all periods except CFY 07-08, the Clerk fully met the performance standard for juror payments issued timely. CFY 07-08 was a transitional period during which the Florida Clerks of Court Operations Corporation (CCOC) was introduced into the process. During this time period, the CCOC estimated the amounts of funds to distribute to Flagler based upon historic trends, which were consequently distributed quarterly.

Actual result of operation resulted in shortfalls in funding during the 3rd and 4th quarters of SFY 2008. Funds were not received to pay these jurors until June 30, 2008; hence the delay in juror payments for the period of March-June 2008; ultimately paid on July 1, 2008.

The Flagler County Clerk's office closely adheres to Section 40.32(3), Florida Statutes, regarding timely payment for juror services.

Sincerely,
Gail Wadsworth