



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

April 24, 2013

The Honorable Robert Germaine
Clerk of Circuit Court
Highlands County
590 South Commerce Avenue
Sebring, Florida 33870-3867

Dear Mr. Germaine:

We completed our Article V Clerk of the Circuit Court Performance and Compliance Review in accordance with Florida Statutes. Enclosed is a copy of our final report which includes your response to our review.

We appreciate your advanced preparation for our review and the courtesy extended to our team. We look forward to working with your office in the future.

Please contact Mark Merry at (850) 413-3074 or mark.merry@myfloridacfo.com if you have any questions.

Sincerely,

Christina Smith

CS:sa

Enclosure

FLORIDA DEPARTMENT OF FINANCIAL SERVICES

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

Florida Department of Financial Services

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

**Report No. 2013-07
April 3, 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 Highlands 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 Highlands County Clerk of Circuit Court serves a population of 98,712.
- 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 Highlands 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 February 18 through February 20, 2013 at the Highlands 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	\$ 2,266,634	\$ 2,704,724	\$ 438,090

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 08-09 ¹	\$ 1,547,390	\$ 1,814,150	\$ 266,760
SFY 09-10	\$ 1,862,581	\$ 1,872,187	\$ 9,606
SFY 10-11	\$ 1,832,036 ²	\$ 1,862,581	\$ 30,545
SFY 11-12	\$ 1,842,432 ³	\$ 1,526,092	\$ (316,340)

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 10-11 the budgeted expenditures total was changed 5/6/11 due to the 4th quarter true-up process conducted by the CCOC for all clerks as required by Section 28.36(b), F.S. The budgeted surplus decreased as a result of the reduction.

Note 3: SFY 11-12 the budgeted expenditures total was changed 6/6/12 due to the 4th quarter true-up process conducted by the CCOC for all clerks as required by Section 28.36(b), F.S. The budgeted surplus decreased as a result of the reduction.

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	43.82	1.03	44.85	87.00	51.55%
SFY 09-10	39.63	1.00	40.63	81.00	50.16%
SFY 10-11	39.40	1.00	40.40	81.07	49.83%
SFY 11-12	39.22	0.67	39.89	77.34	51.58%

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 11.06%. The budgeted cost allocation increased from CFY 08-09 to SFY 11-12 by approximately .05%.

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	\$ 1,547,390	\$ 1,521,962
SFY 09-10	\$ 1,862,581	\$ 1,862,562
SFY 10-11	\$ 1,832,036	\$ 1,831,377
SFY 11-12	\$ 1,842,432	\$ 1,842,432

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 19.07%. The Clerk's actual expenditures were below budgeted expenditures from CFY 08-09 to SFY 10-11.

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 91% 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	\$ 1,814,150	\$ 1,763,393
SFY 09-10	\$ 1,872,187	\$ 1,897,497
SFY 10-11	\$ 1,862,581	\$ 1,633,125
SFY 11-12	\$ 1,526,092	\$ 1,542,101

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 1.38%. The Clerk's actual revenues/liabilities were below budgeted revenues/liabilities from CFY 08-09 through 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/(from) Trust
CFY 08-09¹	\$ 266,760	\$ -	\$ 241,431	\$ -	\$ 241,431
SFY 09-10^{2,3}	\$ 9,606	\$ 1,862,581	\$ 1,897,497	\$ 19	\$ 34,935
SFY 10-11	\$ 30,545	\$ 1,832,036	\$ 1,633,125	\$ 659	\$ (198,252)
SFY 11-12	\$ (316,340)	\$ 1,842,432	\$ 1,542,101	\$ -	\$ (300,330)

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 except for the untimely issuance of juror payments from CFY 08-09. The Clerk's independent audit report confirmed the Clerk's office to be in compliance with Section 28.35, F.S. CFY 10-11. 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	19 of 20	20 of 20	20 of 20	18 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	7 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	99.8%	100.0%	100.0%	100.0%

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

TOTAL REPORTED	CFY 08-09	SFY 09-10	SFY 10-11	SFY 11-12
Civil	23,554	21,959	17,689	16,606
Criminal	8,661	9,008	9,929	10,407
Financial Receipts	22,425	26,089	30,725	24,028

OBSERVATIONS & RECOMMENDATIONS**Observation Number One:**

The Highlands County Clerk's office did not meet or exceed the performance standard for juror payments issued timely for CFY 08-09. The Clerk's office issued 401 out of 402 juror payments within 20 days. Pursuant to Section 40.32(3), F.S., Clerks are required to issue all juror payments within 20 days after completion of juror services. 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 Highlands County Clerk's office should closely adhere to Section 40.32(3), Florida Statutes, regarding timely payment for juror services.



ROBERT W. GERMAINE
CLERK OF COURTS - HIGHLANDS COUNTY, FLORIDA
OFFICE LOCATION: 430 SOUTH COMMERCE AVENUE
THE COURTHOUSE

CLERK OF CIRCUIT COURT
CLERK OF COUNTY COURT
COUNTY AUDITOR
COUNTY RECORDER
CLERK TO THE BOARD OF COUNTY COMMISSIONERS

PLEASE REPLY TO:

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April 15, 2013

Honorable Jeff Atwater
Chief Financial Officer
Florida Department of Financial Services
200 East Gaines Street
Tallahassee, Florida 32399

Dear Mr. Atwater,

We appreciate the opportunity to respond to the observation and recommendation that was noted in the Article V Performance and Compliance review (Report 2013-07) completed by your office. My staff and I have reviewed the report and agree with the one (1) observation and recommendation that was provided.

We concur; there was one (1) instance during the four (4) years reviewed where a juror did not receive payment within 20 days as required by Florida Statutes. In the instance identified, the juror voluntarily opted out of receiving payment under the belief that she would be compensated by her employer. The juror later learned that she would not be compensated by her employer for her time served and subsequently made a written request to my office requesting payment. The request was granted and consequently payment was not made to the juror with the 20 days as required by Florida Statutes.

It was a pleasure working with your staff during the course of the Article V review and we appreciate the professional courtesy they extended to our office while onsite. We look forward to working with your office in the future.

Sincerely,

Robert W. Germaine
Clerk of Courts