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Florida Department of Financial Services

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

**Report No. 2011-05
January 4, 2012**

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 Duval County Clerk of Circuit Court's Office as required by Section 28.36(8), Florida Statutes (F.S.). 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 Duval County Clerk of Circuit Court serves a population of 900,518.
- 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, F.S.
- The review verified the Clerk's court-related expenditures were not limited to those that are allowable and compliant with Sections 28.35(3) and 29.008, F.S.
- The Clerk's office was not 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, F.S., 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, F.S. Beginning July 2009, Section 28.245, F.S., requires Clerks' collections of court-related fines, fees, service charges, and costs to be considered liabilities due to the State and 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, F.S., 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 Duval County Clerk of the Circuit Court's Office covered CFY 07-08, CFY 08-09, SFY 09-10, and SFY 10-11 court-related budgets certified by the CCOC, pursuant to Section 28.35, F.S. The review was conducted September 12 through September 16, 2011 at the Duval 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), F.S., 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/deficit amounts certified by the CCOC.

Fiscal Year	Expenditures	Revenues/ Liabilities	Surplus/ (Deficit)
CFY 07-08	\$ 18,187,444	\$ 22,761,591	\$ 4,574,147
CFY 08-09	\$ 19,317,461	\$ 24,779,081	\$ 5,461,620

The Clerk’s office was budgeted as a “surplus” county by the CCOC for 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 “surplus” county designation. The Clerk’s budgeted surplus increased from CFY 07-08 to CFY 08-09 by approximately 19.40%.

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	\$ 12,573,896	\$ 16,062,149	\$ 3,488,253
SFY 09-10	\$ 15,894,677	\$ 19,834,420	\$ 3,939,743
SFY 10-11	\$ 15,653,042	\$ 17,580,960	\$ 1,927,918

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

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.

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 07-08	341.00	49.22	390.22	444.00	87.89%
CFY 08-09	400.00	53.51	453.51	500.00	90.70%
SFY 09-10	370.00	44.88	414.88	453.00	91.58%
SFY 10-11	344.00	38.93	382.93	423.00	90.53%

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 07-08 to SFY 10-11 by approximately 1.87%. The budgeted cost allocation increased from CFY 07-08 to SFY 10-11 by approximately 3.00%

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, F.S. The expenditure sample disclosed court-related expenditures that were not in compliance with Section 28.35, F.S., and court funds were expended for unallowable costs. The Duval County Clerk's Office reported \$6,252.36 for computer accessories and \$4,004.04 for other miscellaneous expenses for FY 07-08. The Clerk's office reported \$1,547.70 for computer accessories, \$1,890.00 for air conditioner repair, \$2,489.49 for software, \$8,519.24 for medical products, and \$522.52 for other miscellaneous expenses for FY 08-09. The Clerk reported \$1,761.70 for miscellaneous expenses for FY 09-10. The Clerk reported \$2,023.04 for computer accessories and \$1,185.59 for other miscellaneous expenses for FY 10-11, for a total of \$30,195.68 in unallowable expenditures for the review period of FY 07-08 through FY 10-11. Additionally, the City of Jacksonville is responsible for portions of the Clerk's operations. The City reported \$8,556.10 for fleet charges for FY 07-08, \$4,132.85 for fleet charges for FY 09-10, and \$24,927.21 for fleet charges for FY 10-11, for a total of \$37,616.16 for the review period of FY 07-08 through FY 10-11. Upon notification of the amount of unallowable expenditures, the Clerk's office refunded \$30,195.68 to the state on November 11, 2011.

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 review disclosed payroll expenses that included bonuses that were outside the budgeting guidelines prescribed by the CCOC. The Clerk's office submitted, as part of the Budget Submission Package for FY 10-11, a form certifying no bonuses were included as part of their budget submission. A reconciliation of court-related payroll expenses to the general ledger disclosed an Incentive Service Raise for every court-related employee who has been employed for five years or longer.

