



CHIEF FINANCIAL OFFICER  
**JIMMY PATRONIS**  
STATE OF FLORIDA

December 26, 2017

The Honorable Kevin Madok, CPA  
Clerk of Circuit Court  
Monroe County  
500 Whitehead Street  
Key West, Florida 33040

Dear Mr. Madok:

We completed our Article V Clerk of the Circuit Court Expenditure Compliance Audit 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,

A large black rectangular redaction box covering the signature of Mark Merry.

MM:jp

Enclosure



**JIMMY PATRONIS  
CHIEF FINANCIAL OFFICER  
STATE OF FLORIDA**

Florida Department of Financial Services

**MONROE COUNTY  
CLERK OF THE CIRCUIT COURT  
COMPLIANCE AUDIT**

**Report No. 2017-21  
December 26, 2017**

**SUMMARY**

The Department of Financial Services (DFS) has completed an audit of the Monroe County Clerk of the Circuit Court<sup>1</sup>. The auditors sampled court-related administrative and payroll expenditure accounts and transactions to determine whether, in making such expenditures, the Clerk's office complied with applicable State laws<sup>2</sup>. The sampled Clerk's office administrative and payroll expenditures generally complied with applicable State laws, and funds were expended for allowable court-related costs. However, as further described in the Observations and Recommendations section, we noted:

- In four (4) instances, the expenditures had been improperly allocated as court-related costs, or were not authorized of record as being a reasonable administrative support cost.
- One employee received an overpayment for leave at termination because the employee was awarded annual leave at the date hire rather than by monthly accrual as required by the Clerk's leave policy.
- The Clerk's office did not provide documentation demonstrating the methods and records relied on in compiling the Clerk of Court Expenditure and Collections Reports for County Fiscal Year (CFY) 14-15 and CFY 15-16.

**BACKGROUND**

In 2013, the Florida Legislature passed legislation that removed the Clerks of the Circuit Courts from the State appropriations process<sup>3</sup>. The 2013 legislation requires that all court-related functions must be funded from filing fees, service charges, costs, and fines retained by the Clerks. That portion of all fines, fees, service charges, and costs collected by the Clerks for the previous month that exceeds 1/12 of a Clerk's total budget must be remitted to the State. Those funds are deposited into the State of Florida's Clerk of the Court Trust Fund. For those Clerks who collect less than their approved budgets, the shortage is disbursed from the Clerks of the Court Trust Fund. In addition, DFS' role was changed to providing audits of only the Clerks' court-related expenditures.

The organization that governs the Clerks, the Florida Clerks of Court Operations Corporation (CCOC), was initially formed to review and certify proposed budgets from each Clerk. In 2017, the Florida Legislature passed new legislation<sup>4</sup> giving the CCOC the duty of approving the proposed budgets

<sup>1</sup> Section 34.031, Florida Statutes

<sup>2</sup> Sections 28.35(3), 28.37(5), 28.24(12), and 29.008, Florida Statutes

<sup>3</sup> Chapter 2013-44, Laws of Florida.

<sup>4</sup> Chapter 2017-126, Laws of Florida.



submitted by the Clerks of the Circuit Courts as required by State law<sup>5</sup>. The 2017 legislation provides that the CCOC must ensure that the total combined budgets of the Clerks of the Circuit Courts do not exceed the total estimated revenues available for court-related expenditures as determined by the most recent Revenue Estimating Conference.

The Chief Financial Officer has contracted with the CCOC to establish a process for auditing the court-related expenditures of the individual Clerks pursuant to State law<sup>6</sup>. The audits are conducted by the DFS Bureau of Auditing, Article V section. It is the practice of the Department to conduct these audits every three to five years.

## SCOPE

The audit of the Monroe County Clerk of the Circuit Court's Office covered CFY 14-15, CFY 15-16, and CFY 16-17. The audit included both a desk review for analysis and sample selection and an on-site visit for review of supporting documentation.

