



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

March 6, 2019

The Honorable Pat Frank
Clerk of Circuit Court
Hillsborough County
601 East Kennedy Boulevard
Tampa, FL 33601

Dear Ms. Frank:

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 audit 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

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

**Report No. 2019-34
March 4, 2019**

SUMMARY

The Department of Financial Services (DFS) has completed an audit of the Hillsborough County Clerk of the Circuit Court.¹ 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.² 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 two (2) instances, the expenditure had been improperly allocated as a court-related cost or was not authorized of record as being a reasonable administrative support cost.
- Internal controls and procedures could be improved.
- Allocation methodologies for administrative expenditures could be improved.
- Allocation methodologies for payroll expenditures could be improved.

BACKGROUND

In 2013, the Florida Legislature passed legislation that removed the Clerks of the Circuit Courts from the State appropriations process.³ 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 one-twelfth (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, the 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 legislation⁴ giving the CCOC the duty of approving the proposed budgets submitted by the Clerks of the Circuit Courts as required by State law.⁵ The 2017 legislation provides

¹Section 34.031, Florida Statutes.

²Sections 28.35(3)(a) and 28.37(5), Florida Statutes.

³Chapter 2013-44, Laws of Florida.

⁴Chapter 2017-126, Laws of Florida.

⁵Section 28.36, Florida Statutes.

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.⁶ 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 Hillsborough County Clerk of the Circuit Court's Office covered County Fiscal Year (CFY) 16-17 and CFY 17-18. 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.⁷
- 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, 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. Source: CCOC Budget Letter and Expenditure and Collection (EC) reports. CFY 16-17 includes juror expenditures through June 2017. CFY 17-18 does not include juror expenditures.

Table 1		
Year	Budgeted	Actual
CFY 16-17	\$28,475,677	\$24,926,997
CFY 17-18	\$27,623,677	\$26,119,799

The Hillsborough County Clerk of the Circuit Court serves a population of 1,352,797.⁸

⁶Section 28.35(2)(e), Florida Statutes.

⁷Sections 28.35(3)(a) and 28.37(5), Florida Statutes.

⁸The Florida Legislature's Office of Economic and Demographic Research Report Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2017-2018, September 2017.

The budgeted growth from October 2016 through September 2018 was 2.99%.

Table 2 reflects the budgeted and actual full-time equivalent (FTE) positions, who charge either all or a portion of employee time to court-related duties. The budgeted number of FTEs includes vacant positions. The actual number of FTEs includes only filled positions. We could not verify the accuracy of the methodology for employees that performed both court-related and non-court related activities-see Observations and Recommendations section.

Table 2

Year	Budgeted FTEs	Actual FTEs
CFY 16-17	501.97	430.59
CFY 17-18	463.96	426.90

The budgeted FTEs decreased by -7.57% for the period October 2016 through September 2018.

OBSERVATIONS AND RECOMMENDATIONS

Section 28.35(3)(a), Florida Statutes (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 above,
- Functions assigned by administrative orders which are not required for the Clerk to perform the functions above,
- Enhanced levels of service which are not required for the Clerk to perform the functions above, and
- Functions identified as local requirements in law or local optional programs.

Section 29.008(1)(a), F.S., requires counties to fund the cost of facilities which include office space and appurtenant equipment and furnishings for the offices of the clerks of the circuit court. Counties are also required to fund the cost of maintenance of the facilities.

During our testing of the Clerk's office administrative expenditures, we noted two (2) instances in which the expenditure, contrary to statutory guidance, had been allocated as a court cost, or was not authorized of record as a reasonable administrative support cost.

- In CFY 16-17, the Clerk's office purchased a button making machine for \$186 to be used to make pins and buttons for participants in training classes.
- In CFY 16-17, the Clerk's office purchased 24 armless stack chairs for \$1,817 for use in the public waiting area in a branch office.

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 related to the button making machine and chairs totaling \$2,003, which were paid from the Clerks of the Court Trust Fund.

The Clerk's office Travel Policy states that the traveler will be reimbursed in accordance with section 112.061, F. S., which states that a traveler may be required to provide written justification that his or her use of hotel is the most economical choice available. The Travel Policy also states that the designated travel agency shall maintain a list of hotel accommodations offered at the government rate and that employees should stay in these hotels whenever possible. Employees, however, may also search for better rates on the Internet.

