



**INDIAN RIVER COUNTY
CLERK OF THE CIRCUIT COURT
PERFORMANCE AND COMPLIANCE REVIEW**

**Report No. 2010-20
March 30, 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 Indian River 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 Indian River County Clerk of Circuit Court serves a population of 141,634.
- 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.

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 immediately 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 Indian River County Clerk of the Circuit Court's Office covered CFY 06-07, CFY 07-08, CFY 08-09, SFY 09-10 and SFY 10-11 (through August 2010) court-related budgets certified by the CCOC, pursuant to Section 28.35, Florida Statutes. The review was conducted on October 5-8, 2010, at the Indian River 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 Section 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 reflect the budgeted surplus/deficit amounts certified by the CCOC.

| Fiscal Year | Expenditures | Revenues/ Liabilities | Surplus/ (Deficit) |
|--------------------|---------------------|----------------------------------|-------------------------------|
| CFY 06-07 | \$ 3,552,014 | \$ 3,222,900 | \$ (329,114) |
| CFY 07-08 | \$ 4,013,660 | \$ 3,998,688 | \$ (14,972) |
| CFY 08-09 | \$ 4,068,824 | \$ 3,688,000 | \$ (380,824) |

The Clerk's office was budgeted as a "recipient" county by the CCOC for CFY 06-07, CFY 07-08, and CFY 08-09. The Clerk's office was scheduled to receive monthly payments from the Clerks of Court Trust Fund based on the "recipient" county designation. The Clerk's budgeted deficit increased from CFY 06-07 to CFY 08-09 by approximately 15.71%.

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 08-09¹ | \$ 3,074,358 | \$ 2,882,312 | \$ (192,046) |
| SFY 09-10² | \$ 3,364,925 | \$ 3,452,407 | \$ 87,482 |
| SFY 10-11³ | \$ 3,364,925 | \$ 3,235,952 | \$ (128,973) |

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.

Note 3: SFY 10-11 budgeted expenditures and revenues/liabilities are for the twelve month period of July 2010 through June 2011.

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 and SFY 10-11 (through August).

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 | 69.81 | 10.71 | 80.52 | 122.74 | 65.60% |
| CFY 07-08 | 77.34 | 12.08 | 89.42 | 132.03 | 67.73% |
| CFY 08-09 | 74.16 | 12.35 | 86.51 | 123.62 | 69.98% |
| SFY 09-10 | 54.09 | 3.14 | 57.23 | 77.01 | 74.32% |
| SFY 10-11 | 68.94 | 3.53 | 72.47 | 102.65 | 70.60% |

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 from CFY 06-07 to SFY 10-11 by approximately 10%. The budgeted cost allocation increased from CFY 06-07 to SFY 10-11 by approximately 7.62%.

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 Office of Economic and Demographic Research. 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 | \$ 3,552,014 | \$ 3,404,213 |
| CFY 07-08 | \$ 4,013,660 | \$ 3,537,942 |
| CFY 08-09¹ | \$ 3,074,358 | \$ 3,007,499 |
| SFY 09-10² | \$ 3,364,925 | \$ 3,293,230 |
| SFY 10-11³ | \$ 3,364,925 | \$ 419,984 ⁴ |

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 expenditures are for the twelve month period of July 2009 through June 2010.

Note 3: SFY 10-11 budgeted expenditures are for the twelve month period of July 2010 through June 2011.

Note 4: SFY 10-11 actual expenditures were \$419,984 for the two month period of July through August 2010.

The budgeted expenditures decreased from CFY 06-07 to SFY 10-11 by 5.27%. The Clerk's actual expenditures were below budgeted expenditures in CFY 06-07, CFY 07-08, for the nine month period of October 2008 through June 2009 of CFY 08-09, and SFY 09-10.

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 | \$ 3,067,380 | \$ 161,724 | \$ - | \$ 322,910 | \$ 3,552,014 |
| CFY 07-08 | \$ 3,605,484 | \$ 167,166 | \$ - | \$ 241,010 | \$ 4,013,660 |
| CFY 08-09 | \$ 3,631,440 | \$ 135,990 | \$ - | \$ 301,394 | \$ 4,068,824 |
| CFY 08-09^{1,3} | N/A | N/A | N/A | N/A | \$ 3,074,358 |
| SFY 09-10^{2,3} | N/A | N/A | N/A | N/A | \$ 3,364,925 |
| SFY 10-11 | \$ 3,232,716 | \$ 132,209 | \$ - | \$ - | \$ 3,364,925 ⁴ |

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.

Note 4: SFY 10-11 total appropriation is subject to change due to the Unit Cost adjustment pursuant to Section 28.36 (10) b, Florida Statutes.