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

Fiscal Year	Budgeted	Actual
CFY 07-08	\$ 18,187,444	\$ 17,976,276
CFY 08-09¹	\$ 12,573,896	\$ 12,573,820
SFY 09-10	\$ 15,894,677	\$ 15,894,677
SFY 10-11	\$ 15,653,042	\$ 15,653,042

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

The budgeted expenditures decreased from CFY 07-08 to SFY 10-11 by 13.93%. The Clerk's actual expenditures were below budgeted expenditures in CFY 07-08 and for the nine month period of October 2008 through June 2009 of CFY 08-09. The Clerk's budgeted and actual expenditures were equal in SFY 09-10 and SFY 10-11.

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 07-08	\$ 13,880,565	\$ 3,442,503	\$ -	\$ 864,376	\$ 18,187,444
CFY 08-09	\$ 16,697,347	\$ 2,486,484	\$ 133,630	\$ -	\$ 19,317,461
CFY 08-09^{1,2}	N/A	N/A	N/A	N/A	\$ 12,573,896
SFY 09-10²	N/A	N/A	N/A	N/A	\$ 15,894,677
SFY 10-11²	N/A	N/A	N/A	N/A	\$ 15,653,042

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: The categories of Personal Services, Operating Expenses, Capital Outlay, and Budget Reserve are listed as N/A in CFY 08-09, SFY 09-10 and SFY 10-11 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 81% 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, F.S., 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, F.S., 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.

	Budgeted	Actual
CFY 07-08	\$ 22,761,591	\$ 23,144,300
CFY 08-09¹	\$ 16,062,149	\$ 15,659,666
SFY 09-10	\$ 19,834,420	\$ 17,335,072
SFY 10-11	\$ 17,580,960	\$ 15,621,266

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

The budgeted revenues/liabilities decreased from CFY 07-08 to SFY 10-11 by 22.76%. The Clerk’s actual revenues/liabilities were above budgeted revenues/liabilities for CFY 07-08. The Clerk’s actual revenues/liabilities were below budgeted revenues/liabilities for the nine month period of October 2008 through June 2009 of CFY 08-09, SFY 09-10 and SFY 10-11.

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 07-08	\$ 4,574,147	\$ 4,609,679	\$ 558,345	\$ 5,168,024
CFY 08-09¹	\$ 3,488,253	\$ 3,190,615	\$ (104,769)	\$ 3,085,846
SFY 09-10	\$ 3,939,743	\$ 17,335,072	\$ -	\$ 17,335,072
SFY 10-11	\$ 1,927,918	\$ 15,621,266	\$ -	\$ 15,621,266

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

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), F.S. 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, F.S., for CFY 07-08. For CFY 08-09, the Clerk’s independent audit report confirmed that the Clerk had complied with the court-related budget compliance requirements but not certain court-related

performance standards. For CFY 09-10, the independent auditor’s management letter did not include a statement that the scope of the audit included a review of the provisions of Section 28.35, F.S., as required by the Rules of the Auditor General, Section 10.554(1)(h)(8). The review verified the Clerk maintains a partial fee payment system, pursuant to Section 28.246, F.S.

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 07-08	CFY 08-09	SFY 09-10	SFY 10-11
Standard	12 of 20	12 of 20	12 of 20	12 of 20
Clerk Reported	13 of 20	19 of 20	20 of 20	20 of 20
COLLECTIONS	CFY 07-08	CFY 08-09	CFY 09-10	SFY 10-11
Standard	5 of 9	5 of 9	5 of 9	5 of 9
Clerk Reported	7 of 9	6 of 9	6 of 9	6 of 9
FISCAL MANAGEMENT	CFY 07-08	CFY 08-09	SFY 09-10	SFY 10-11
Standard	6 of 9	6 of 9	6 of 8	6 of 9
Clerk Reported	9 of 9	9 of 9	8 of 8	9 of 9
JUROR PAYMENTS	CFY 07-08	CFY 08-09	SFY 09-10	SFY 10-11
Standard	100%	100%	100%	100%
Clerk Reported	100%	100%	100%	100%

