



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

September 26, 2017

The Honorable Joseph E. Smith
Clerk of Circuit Court
St. Lucie County
201 South Indian River Drive
Fort Pierce, Florida 34950

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 if you have any questions.

Sincerely,

[Redacted Signature]
Mark Merry
MM:jp

Enclosure



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

Florida Department of Financial Services

**ST. LUCIE COUNTY
CLERK OF THE CIRCUIT COURT
COMPLIANCE REVIEW**

**Report No. 2017-17
September 26, 2017**

SUMMARY

The Department of Financial Services has completed a review of the St. Lucie 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 St. Lucie County Clerk of Circuit Court serves a population of 282,821.¹
- 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 five (5) items noted in the Observations and Recommendations section.
- The Clerk's office should adhere to the salary requirements according to Chapter 145, F.S. and the Florida Legislature's Office of Economic and Demographic Research (EDR).
- 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 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

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

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., required 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 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 St. Lucie County Clerk of the Circuit Court's Office covered County Fiscal Year (CFY) 14-15, CFY 15-16, and CFY 16-17 (10/1/16-3/31/17) 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 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 with the exception of the five items noted in the Observation and Recommendation section below.

The auditors also confirmed certain court-related payroll expenditures were in compliance with Section 28.35(3), F.S. and budget guidelines established by the CCOC. The Clerk's salary exceeded the allowable cap as stated in Section 145.051, F.S. and the EDR – See Observations and Recommendations sections below.

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 auditors 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.

| Fiscal Year | Budgeted | Actual |
|-------------|-------------|--------------|
| CFY 14-15 | \$7,150,775 | \$7,115,221 |
| CFY 15-16 | \$6,821,809 | \$6,804,333 |
| CFY 16-17 | \$6,062,521 | \$2,977,682* |

* The actual expenditures for CFY 16-17 are through March 2017.
The budgeted growth from October 2014 through Sept 2017 is -15.22 %.

The table below reflects the 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 FTE's | Total Court-Related FTEs | Total Court & Non-Court FTEs | Cost Allocation Percentage |
|--------------------|--|--------------------------------------|---------------------------------|---|-----------------------------------|
| CFY 14-15 | 119.00 | 7.80 | 126.80 | 172.50 | 73.51% |
| CFY 15-16 | 88.00 | 41.61 | 129.61 | 179.00 | 72.41% |
| CFY 16-17 | 82.00 | 36.10 | 118.10 | 157.50 | 74.98% |

PERCENTAGES FOR BUDGET: FTE GROWTH AND ALLOCATION GROWTH

FTE Growth CFY 14-15 to CFY 16-17 -6.86%
 Cost Allocation Percentage Growth 2.01%

OBSERVATIONS & 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; payment of expenses for meals or lodging provided to jurors; data collection and reporting; processing of jurors; 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.

The Clerk's office was unable to provide documentation to show that five (5) out of 40 administrative expenditures sampled were reasonable administrative support costs necessary to enable the Clerk's office to carry out its court-related functions in accordance with Statutes as outlined above. These items included:

For CFY 14-15:

- 1) An expenditure in the amount of \$141 for the rental and delivery of tables, chairs and a tent to set up a booth at a community event. The Clerk's office stated that these costs were for outreach to promote its services.

For CFY 15-16:

- 2) An expenditure in the amount of \$1,000 for a deposit on an offsite leadership retreat at Westgate River Ranch Resort and Rodeo. The Clerk's office stated that the event was for all management

staff to learn essential management skills for better job performance. The agenda provided, however, included mostly team building events sponsored by Westgate. The total costs for the trip were \$5,428.

- 3) An expenditure in the amount of \$696 for advertising to promote the Popular Annual Financial Report (PAFR) that is published on the Clerk's website. The PAFR is a guide that includes highlights and simplified information from the Comprehensive Annual Financial Report (CAFR).

For CFY 16-17:

- 4) An expenditure in the amount of \$300 for yoga classes. The yoga classes were conducted during an internal employee training event.
- 5) An expenditure in the amount of \$179 for T-shirts for volunteers who worked at the Clerk's office Shred and Protect Day, a community event to promote the awareness of fraud and identity theft.

