



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

Florida Department of Financial Services

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

**Report No. 2011-03
September 22, 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 Volusia 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 Volusia County Clerk of Circuit Court serves a population of 507,105.
- 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 able to meet or exceed all performance standards established by the CCOC except for juror payments for CFY 08-09 and SFY 09-10. Pursuant to Section 40.32(3), F.S., 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, 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 Volusia 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 on July 25-27, 2011 at the Volusia 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	\$ 12,675,537	\$ 11,844,160	\$ (831,377)
CFY 08-09	\$ 12,869,046	\$ 12,008,011	\$ (861,035)

The Clerk's office was budgeted as a "deficit" county by the CCOC for 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 "deficit" county designation. The Clerk's budgeted deficit increased from CFY 07-08 to CFY 08-09 by approximately 3.57%.

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	\$ 9,407,634	\$ 8,743,413	\$ (664,221)
SFY 09-10	\$ 11,972,311	\$ 11,871,388	\$ (100,923)
SFY 10-11	\$ 11,703,444	\$ 11,343,361	\$ (360,083)

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	271.95	41.59	313.54	363.00	86.37%
CFY 08-09	261.00	41.35	302.35	351.00	86.14%
SFY 09-10	237.00	36.07	273.07	318.00	85.87%
SFY 10-11	239.80	36.41	276.21	317.50	87.00%

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 11.91%. The budgeted cost allocation increased from CFY 07-08 to SFY 10-11 by approximately .73%

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 Volusia County Clerk's Office reported \$27.56 for communications and technology expenses, \$510.09 for coffee and sugar and \$53.71 for travel expenses for FY 07-08. The Clerk's office reported \$218.76 for travel expenses, \$316.70 for Office Equipment maintenance, and \$57.97 for communication and technology expenses for FY 08-09. The Clerk reported \$102.62 for travel expenses and \$196.88 for coffee and sugar expenses for FY 09-10. Finally, the Clerk reported \$6.19 for communications and technology expenses and \$172.67 for coffee and sugar expenses for FY 10-11, for a total of \$1,663.15 in unallowable expenditures 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 \$1,663.15 to the state on September 22, 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 table below reflects the budgeted and actual expenditures for each fiscal year reviewed.

Fiscal Year	Budgeted	Actual
CFY 07-08	\$ 12,675,537	\$ 11,819,021
CFY 08-09¹	\$ 9,407,634	\$ 8,592,570
SFY 09-10	\$ 11,972,311	\$ 10,741,704
SFY 10-11	\$ 11,703,444	\$ 10,672,737

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 7.67%. The Clerk's actual expenditures were below budgeted expenditures in CFY 07-08, 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 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	\$ 11,799,589	\$ 875,948	\$ -	\$ -	\$ 12,675,537
CFY 08-09	\$ 11,834,792	\$ 1,034,254	\$ -	\$ -	\$ 12,869,046
CFY 08-09 ^{1,2}	N/A	N/A	N/A	N/A	\$ 9,407,634
SFY 09-10 ²	N/A	N/A	N/A	N/A	\$ 11,972,311
SFY 10-11	\$ -	\$ -	\$ -	\$ -	\$ 11,703,444

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 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 93% 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.

Fiscal Year	Budgeted	Actual
CFY 07-08	\$ 11,844,160	\$ 11,742,475
CFY 08-09 ¹	\$ 8,743,413	\$ 8,741,884
SFY 09-10	\$ 11,871,388	\$ 10,868,546
SFY 10-11	\$ 11,343,361	\$ 9,262,437

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 4.23%. The Clerk's actual revenues/liabilities were below budgeted revenues/liabilities for CFY 07-08, 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/(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 07-08	\$ (831,377)	\$ 801,564	\$ -	\$ 725,018	\$ (76,546)
CFY 08-09 ¹	\$ (664,221)	\$ 645,777	\$ -	\$ 795,091	\$ 149,314
SFY 09-10	\$ (100,923)	\$ -	\$ -	\$ 1,230,611	\$ 1,230,611
SFY 10-11 ²	\$ (360,083)	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: SFY 10-11 budgeted deficit remittances were based on the twelve month period of July 2010 through June 2011. The actual settle up remittances and total remittances information was not available during the time of our review.

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 except for the timely issuance of juror payments for CFY 08-09 and SFY 09-10. Pursuant to Section 40.32(3), F.S., 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, F.S., for CFY 07-08, CFY 08-09 and CFY 09-10. 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	20 of 20	20 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	8 of 9	7 of 9	7 of 9	7 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	8 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%	99.7%	99.7%	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	148,943	152,000	151,156	134,928
Defendants	73,332	69,562	65,085	59,506
Financial Receipts	199,272	211,400	217,086	196,784

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 Volusia County Clerk's office is currently able to report on all required performance standards. However, the Volusia County Clerk's office did not meet or exceed the performance standard for juror payments issued timely for CFY 08-09 and SFY 09-10. Pursuant to Section 40.32(3), F.S., Clerks are required to issue juror payments within 20 days after completion of juror services.

Recommendation Number One:

The Volusia County Clerk's office should closely adhere to Section 40.32(3), F.S., regarding timely payment for juror services.

Clerk's Response:

The Volusia County Clerk will make every reasonable attempt to adhere to timely payment schedule for juror services in the future. The instances that resulted in this finding were due to employee error in reporting the services in a timely manner. The errors were inadvertent and not a willful attempt to operate outside the bounds of the statute.

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, 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 Volusia County Clerk's Office reported unallowable expenditures of \$1,663.15 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 Two:

The Volusia 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 \$1,663.15 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.

Clerk's Response:

The Volusia County Clerk has remitted \$1,663.15 to the Department of Financial Services for reimbursement of the unallowable expenditures in accordance with Section 28.36, F.S. These costs were inadvertently charged to the court budget and the Clerk will continue to make every effort to adhere to and follow all expenditures requirements prescribed in the Florida Statutes.

DIANE M. MATOUSEK
CLERK OF THE CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT – VOLUSIA COUNTY, FLORIDA

Please reply to: P.O. Box 6043
DeLand, FL 32721-6043

September 23, 2011

State of Florida
Department of Financial Services
Tallahassee, Florida

Dear Sir or Madam:

The following is the Clerk's response to the Observations and Recommendations contained in the Performance and Compliance Review Report No. 2011-03.

Recommendation Number One:

The Volusia County Clerk's Office should closely adhere to Section 40.32(3), F.S. regarding timely payment for juror services.

Clerk's Response:

The Volusia County Clerk will make every reasonable attempt to adhere to timely payment schedule for juror services in the future. The instances that resulted in this finding were due to employee error in reporting the services in a timely manner. The errors were inadvertent and not a willful attempt to operate outside the bounds of the statute.

Recommendation Number Two:

The Volusia 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 \$1,663.15 for FY07-08, FY 08-09, FY09-10, and FY 10-11.

Clerk's Response:

The Volusia County Clerk has remitted \$1,663.15 to the Department of Financial Services for reimbursement of the unallowable expenditures in accordance with Section 28.36 F.S. These costs were inadvertently charged to the court budget and the Clerk will continue to make every effort to adhere to and follow all expenditures requirements prescribed in the Florida Statutes.

Sincerely,
DIANE M. MATOUSEK
CLERK OF THE CIRCUIT COURT

By: 
Laura Roth, Chief Deputy Clerk