



CHIEF FINANCIAL OFFICER  
JEFF ATWATER  
STATE OF FLORIDA

June 20, 2017

The Honorable Jeffrey R. Smith  
Clerk of Circuit Court  
Indian River County  
2000 16<sup>th</sup> Avenue  
Vero Beach, Florida 32960

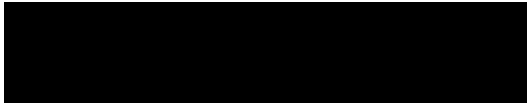
Dear Mr. Smith:

We completed our Article V Clerk of the Circuit Court Expenditure Compliance Review in accordance with Florida Statutes. Enclosed is a copy of our final report.

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 Kim Holland at (850) 413-5700 or [kim.holland@myfloridacfo.com](mailto:kim.holland@myfloridacfo.com) if you have any questions.

Sincerely,



Christina Smith  
CS:jp

Enclosure



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

Florida Department of Financial Services

**INDIAN RIVER COUNTY  
CLERK OF THE CIRCUIT COURT  
COMPLIANCE REVIEW**

**Report No. 2017-14**

**June 20, 2017**

**SUMMARY**

The Department of Financial Services has completed a review of the Indian River County Clerk of Circuit Court's Office pursuant to Section 28.35 2(e), 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 four to five years.

- The Indian River County Clerk of Circuit Court serves a population of 140,955.<sup>1</sup>
- The auditors confirmed that court-related expenditures were in compliance with Sections 28.35(3), 28.37(5), 28.24(12) and 29.008, F.S. with the exception of the two items noted in the Observations and Recommendations section.

**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 appropriated the total amount for the Clerks' budgets in the General Appropriations Act (GAA).

The organization that governs the Clerks, the Clerks of Court Operations Corporation (CCOC), is responsible for developing the budgets and certifying a uniform system of performance measures for Clerks. Under the model enacted July 1, 2009, all fines, fees, service charges, and court costs, except as otherwise provided in Sections 28.241 and 34.041, F.S., were 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., required Clerks' collections of court-related fines, fees, service charges, and costs to be considered liabilities due to the State and were 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.

<sup>1</sup> Office of Economic and Demographic Research Report Salaries of Elected County Constitutional Officer and School District Officials for Fiscal Year 2015-16, October 2015

Beginning July 2010, Section 28.245, F.S., required 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 were collected. The Clerks were funded by the State appropriations process from July 1, 2009 through June 30, 2013.

In 2013, the Florida Legislature passed Florida Laws Chapter 2013-44, which returned the Clerks to the pre-2009 funding model and removed the Clerks from the State appropriations process. Beginning November 2013, the Clerks' remit to the State the excess of 1/12 of their budget for the previous months' collections. For those Clerks' who collect fees less than their approved budgets, the shortage is disbursed from the State of Florida's Clerk of the Court Trust Fund. In addition, the Department of Financial Services' role was changed to providing audits of the Clerks' court-related expenditures only.

## SCOPE

The Article V compliance review of the Indian River County Clerk of the Circuit Court's Office covered County Fiscal Years (CFY) 13-14, CFY 14-15, and CFY 15-16 for court-related expenditures. The review was conducted as an on-site review by the Article V section within the Bureau of Auditing.

## OBJECTIVES & METHODOLOGY

### EXPENDITURES

The auditors sampled various court-related administrative expenditures to determine if the Clerk's office was in compliance with Sections 28.35(3), 28.37(2) and 28.24(12)(d) F.S. The expenditure review confirmed court-related expenditures were in compliance with these Statutes with the exception of the two items noted in the Observations and Recommendation section below.

The auditors also confirmed that certain court-related payroll expenditures were in compliance with Section 28.35(3), FS and budget guidelines established 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 and testing court-related expenditures reported on the CCOC Clerks' Expenditures and Collections Tracking Report for each fiscal year.

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

	<b>Budgeted</b>	<b>Actual</b>
<b>CFY 13-14</b>	\$3,318,560	\$3,315,515
<b>CFY 14-15</b>	\$3,141,839	\$3,141,606
<b>CFY 15-16</b>	\$3,028,383	\$3,028,061

The budgeted growth from October 2013 through Sept 2016 is -8.74%.

The table below reflects the budgeted full time equivalent (FTEs) for each fiscal year reviewed. The cost allocation percentage shown is the basis for the Clerk’s annual budget submitted to the CCOC and, ultimately, become the basis for State appropriations for court-related functions.

