



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

Florida Department of Financial Services

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

**Report No. 2013-13  
July 9, 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 Hendry 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 approximately every three years.

- The Hendry County Clerk of Circuit Court serves a population of 38,908.
- 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 but not 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.

**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 20<sup>th</sup> 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 10<sup>th</sup> 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 Hendry 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 May 20 through May 21, 2013, at the Hendry 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	\$ 1,332,393	\$ 1,132,586	\$ (199,807)

The Clerk’s office was budgeted as a deficit 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 <sup>1</sup>	\$ 934,748	\$ 788,316	\$ (146,432)
SFY 09-10	\$ 1,103,685	\$ 1,110,211	\$ 6,526
SFY 10-11	\$ 1,087,766 <sup>2</sup>	\$ 1,130,110	\$ 42,344
SFY 11-12	\$ 1,087,980 <sup>3</sup>	\$ 1,091,655	\$ 3,675

*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 4<sup>th</sup> 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 4<sup>th</sup> 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.

<b>Fiscal Year</b>	<b>Direct Court-Related FTEs</b>	<b>Indirect Overhead FTEs</b>	<b>Total Court-Related FTEs</b>	<b>Total Court &amp; Non-Court FTEs</b>	<b>Cost Allocation Percentage</b>
<b>CFY 08-09</b>	22.00	1.69	23.69	42.00	56.41%
<b>SFY 09-10</b>	19.90	1.59	21.49	40.50	53.07%
<b>SFY 10-11</b>	20.18	0.00	20.18	38.00	53.11%
<b>SFY 11-12</b>	21.06	0.00	21.06	36.00	58.50%

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 11.10%. The budgeted cost allocation increased from CFY 08-09 to SFY 11-12 by approximately 3.71%.

***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 review confirmed court-related expenditures were not in compliance with Section 28.35, F.S., and court funds were expended for unallowable costs. The Hendry County Clerk’s Office reported \$169.55 for wireless cards in FY 08-09, \$333.76 for awards in FY 10-11, and \$1014.16 for cell phone charges and awards in FY 11-12, for a total of \$1,517.47 in unallowable expenditures for the review period.

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
<b>CFY 08-09'</b>	\$ 934,748	\$ 803,504
<b>SFY 09-10</b>	\$ 1,103,685	\$ 987,401
<b>SFY 10-11</b>	\$ 1,087,766	\$ 1,011,183
<b>SFY 11-12</b>	\$ 1,087,980	\$ 963,170

*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 16.39%. 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 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. The collections were accurate, but were not submitted timely, which placed the Clerk in noncompliance with Section 28.245, F.S. Pursuant to Section 28.245, F.S., funds are required to be remitted to the Clerks of Court Trust Fund by the 20<sup>th</sup> 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 10<sup>th</sup> 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 in accurately remitting and recording the collections provided to the State General Revenue Fund. However, the Clerk’s office has not been timely in the remittance of collections revenues/liabilities and Chapter 2008-111 receipts, as required by Section 28.245, F.S.

The table below reflects the budgeted and actual revenues/liabilities for each fiscal year reviewed.

	Budgeted	Actual
<b>CFY 08-09<sup>1</sup></b>	\$ 788,316	\$ 844,483
<b>SFY 09-10</b>	\$ 1,110,211	\$ 1,130,206
<b>SFY 10-11</b>	\$ 1,130,110	\$ 967,225
<b>SFY 11-12</b>	\$ 1,091,655	\$ 864,975

*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 increased from CFY 08-09 to SFY 11-12 by 38.48%. The Clerk’s actual revenues/liabilities were above budgeted revenues/liabilities in CFY 08-09 and SFY 09-10. The Clerk’s actual revenues/liabilities were below budgeted revenues/liabilities in SFY 10-11 and SFY 11-12.

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
<b>CFY 08-09<sup>1</sup></b>	\$ (146,432)	\$ -	\$ 270	\$ 190,523	\$ 190,793
<b>SFY 09-10<sup>2,3</sup></b>	\$ 6,526	\$ 1,103,688	\$ 1,130,206	\$ 116,287	\$ 142,805
<b>SFY 10-11</b>	\$ 42,344	\$ 1,087,766	\$ 967,225	\$ 76,583	\$ (43,958)
<b>SFY 11-12</b>	\$ 3,675	\$ 1,087,980	\$ 864,975	\$ 124,810	\$ (98,195)

*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 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.