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 90% 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 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 immediately 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 | \$ 3,222,900 | \$ 3,976,059 |
| CFY 07-08 | \$ 3,998,688 | \$ 3,853,098 |
| CFY 08-09¹ | \$ 2,882,312 | \$ 2,944,631 |
| SFY 09-10² | \$ 3,452,407 | \$ 3,225,566 |
| SFY 10-11³ | \$ 3,235,952 | \$ 508,096 ⁴ |

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.

Note 3: SFY 10-11 budgeted revenues/ liabilities are for the twelve month period of July 2010 through June 2011.

Note 4: SFY 10-11 actual revenues/ liabilities are for the period of July through August 2010.

The budgeted revenues/liabilities increased from CFY 06-07 to SFY 10-11 by .40%. The Clerk's actual revenues/liabilities were above budgeted revenues/liabilities for CFY 06-07 and for the nine month period of CFY 08-09. The Clerk's actual revenues/liabilities were below the budgeted revenues/liabilities for CFY 07-08 and SFY 09-10 through August 2010.

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/(Deficit) Remittances | Actual Payments from the Trust Fund | Actual Remittances to the Trust Fund | Settle Up Remittance to Trust Fund | Total Remittances to Trust Fund |
|------------------------|--|-------------------------------------|--------------------------------------|------------------------------------|---------------------------------|
| CFY 06-07 | \$ (329,114) | \$ 329,112 | \$ 275,429 | \$ 625,530 | \$ 571,847 |
| CFY 07-08 | \$ (14,972) | \$ - | \$ 201,600 | \$ 113,555 | \$ 315,155 |
| CFY 08-09 ¹ | \$ (192,046) | \$ 145,000 | \$ 75,847 | \$ 99,485 | \$ 30,332 |
| SFY 09-10 | \$ 87,482 | \$ (139,356) ² | \$ - | \$ 71,692 | \$ (67,664) |
| SFY 10-11 ³ | \$ (128,973) | N/A | N/A | N/A | N/A |

Note 1: CFY 08-09 budgeted deficit 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 deficit of \$139,356 is the difference of the liabilities remitted of \$3,225,566 less the appropriations received of \$3,364,922.

Note 3: SFY 10-11 budgeted surplus remittances were based on the twelve month period of July 2010 through June 2011. The actual remittances, settle up remittances, and total remittances information was not available during the time of our review.

The Clerk's office was budgeted as a deficit county but the Clerk's office made remittances to the Trust Fund throughout the year for CFY 06-07, CFY 07-08 and for the nine month period of October 2008 through June 2009 of CFY 08-09.

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. 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 | 16 of 20 | 17 of 20 | 15 of 20 | 18 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 | 8 of 9 | 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 | 100% | 100% | 100% |

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

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 | SFY 10-11 |
|-----------------------|---------------------|------------------|------------------|------------------|--------------------|
| Cases | 33,982 ¹ | 34,032 | 34,543 | 31,051 | 5,155 ³ |
| Defendants | 12,007 ¹ | 11,028 | 10,638 | 9,706 | 1,682 ³ |
| Financial Receipts | N/A ² | 60,398 | 57,895 | 53,227 | N/A ² |

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

Note 2: CFY 06-07 and SFY 10-11 financial receipts data not applicable for this time period.

Note 3: SFY 10-11 cases and defendants are for the period of July 2010 through August 2010.

OBSERVATIONS & RECOMMENDATIONS

Based upon the review, we found the Clerk's budgeting practices and expenditure and revenue methodologies for State funds to be compliant with Florida Statutes and the guidelines established by the CCOC. We concluded that the Indian River County Clerk's Office is currently able to report on all required performance standards.

JEFFREY K. BARTON

Clerk of Circuit Court and Comptroller
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March 23, 2011

Jeff Atwater
Chief Financial Officer
State of Florida
Florida Department of Financial Services

RE: Report No. 2010-20
Performance and Compliance Review
Indian River County Clerk of Circuit Court

Dear CFO Atwater:

I have reviewed the draft copy of the above-captioned report and thank you for your thorough review of our performance and compliance with standards set by the CCOC.

I agree with your findings and affirm that while we currently are compliant with those set standards, our office will consistently try to improve upon our performance with the goal to providing the best service we can for the judicial system of Indian River County.

I would like to commend your staff on their professionalism, flexibility and conscientiousness during this review. They represented your office well.

Sincerely,

A handwritten signature in black ink, which appears to read "Jeffrey R. Smith, CPA". The signature is stylized with a large, looping initial "J" and a long, sweeping underline.

Jeffrey R. Smith, CPA

Chief Deputy Clerk of the Circuit Court and Comptroller