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CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

Florida Department of Financial Services

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

**Report No. 2013-11
May 14, 2013**

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 Charlotte 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 Charlotte County Clerk of Circuit Court serves a population of 160,463.
- 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 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 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 Charlotte County Clerk of the Circuit Court's Office covered CFY 08-09, SFY 09-10, SFY 10-11, and SFY 11-12 court-related budgets certified by the CCOC, pursuant to Section 28.35, F.S. The review was conducted April 8 through April 11, 2013 at the Charlotte 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 08-09	\$ 4,774,807	\$ 4,806,156	\$ 31,349

The Clerk’s office was budgeted as a “surplus” county by the CCOC for 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 08-09¹	\$ 3,468,308	\$ 3,473,854	\$ 5,546
SFY 09-10	\$ 3,932,796	\$ 4,037,189	\$ 104,393
SFY 10-11	\$ 3,875,735	\$ 3,627,154	\$ (248,581)
SFY 11-12	\$ 3,787,571	\$ 3,252,000	\$ (535,571)

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 General Appropriations Act. The CCOC released appropriations in the amount of one-twelfth of each Clerk’s approved budget each month for SFY 09-10, SFY 10-11 and SFY 11-12.

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 08-09	75.50	6.70	82.20	135.00	60.89%
SFY 09-10	62.20	3.89	66.09	110.50	59.81%
SFY 10-11	61.90	3.87	65.77	110.50	59.52%
SFY 11-12	67.15	6.01	73.16	119.00	61.48%

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 08-09 to SFY 11-12 by approximately 11.00%. The budgeted cost allocation increased from CFY 08-09 to SFY 11-12 by approximately 0.97%.

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 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.

	Budgeted	Actual
CFY 08-09¹	\$ 3,468,308	\$ 3,417,087
SFY 09-10	\$ 3,932,796	\$ 3,927,545
SFY 10-11	\$ 3,875,735	\$ 3,695,207
SFY 11-12	\$ 3,787,571	\$ 3,763,176

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

The budgeted expenditures increased from CFY 08-09 to SFY 11-12 by 9.21%. The Clerk’s actual expenditures were below budgeted expenditures from CFY 08-09 to SFY 11-12.

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, 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 08-09¹	\$ 3,473,854	\$ 3,453,237
SFY 09-10	\$ 4,037,189	\$ 4,043,811
SFY 10-11	\$ 3,627,154	\$ 3,248,260
SFY 11-12	\$ 3,252,000	\$ 3,114,739

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 08-09 to SFY 11-12 by 6.39%. The Clerk’s actual revenues/liabilities were below budgeted revenues/liabilities in CFY 08-09, SFY 10-11, and SFY 11-12 and above budgeted revenues/liabilities in SFY 09-10.

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/ (from) Trust
CFY 08-09¹	\$ 5,546	\$ -	\$ 36,151	\$ -	\$ 36,151
SFY 09-10^{2,3}	\$ 104,393	\$ 3,932,796	\$ 4,043,811	\$ 5,251	\$ 116,266
SFY 10-11	\$ (248,581)	\$ 3,875,735	\$ 3,248,260	\$ 180,527	\$ (446,948)
SFY 11-12	\$ (535,571)	\$ 3,787,571	\$ 3,114,739	\$ 24,395	\$ (648,437)

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

Note 2: Beginning SFY 09-10, the Actual Payments from the Trust Fund total was the monthly amount received as appropriated by the state, in accordance with 28.36, F.S.

Note 3: Beginning SFY 09-10, the Actual Remittances to the Trust Fund total was the monthly collections remitted by the clerks’ offices to the state, in accordance with 28.245 F.S.

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 all years reviewed. The review verified that 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 08-09	SFY 09-10	SFY 10-11	SFY 11-12
Standard	12 of 20	12 of 20	12 of 20	12 of 20
Clerk Reported	15 of 20	13 of 20	20 of 20	20 of 20
COLLECTIONS	CFY 08-09	CFY 09-10	SFY 10-11	SFY 11-12
Standard	5 of 9	5 of 9	5 of 9	5 of 9
Clerk Reported	7 of 9	7 of 9	8 of 9	8 of 9
FISCAL MANAGEMENT	CFY 08-09	SFY 09-10	SFY 10-11	SFY 11-12
Standard	6 of 9	6 of 8	6 of 9	6 of 9
Clerk Reported	9 of 9	8 of 8	9 of 9	9 of 9
JUROR PAYMENTS	CFY 08-09	SFY 09-10	SFY 10-11	SFY 11-12
Standard	100%	100%	100%	100%
Clerk Reported	100%	99.3%	99.9%	100%

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

TOTAL REPORTED	CFY 08-09	SFY 09-10	SFY 10-11	SFY 11-12
Civil	36,997	34,411	32,336	28,083
Criminal	8,303	8,175	11,316	10,370
Financial Receipts	67,060	64,791	57,704	58,176

OBSERVATIONS & RECOMMENDATIONS**Observation Number One:**

The Charlotte County Clerk's office did not meet or exceed the performance standard for juror payments issued timely for FY 09-10 and FY 10-11. The Clerk's office issued 1,922 out of 1,936 juror payments within 20 days for FY 09-10 and 2,127 out of 2,129 juror payments within 20 days for FY 10-11. 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 Charlotte County Clerk's office should closely adhere to Section 40.32(3), F.S, regarding timely payment for juror services.



Charlotte County

BARBARA T. SCOTT
Clerk of the Circuit Court and County Comptroller

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June 5, 2013

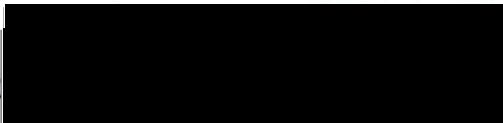
Jeff Atwater
Chief Financial Officer
State of Florida
Florida Department of Financial Services

Dear Mr. Atwater:

We sincerely appreciate the professional manner in which the Department of Financial Services staff conducted our most recent Article V audit. They were very pleasant and easy to work with.

I have read the audit report and I am in agreement with it. Having reviewed the comment and observation regarding the timeliness of juror payments, I can assure you that this office is fully aware of the timeliness measures. We will make every effort to insure that we are always in compliance with the 100% performance measure.

Sincerely,



BARBARA T. SCOTT
Clerk of the Circuit Court & County Comptroller

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