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 the expenditures above totaling \$6,744, which were paid from the Clerks of the Court Trust Fund.

Section 145.051, F.S., outlines the amount that each Clerk of the Circuit Court receive as salary based on the population of his or her county. These salaries are calculated by the EDR according to the formula outlined in Section 145.051, F.S., and published annually. The Statute allows for an additional \$2,000 per year special qualification salary for each Clerk of the Circuit Court who has met the certification requirements established by the Supreme Court.

During our testing of the Clerk's salary for CFY 14-15, we noted the Clerk's salary to be \$2,382 more than the salary cap amount indicated in the EDR. Also, for CFY 15-16, we noted the Clerk's salary to be \$2,495 more than the salary cap amount indicated in the EDR. The Clerk's office stated the additional amount paid was for a vehicle allowance.

We recommend the clerk's office adhere to the salary cap as stated in Section 145.051, F.S., and the EDR.

The Clerk's office uses a simple formula to calculate its cost allocation percentage based on the ratio of total court-related direct support FTEs to total court and non-court direct support FTEs. This percentage is used to allocate the time of indirect employees between court and non-court related activities. The Clerk's office, however, was unable to provide supporting documentation of the actual time and effort of indirect employees to verify the accuracy of the cost allocation percentage calculation.

Without accurate time-keeping of court and non-court related functions for indirect employees, the Clerk has no assurance that the calculated percentages 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 should consider using a sampling method similar to the Title IV-D process that includes random moment sampling or a time study.



JOSEPH E. SMITH • CLERK OF THE CIRCUIT COURT • ST. LUCIE COUNTY

January 17, 2018

Florida Department of Financial Services
Attention: Mark Merry
200 East Gaines Street
Tallahassee, FL 32399-0353

Re: St. Lucie County Clerk of the Circuit Court Compliance Review, Report No. 2017-17

Dear Mr. Merry:

We are in receipt of the Article V Compliance Review Report created by your office.

I am enclosing our response to the three recommendations. I understand they will be included in the final report.

Please contact Shai Francis at (772) 462-1482 or franciss@stlucieclerk.com if you have any questions.

Sincerely,



Joseph E. Smith
St. Lucie County Clerk of the Circuit Court

Enclosure
Responses
AGO 93-94





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RESPONSES FOR AUDIT RECOMMENDATIONS

Recommendation 1: The Clerk's office ensure that its court-related expenditures are allowable according to section 28.35(3)(a), F.S. The Clerk's office reimburse the State for the un-allowed expenditures totaling \$6,744, which were paid from the Clerks of the Court trust fund.

Response: We strongly disagree with this finding. Under Section 28.35(3)(a), court-related functions include, "paying reasonable administrative support costs to enable the Clerk of the Court to carry out court-related functions." The amount of \$6,744 is less than 0.1% of the total budget of the Clerk's office which exceeds \$6 million. I have been told that our finance and audit professionals have attempted to present our deep concern with this issue to no avail.

Therefore, I am allowing this office to issue a reimbursement to the State in the amount of \$6,744.

Recommendation 2: The Clerk's office adhere to the salary cap as stated in Section 145.051, F.S., and the EDR.

Response: We concur and will correct our current procedure to adhere to the salary cap as stated in Section 145.051, F.S., and the EDR.

Recommendation 3: The Clerk establishes 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 should consider using a sampling method similar to the Title IV-D process that includes random moment sampling or a time study.

Response: The Clerk's office utilizes multiple allocation methodologies. Micro-imaging personnel cost distributions are based on actual image counts which are tracked by the computer system. The South County Small Claims Department and Traffic Department personnel cost distributions are based on a time study conducted by the Manager. Administration and Clerk Finance personnel cost distributions are based on FTEs. We believe these allocation bases are reasonable and cost effective. Title IV-D sampling model may provide a more accurate result but is cost prohibitive. Additional time studies on South County Small Claims Department and Traffic Department will be conducted on a larger scale in the near future. We will also increase the time study frequency.