Fiscal Year	Total Direct Court-Related FTEs	Allocated Court-Related FTEs	Total Court-Related FTEs	Total Court & Non-Court FTEs	Cost Allocation Percentage
FY 13-14	61.00	14.48	75.48	100.70	74.96%
FY 14-15	63.00	14.19	77.19	103.93	74.27%
FY 15-16	53.00	15.01	68.01	97.80	69.54%

**PERCENTAGES FOR BUDGET: FTE GROWTH AND ALLOCATION GROWTH**

FTE Growth CFY 13-14 to CFY 15-16	-9.90%
Cost Allocation Percentage Growth	-7.21%

**OBSERVATIONS & RECOMMENDATIONS**

1) Section 29.008(1)(f)1, F.S., requires the counties to fund the cost of communication services, including cellular telephones. During our testing of court-related expenditures, we noted an expenditure to AT&T for the cost of wireless service for the month of January 2016 for two cellular telephones totaling \$106.82. The Clerk’s office also purchased a cellphone case for \$90.93 with court related funds that should have been funded by the County.

We recommend the Clerk’s office ensure that its court-related expenditures are allowable according to Section 28.35(3)(a), F.S. We also recommend that the Clerk’s office reimburse the State for any wireless services or other cell phone related expenditures paid from the Clerks of the Court Trust Fund for CFY 15-16.

2) Section 216.345, F.S. states that a State agency or the judicial branch may utilize State funds for paying dues for membership in a professional or other organization only when such membership is essential to the statutory duties and responsibilities of the State agency.

We recommend the Clerk’s office document that expenditures for individual professional membership dues are essential to the statutory duties and responsibilities of the Clerk of Court.

# JEFFREY R. SMITH, CPA, CGFO, CGMA

Clerk of Circuit Court & Comptroller  
Finance Department  
1801 27<sup>th</sup> Street  
Vero Beach, FL 32960



June 30, 2017

Ms. Christina Smith  
Director of Accounting and Auditing Division  
Florida Department of Financial Services  
200 East Gaines Street  
Tallahassee, FL 32399-0353

Sent via email: [christina.smith@myfloridacfo.com](mailto:christina.smith@myfloridacfo.com) and [Jim.Parker@myfloridacfo.com](mailto:Jim.Parker@myfloridacfo.com)

Re: Compliance Review for the Period of 10/1/13 through 12/31/16, Report Number 2017-14

Dear Ms. Smith:

We are responding to audit report #2017-14, dated June 20, 2017, Observations and Recommendations:

1. **Finding:** Cell phone service shall be funded by the County.

**Response:** Although the Florida Statutes dictate that communication expenses shall be borne by the County without regard for the purpose of the phone, one of the cell phones in question pertained to a domestic violence number which is carried by an on-call family department employee. Domestic violence (DV) is the responsibility of the State of Florida (i.e., court function) and all expenses associated with DV should be borne by the State.

The other cell phone in question is for our Clerk, Jeffrey Smith. Because Jeff must be available 24/7 for all of his duties, of which the majority of his time is spent on court-related matters, the majority of his cell phone should be paid by the State. At the very minimum, his cell phone expense should be split based upon his salary allocation between court (69.54%) and non-court (30.46%). Consequently, we disagree that 100% of his cell phone expenses should be the responsibility of the County.

The amount of the finding in question is \$197.75 (\$106.82 for DV and Clerk cell phones plus cellphone case for \$90.93). No other cell phone service was charged to court-related funds for FYE 9-30-16. Consequently, while we strongly disagree with the finding, we agree to resolve this issue and reimburse the State because of the insignificant dollar amount.

2. **Finding:** AICPA dues (\$375) for the Clerk were charged to the State.

**Response:** This expense is not prohibited in statute and is the interpretation of the auditor that the Clerk document these dues as essential to his statutory duties and responsibilities. As discussed with the auditor, our Clerk sits on the Budget Committee of the CCOC which discusses governmental accounting standards. The Clerk also reviews all standards and the CAFR as part of his comptroller duties. He also provides public comment on future pronouncements which ultimately are incorporated into governmental standards.

Consequently, in both his statutory roles as clerk and comptroller, accounting practices and regulations knowledge are needed for both current and future accounting changes which affect both the court-related budget and allowable expenditures and the non-court accounting. In our opinion, AICPA dues should be an allowable expense.

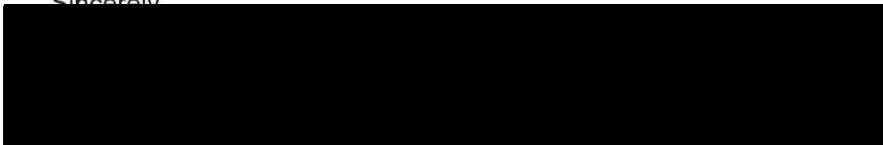
In summary, our next DOR remittance will include a total of \$197.75 for what DFS considers to be unallowable court-related expenditures.

Ms. Christina Smith  
Director of Accounting and Auditing Division  
Florida Department of Financial Services  
200 East Gaines Street  
Tallahassee, FL 32399-0353

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We appreciate the courtesy and professional manner extended by the site auditors to our staff. If you would like to discuss our response to your findings, please feel free to call my office at 772-226-3160 or Diane Bernardo at 772-226-1205.

Sincerely,



Jeffrey R. Smith, CPA, CGFO, CGMA  
Clerk of the Court and Comptroller