<b>TIMELINESS</b>	<b>CFY 08-09</b>	<b>SFY 09-10</b>	<b>SFY 10-11</b>	<b>SFY 11-12</b>
Standard	12 of 20	12 of 20	12 of 20	12 of 20
Clerk Reported	19 of 20	17 of 20	20 of 20	20 of 20
<b>COLLECTIONS</b>	<b>CFY 08-09</b>	<b>CFY 09-10</b>	<b>SFY 10-11</b>	<b>SFY 11-12</b>
Standard	5 of 9	5 of 9	5 of 9	5 of 9
Clerk Reported	7 of 9	9 of 9	8 of 9	9 of 9
<b>FISCAL MANAGEMENT</b>	<b>CFY 08-09</b>	<b>SFY 09-10</b>	<b>SFY 10-11</b>	<b>SFY 11-12</b>
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
<b>JUROR PAYMENTS</b>	<b>CFY 08-09</b>	<b>SFY 09-10</b>	<b>SFY 10-11</b>	<b>SFY 11-12</b>
Standard	100%	100%	100%	100%
Clerk Reported	100%	100.0%	100%	100%

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

<b>TOTAL REPORTED</b>	<b>CFY 08-09</b>	<b>SFY 09-10</b>	<b>SFY 10-11</b>	<b>SFY 11-12</b>
Civil	9,288	10,404	8,376	8,385
Criminal	3,701	4,133	4,124	3,280
Financial Receipts	16,375	17,959	15,699	14,361

**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 Hendry County Clerk's Office reported unallowable expenditures of \$1,517.47 that were outside the scope of State funding authority for the review period of FY 08-09 through FY 11-12.

**Recommendation Number One:**

The Hendry 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 \$1,517.47 for the review period of FY 07-08 through FY 11-12. 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 expenditure and revenue methodologies for State funds to be accurate. However, the Hendry County Clerk's office has not been timely in the remittance of the collections revenues/liabilities and Chapter 2008-111 receipts, as required by Section 28.245, F.S. The Clerk's office was late 2 out of 48 times during the review period of FY 08-09 through FY 11-12.

**Recommendation Number Two:**

The Hendry County Clerk's Office should closely adhere to and follow all remittance requirements prescribed by Section 28.245, F.S.





*Barbara S. Butler*  
Clerk of Circuit Court, Hendry County  
P.O. Box 1760  
LaBelle, Florida 33975  
Telephone 863-675-5217  
Fax 863-675-5238

July 12, 2013

Mr. Jeff Atwater  
Chief Financial Officer  
State of Florida

Re: Response to the Article 5 Performance and Compliance Review of Hendry County  
Clerk of Circuit Court covering Fiscal Years 08-09, 09-10, 10-11 and 11-12.

Dear Mr. Atwater:

In response to the Performance and Compliance Review, I am submitting my responses as follows:

**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 Hendry County Clerk's Office reported unallowable expenditures of \$1,517.47 that were outside the scope of State funding authority for the review period of FY 08-09 through FY 11-12.

**Response to Observation Number One:**

The Hendry County Clerk's Office has rectified the unallowable expenditures and all funds have been remitted. A new review process has been implemented to make sure unallowable expenditures do not occur in the future.

**Observation Number Two:**

Based upon our review, we found the Clerk's budgeting practices and expenditure and revenue methodologies for State funds to be accurate. However, the Hendry County Clerk's office has not been timely in the remittance of the collections revenues/liabilities and Chapter 2008-111 receipts, as required by Section 28.245, F.S. The Clerk's office was late 2 out of 48 times during the review period of FY 08-09 through FY 11-12.

**Response to Observation Number Two:**

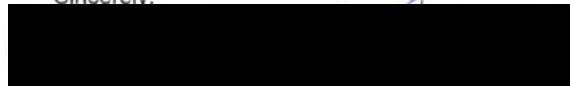
The Hendry County Clerk's Office will closely adhere to and follow all remittance requirements

Mr. Jeff Atwater  
July 12, 2013  
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prescribed by Section 28.245, F.S.

If you have any questions or comments regarding these responses, please contact me at  
(863) 675-5217.

Sincerely,



Barbara S. Butler  
Clerk of Circuit Court  
Hendry County, Florida