



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

July 25, 2016

The Honorable David R. Ellspermann  
Clerk of Circuit Court  
Marion County  
110 NW 1<sup>st</sup> Avenue  
Ocala, Florida 34475

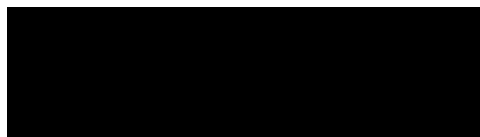
Dear Mr. Ellspermann:

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 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](mailto:mark.merry@myfloridacfo.com) if you have any questions.

Sincerely,



Christina Smith

CS:sa

Enclosure



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

Florida Department of Financial Services

**MARION COUNTY  
CLERK OF THE CIRCUIT COURT  
COMPLIANCE REVIEW**

**Report No. 2016-06  
July 7, 2016**

**SUMMARY**

The Department of Financial Services has completed a review of the Marion 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 three (3) years.

- The Marion County Clerk of Circuit Court serves a population of 337,455.<sup>1</sup>
- The review sampled administrative and payroll court-related expenditure accounts and transactions to determine if the Clerk's office was in compliance with sections 28.35(3), 28.37(5), 28.24(12) and 29.008, F.S. The expenditure sample confirmed court-related expenditures were in compliance and funds were expended for allowable court-related costs.
- Overhead allocation methodologies could be improved.

**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

<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

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.

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 Marion County Clerk of the Circuit Court’s Office covered SFY 12-13, July through September 2013 transition period, CFY 13-14, and CFY 14-15 through September 30, 2015 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 review sampled various court-related expenditure accounts and transactions 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.

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>SFY 12-13</b>	\$6,023,979	\$5,765,420
<b>Transition Period July - Sept 13</b>	\$1,518,462	\$1,490,489
<b>CFY 13-14</b>	\$6,071,283	\$5,830,065
<b>CFY 14-15 (Oct - Sept)</b>	\$6,065,058	\$6,025,858

The budgeted growth from July 2012 through Sept 2015 is .68%.

The review confirmed 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 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>SFY 12-13</b>	129.00	10.41	139.41	204.95	68.02%
<b>CFY 13-14</b>	129.00	9.36	138.36	204.95	67.51%
<b>CFY 14-15</b>	125.00	1.95	126.95	196.53	64.60%

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 estimated percentage of time and case workload each overhead position spends performing court-related activities. These cost allocations are the basis for the Clerk's annual budget submitted to the CCOC and, ultimately, become the basis for State appropriations for court-related functions.

## OBSERVATIONS & RECOMMENDATIONS

The Clerk's Office indicated that it uses management estimates and assumptions based on the knowledge and specific duties for the allocation of FTE overhead between court and non-court related functions. Accounting estimates, however, should be based on an accumulation of relevant, sufficient, and reliable data and compared to subsequent actual data to determine the reliability of the estimate.

The Clerk's Office was unable to provide supporting documentation evidencing time and effort indirect employees spent working on court related functions. Consequently, we could not verify the indirect overhead FTEs shown above. Without accurate time-keeping of court and non-court related functions, the Clerk has no assurance that the estimates used for budgeting purposes were accurate or need to be revised for the next budget cycle.

We recommend the Clerk establish a method for tracking employees' time and effort between court-related and non-court related activities to ensure accuracy in the budgeting process and the appropriation of State funds. The methodology should include a basis for concluding whether the budgetary estimates are accurate. The Clerk's office might consider using a sampling method similar to the Title IV-D process that includes random moment sampling or a time study.



CLERK OF THE CIRCUIT COURT AND COMPTROLLER  
*David R. Ellspermann*

July 22, 2016

Mr. Jim Parker  
Financial Administrator  
Department of Financial Services  
Bureau of Auditing  
200 E. Gaines Street  
Tallahassee, FL 32399-0354

Re: Marion County Article V Clerk of the Circuit Court Compliance Review

Dear Mr. Parker,

The Article V court budget for Marion County is prepared in accordance with Best Practices developed by the Florida Court Clerks and Comptrollers (FCCC), with the annual guidelines and instructions provided by the Florida Clerks of Court Operations Corporation (CCOC), and in a manner that is consistent with the requirements of GAAP. The Clerk's Office has historically and consistently utilized the experience and professional knowledge of supervisors, managers, and its two Chief Deputy clerks to accurately allocate the workload of all employees within court departments and in "shared" departments in which employees work on both court and non-court related duties. Therefore, I believe that the FTE allocations within the Article V court budget are materially correct and reflect the actual duties performed by each deputy clerk.

The recent budget reductions have created such a negative operational impact on the Clerk's Office that a more detailed time study, as suggested in the draft report, would hinder the delivery of services to our customers.

Sincerely,

David R. Ellspermann  
Clerk of the Circuit Court and Comptroller  
Marion County, Florida

***Marion County Clerk of the Circuit Court and Comptroller***

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