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

TOTAL REPORTED	CFY 07-08	CFY 08-09	SFY 09-10	SFY 10-11
Cases	349,849	274,432	251,912	229,619
Defendants	100,255	87,046	75,498	71,747
Financial Receipts	367,378	343,209	312,957	283,222

OBSERVATIONS & RECOMMENDATIONS**Observation Number One:**

Based upon our review, we found the Clerk's budgeting practices and expenditures and revenue methodologies for State funds to be efficient and accurate. However, expenditures during the review period were not limited to court-related functions as specified in Sections 28.35 (3) and 29.008, F.S. The Duval County Clerk's Office reported unallowable expenditures of \$30,195.68 that were outside the scope of State funding authority during FY 07-08, FY 08-09, FY 09-10, and FY 10-11. The City reported unallowable expenditures of \$37,616.16 that were outside the scope of State funding authority during FY 07-08, FY 08-09, FY 09-10, and FY 10-11.

Recommendation Number One:

The Duval County Clerk's Office should closely adhere to and follow all expenditures requirements prescribed in Florida Statutes. The Clerk should reimburse the Clerks of the Court Trust Fund for unallowable expenditures totaling \$30,195.68 for FY 07-08, FY 08-09, FY 09-10, and FY 10-11. The City should reimburse the Clerks of the Court Trust Fund for unallowable expenditures totaling \$37,616.16 for FY 07-08, FY 08-09, FY 09-10, and FY 10-11. Documentation of any outstanding reimbursements or transfers should be completed and remitted to DFS within 30 days of receiving this report, pursuant to Section 28.36, F.S.

Observation Number Two:

Based upon our review, we found the Clerk's budgeting practices and expenditures and revenue methodologies for State funds to be efficient and accurate. However, the review disclosed payroll expenses that included bonuses outside the budgeting guidelines prescribed by the CCOC.

Recommendation Number Two:

The Duval County Clerk's Office should closely adhere to all budgeting and expenditures requirements prescribed by the CCOC per Section 28.36, F.S.

Observation Number Three:

Based upon our review we concluded the Duval County Clerk's office is currently able to report on all required performance standards. However, the Clerk's independent auditors noted that during CFY 08-09, the Clerk still lacked the timeliness reporting compliance requirements.

Recommendation Number Three:

The Duval County Clerk's office should closely adhere to all performance measure reporting requirements prescribed by the CCOC, pursuant to Section 28.35(2), F.S.

Observation Number Four:

Based upon our review we concluded the Duval County Clerk's office is currently able to report on all required performance standards. However, for CFY 09-10, the Duval County Clerk's independent auditors, McGladrey & Pullen, LLP, did not include in their management letter a

statement that the scope of their audit included a review of the provisions of Section 28.35 and 28.36, F.S., as required by the Rules of the Auditor General, Section 10.554(1)(h)(8).

Recommendation Number Four:

The Duval County Clerk's office should closely adhere to all performance measure reporting requirements prescribed by the CCOC, pursuant to Section 28.35(5), F.S.



Clerk of the Circuit & County Courts

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December 15, 2011

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In response to the recent DFS audit, the Duval County Clerk's office offers the following comments:

Recommendation Number One: additional care in identifying allowable expenditures is a priority and reimbursement of identified disallowed expenditures has been remitted to the DOR on 11/11/11.

Recommendation Number Two: the Clerk believes that the budgeting requirements have been met within items that are under his control. The payroll bonuses noted are relatively small and under contract with the employee unions negotiated by the City of Jacksonville and outside of the direct control of the Clerk's office.

Recommendation Number Three: the 08-09 CFY accurate timeliness reporting was hampered by learning curve in adapting to our new Case Management system during that time. The issues at hand have since been worked out.

Recommendation Number Four: all relevant requirements are forwarded to the City Comptroller who oversees the Independent Audit and assistance with the City CAFR. The management report has typically been addressed by this central authority that does not rely upon the Clerk's office for significant input. The audit team was new to the process in 09-10 and appears to have covered missed bases during the current 10-11 CFY audit.

Jim Fuller
Duval County Clerk of Courts

Jf/ss