- For CFY 16-17, we noted one (1) expenditure related to attendance at a Courts and Justice Executive Forum in Utah. There was no justification provided or documentation showing that the \$252 per night room rate was the government rate and that the hotel booked was from the list of hotel accommodations provided by the travel agency. The Clerk's office stated that the hotel accommodations were provided at the conference site and at the conference rate; however, no justification was provided indicating that this was the most economical choice.
- For CFY 17-18, we noted expenditures for two (2) employees to attend the Tyler Connect Conferences in Boston, Massachusetts. There was no justification provided or documentation showing that the \$221 per night room rate (excluding taxes) was the government rate and that the hotel booked was from the list of hotel accommodations provided by the travel agency. The Clerk's office stated that the hotel accommodations were provided at the conference site and at the conference rate; however, no justification was provided indicating that this was the most economical choice.

We recommend the Clerk's office adhere to section 112.061, F. S., and its travel policy to ensure that transportation and lodging rates can be justified as the most economical choices.

The Clerk's office receives a monthly purchasing card statement that includes charges incurred by multiple individuals. We noted during our review of the statements that there was no documentation indicating a reconciliation of the charges to documentation supporting the charges. The Clerk's office stated that purchasing card statements are reviewed and approved by signature of the Chief of Staff; however, the December 2017, June 2017, and June 2018 statements did not show documentation of an approval signature or a reconciliation of the charges to the receipts supporting those charges.

We recommend the Clerk's office conduct a monthly reconciliation of the P-Card statements to the supporting documentation for each charge to ensure that all charges are valid and authorized.

The Department of Financial Services' Uniform Accounting System Manual outlines the uniform classification of accounts for units of local governments, and specifically, outlines the requirements for court-related account codes. These account codes are also used to prepare the annual Clerk of Court budget submitted to the CCOC.

During our testing of the Clerk's administrative expenditures, we noted that 37 out of 40 expenditures sampled were charged to subaccount 604 - Clerk of Court Administration. In response to our inquiry, the Clerk's office stated that they began charging administrative costs to subaccount 604 in 2016 when the purchasing function was centralized. Also, according to the Clerk's office, these expenditures are never

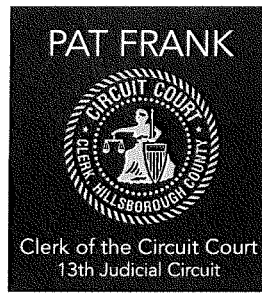
allocated to the benefitting cost center in the general ledger. The Clerk's office does a manual calculation in Excel only for the purpose of preparing the State Expenditures Report.

We recommend the Clerk's office record administrative expenditures in the general ledger using the expenditure account codes provided in the Uniform Accounting System Manual in a manner that properly allocates the expenditure to the cost center benefited.

The Clerk's office overhead departments include Clerk's Administration, Human Resources, Mail Services & Purchasing, CCC Accounting, Records Management, Call Center, Clerk and Non-Departmental. The Clerk's office indicated that it allocates overhead department personnel costs monthly based on the budgeted FTE percentages per cost center rather than using a methodology based on the actual time and effort of the indirect employees. As a result, the Clerk's office was unable to provide documentation verifying the accuracy of the allocation percentage used. The Clerk's office stated that the basis for allocation uses FTE and historical trend analysis; however, no documentation was provided to support the historical trend analysis.

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 might consider using a sampling method similar to the Title IV-D process that includes random moment sampling or a time study.



March 12, 2019

Mark Merry
Assistant Director
Florida Department of Financial Services
Division of Accounting and Auditing
200 East Gaines St.
Tallahassee, FL 32399-0353

RE: Hillsborough County Article V Clerk of the Circuit Court Expenditure Compliance Audit

Dear Mr. Merry:

Our responses to the Observations and Recommendations in Audit Report 2019-34 are outlined below. We would like to thank your staff for the courtesy and professionalism extended to our staff during the course of this audit.

Recommendation 1: During our testing of the Clerk's office administrative expenditures, we noted two (2) instances in which the expenditure, contrary to statutory guidance, had been allocated as a court cost, or was not authorized of record as a reasonable administrative support cost.

- In CFY 16-17, the Clerk's office purchased a button making machine for \$186 to be used to make pins and buttons for participants in training classes.
- In CFY 16-17, the Clerk's office purchased 24 armless stack chairs for \$1,817 for use in the public waiting area in a branch office.

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 related to the button making machine and chairs totaling \$2,003, which were paid from the Clerks of the Court Trust Fund.

Response: We agree that the chairs should have been purchased with County funding since they were for a public waiting area. However, we respectfully disagree that the button making machine was not a reasonable administrative support cost for court operations. The purpose of the buttons is to promote communication, awareness, and togetherness in training sessions. A well trained workforce is critical to the Clerk's mission. Furthermore, the benefits accrued by way of the Clerk's methods far exceeds the de minimis cost of the machine. In addition, the buttons help indicate to our customers, that we have a well trained workforce. Regardless, we will repay all of the funds by transferring \$2,003 from our Board Funding Division of the General Fund to the Fine & Forfeiture Special Revenue Fund before the end of FY 2019.