## OBJECTIVES & METHODOLOGIES

The following objectives have been established for the audit of court-related expenditures:

- Evaluate whether court related expenditures were in compliance with State laws<sup>7</sup>.
- Evaluate whether court-related expenditures were properly authorized, recorded and supported.
- Evaluate whether the Clerk used other funding sources (from the County or any of the 10% of fines from the Modernization Trust Fund (TF)) to subsidize the court-related budget and/or expenditures (prior to July 1, 2017).
- Evaluate whether expenditures were within the budgeted appropriations.
- Evaluate the accuracy and completeness of expenditures reported on the Clerk of Court Expenditure and Collections Report.
- Evaluate whether the Clerk's salary and total payroll costs were within the applicable caps established by the Florida Legislature's Office of Economic and Demographic Research.
- Evaluate the Clerk's methodology for allocating payroll costs between court and non court-related functions.

Our audit included an examination of accounts and records and the sampling of various court-related transactions related to administrative and payroll expenditures.

Table 1 shows the court-related budgeted and actual expenditures for each fiscal year reviewed.

<b>Year</b>	<b>Budgeted</b>	<b>Actual</b>
<b>CFY 14-15</b>	\$3,238,289	\$3,083,523
<b>CFY 15-16</b>	\$3,725,385	\$3,139,954
<b>CFY 16-17</b>	\$3,407,322	\$1,700,071*

The Monroe County Clerk of the Circuit Court serves a population of 74,206<sup>8</sup>.

\*Actual through March 31, 2017.

<sup>5</sup> Section 28.36, Florida Statutes.

<sup>6</sup> Section 28.35(2)(e), Florida Statutes.

<sup>7</sup> Sections 28.35(3), 28.37(5), 28.24(12), and 29.008, Florida Statutes.

<sup>8</sup> Office of Economic and Demographic Research Report Salaries of Elected County Constitutional Officer and School District Officials for FY 2016-2017, September 2016.

The budgeted growth from October 2014 through September 2017 was 5.22%.

Table 2 shows the budgeted and actual full-time equivalent (FTE) positions for which either all or a portion of employee time is charged to court-related duties. The budgeted number of FTEs includes vacant positions. The actual number of FTEs includes only filled positions.

<b>Table 2</b>		
<b>Year</b>	<b>Budgeted FTEs</b>	<b>Actual FTEs</b>
<b>CFY 14-15</b>	58.61	48.80
<b>CFY 15-16</b>	58.76	56.47
<b>CFY 16-17</b>	56.51	55.37

The budgeted FTEs decreased by -3.58% for the period October 2015 through September 2017.

## **OBSERVATIONS AND RECOMMENDATIONS**

Section 28.35(3)(a), F.S., outlines the list of court-related functions that clerks may fund from filing fees, service charges, costs, and fines and is limited to those functions expressly authorized by law or court rule. Those functions include the following: case maintenance; records management; court preparation and attendance; processing the assignment, reopening, and reassignment of cases; processing of appeals; collection and distribution of fines, fees, service charges, and court costs; processing of bond forfeiture payments; payment of jurors and witnesses (before July 1, 2017); payment of expenses for meals or lodging provided to jurors (before July 1, 2017); data collection and reporting; processing of jurors (before July 1, 2017); determinations of indigent status; and paying reasonable administrative support costs to enable the clerk of the court to carry out these court-related functions.

The list of court-related functions that clerks may not fund from filing fees, service charges, costs, and fines include:

- Those functions not specified within paragraph (a) above,
- Functions assigned by administrative orders which are not required for the clerk to perform the functions in paragraph (a) above,
- Enhanced levels of service which are not required for the clerk to perform the functions in paragraph (a) above, and
- Functions identified as local requirements in law or local optional programs.

Sections 29.008(1)(f)1., and 2., F.S., requires counties to fund the cost of communications services which include wireless communications, cellular telephones, all computer networks, systems and equipment, including computer hardware and software, modems, printers, wiring, network connections, and maintenance.

For the 30 Clerk's office administrative expenditures selected for testing, we noted four (4) instances in which the expenditures, contrary to statutory guidance, had been allocated as court-related costs, or were not authorized of record as being a reasonable administrative support cost.

- 1) Although counties are required to fund the costs of wireless communications, for one August 2015 wireless services expenditure totaling \$293, we found that \$108 relating to four (4) cellular phones was allocated as court costs. Further review for CFY 14-15 showed that wireless service expenditures totaling \$973 had been improperly allocated as court-related costs.
- 2) Similarly, for one January 2017 wireless services expenditure totaling \$158, we found that \$106 relating to five (5) cellular phones was allocated as court costs. Further review for CFY 16-17



showed that wireless service expenditures totaling \$772 had been improperly allocated as court-related costs.

- 3) Although counties are required to fund the costs of communications services, we noted that one \$175 expenditure for a CFY 16-17 service call relating to the Clerk's networking systems had been improperly allocated as court-related costs.
- 4) One CFY 14-15 \$640 expenditure for membership dues to the Government Finance Officers Association was allocated as court costs without authorization of record for the membership being a reasonable administrative support cost or that the membership was essential to the statutory duties and responsibilities of the Clerk's Office.

We recommend that the Clerk's office allocate as court-related expenditures only those costs authorized by Statute. We also recommend that the Clerk's office reimburse the Clerks of the Court Trust Fund for the expenditures above totaling \$2,560.

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The Clerk's leave policy states that annual leave is provided to each full-time employee. According to the policy, an employee begins to accrue annual leave from the first date of employment. An employee with less than three (3) full years accrues 3.75 hours per pay period or 97.5 hours per year.

For one CFY 14-15 payroll item tested, the Clerk's Office made an October 4, 2014, leave payout totaling \$11,053 based on an improperly calculated leave balance. Contrary to the leave policy, the Clerk's Office awarded the employee 160 hours of annual leave on the February 10, 2012, hiring date. In addition to 160 hours, the employee accrued the 3.75 hours each pay period. Based on the pay period accruals and the recorded leave usage since the hiring date, and excluding the initial award of 160 hours, the leave balance at the October 4, 2014, termination date should have been 72.5 hours, resulting in a payout of only \$3,447.

We recommend the Clerk's office obtain reimbursement for the \$7,606 overpayment to the employee and reimburse the Clerks of the Court Trust Fund for the overpayment. The Clerk should also review Office records for other instances of up-front awards of leave, and make the necessary adjustments to the leave balances.

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To provide the CCOC with reliable information for decision making, the monthly Clerk of Court Expenditure and Collections Report should serve as an accurate tool to track projected revenues and budgeted expenditures to actual revenues collected and expenditures incurred.

The Clerk's Office did not provide documentation demonstrating the methods and records relied on in compiling the CCOC Expenditure and Collections Reports for CFY 14-15 and CFY 15-16. As a result, the Clerk's Office could not provide its methodology for reconciling the report to the general ledger or to other supporting documentation.

We recommend the Clerk's office implement procedures to reconcile and support the balances in the CCOC Expenditure and Collections Report.



**Kevin Madok, CPA**

Clerk of the Circuit Court & Comptroller – Monroe County, Florida

December 21, 2017

Mr. Paul Whitfield  
Director of the Division of Accounting & Auditing  
Department of Financial Services  
200 East Gaines Street  
Tallahassee, FL 32399-0318

Dear Mr. Whitfield:

Thank you for the opportunity to review and comment on the recommendations and observations from your Office's recent Article V report for fiscal years 2014-15, 2015-16, and 2016-17 (through June 2017). As I conclude my first year as the Monroe County Clerk of Court & Comptroller, I appreciate the work performed by the audit team and I am grateful for their observations and recommendations that will help my Office with our ongoing efforts to deliver efficient and effective service to the taxpayers.

Following are our responses to the observations and recommendations:

- **Allocation of court-related expenditures:** We will review with staff the applicable statutes governing what types of expenditures may be allocated as court-related. Staff charged the wireless phone service as a court-related expenditure because the wireless phones are used exclusively for court staff to be on-call when they are needed by judges after work hours to handle domestic relation cases.
- **Leave payout approved by prior Clerk:** Part of the former employee's hiring agreement included 160 hours of banked vacation. The former Clerk used her inherent authority to negotiate these terms with the employee who was hired to a top management position as the Clerk's chief deputy. Since the employee left on amicable terms, we believe she was entitled to be paid her remaining earned leave balances which included the 160 hours of banked vacation.
- **Reconciling the monthly expenditures and collections report:** We are in the process of documenting reconciliation procedures for preparing, reviewing and approving the monthly expenditure and collections report.

In closing, we appreciate the collaborative nature of the audit process and the professionalism of the audit team.

Sincerely,

[Redacted Signature]  
Kevin Madok, CPA  
Monroe County  
Clerk of the Circuit Courts & Comptroller

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