Recommendation 2: The Clerk's office Travel Policy states that the traveler will be reimbursed in accordance with section 112.061, F. S., which states that a traveler may be required to provide written justification that his or her use of hotel is the most economical choice available. The Travel Policy also states that the designated travel agency shall maintain a list of hotel accommodations offered at the government rate and that employees should stay in these hotels whenever possible. Employees, however, may also search for better rates on the Internet.

- For CFY 16-17, we noted one (1) expenditure related to attendance at a Courts and Justice Executive Forum in Utah. There was no justification provided or documentation showing that the \$252 per night room rate was the government rate and that the hotel booked was from the list of hotel accommodations provided by the travel agency. The Clerk's office stated that the hotel accommodations were provided at the conference site and at the conference rate; however, no justification was provided indicating that this was the most economical choice.
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We recommend the Clerk's office adhere to section 112.061, F. S., and its travel policy to ensure that transportation and lodging rates can be justified as the most economical choices.

Response: The Clerk's Office believes that our travel policy does adhere to the Florida Statutes. When a conference rate is available, we encourage travelers to stay at the conference site to avoid additional travel costs (taxis, rental cars, etc.). These additional costs generally outweigh any room savings by staying at another hotel.

Recommendation 3: The Clerk's office receives a monthly purchasing card statement that includes charges incurred by multiple individuals. We noted during our review of the statements that there was no documentation indicating a reconciliation of the charges to documentation supporting the charges. The Clerk's office stated that purchasing card statements are reviewed and approved by signature of the Chief of Staff; however, the December 2017, June 2017, and June 2018 statements did not show documentation of an approval signature or a reconciliation of the charges to the receipts supporting those charges.

We recommend the Clerk's office conduct a monthly reconciliation of the P-Card statements to the supporting documentation for each charge to ensure that all charges are valid and authorized.

Response: Our office does a monthly reconciliation of the P-Card statement to the support documentation. We will review our reconciliation documentation procedures.

Recommendation 4: The Department of Financial Services' Uniform Accounting System Manual outlines the uniform classification of accounts for units of local governments, and specifically, outlines the requirements for court-related account codes. These account codes are also used to prepare the annual Clerk of Court budget submitted to the CCOC.

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Letter to Mark Merry, County Assistant Director
RE: Responses to Article V Compliance Audit
March 12, 2019

was centralized. Also, according to the Clerk's office, these expenditures are never allocated to the benefitting cost center in the general ledger. The Clerk's office does a manual calculation in Excel only for the purpose of preparing the State Expenditures Report.

We recommend the Clerk's office record administrative expenditures in the general ledger using the expenditure account codes provided in the Uniform Accounting System Manual in a manner that properly allocates the expenditure to the cost center benefited.

Response: Concur. We will begin implementing during this fiscal year.

Recommendation 5: The Clerk's office overhead departments include Clerk's Administration, Human Resources, Mail Services & Purchasing, CCC Accounting, Records Management, Call Center, Clerk and Non-Departmental. The Clerk's office indicated that it allocates overhead department personnel costs monthly based on the budgeted FTE percentages per cost center rather than using a methodology based on the actual time and effort of the indirect employees. As a result, the Clerk's office was unable to provide documentation verifying the accuracy of the allocation percentage used. The Clerk's office stated that the basis for allocation uses FTE and historical trend analysis; however, no documentation was provided to support the historical trend analysis.

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 might consider using a sampling method similar to the Title IV-D process that includes random moment sampling or a time study.

Response: While we are open to studying other indirect cost allocation methodologies for some of our overhead departments rather than using FTEs for all of them, we do not agree that random moment sampling is an appropriate methodology for allocating indirect costs. Indirect cost allocation plans for local governments follow guidance in OMB Circular A-87 when developing their plans. Using financial transactions by fund to allocate accounting, boxes stored to allocate records management, and FTEs to allocate human resources are examples of standard methodologies. Whether obtaining this type of data is cost effective and whether it yields material differences as opposed to FTEs alone, will need to be assessed. Having all of the central service employees track their time between courts and non-courts activities on a daily basis is not reasonable due to the Florida Legislature's continuing inadequate funding of my office.

Please contact Rick Van Arsdall, Chief Deputy, Finance & Budget at 307-7042 should you have any questions regarding these responses.

Sincerely,


Pat Frank
Clerk of the Circuit Court/Comptroller