



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

March 19, 2019

The Honorable Ken Burke
Clerk of Circuit Court
Pinellas County
315 Court Street
Clearwater, Florida 33756

Dear Mr. Burke:

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,


Mark Merry
MM/jp

Enclosure



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

Florida Department of Financial Services

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

**Report No. 2019-37
March 8, 2019**

SUMMARY

The Department of Financial Services (DFS) has completed an audit of the Pinellas 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 five (5) instances, the expenditures had been improperly allocated as court-related costs or were not authorized of record as being a reasonable administrative support cost.
- Internal controls and procedures 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 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.

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.

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 Pinellas 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, but CFY 17-18 does not include juror expenditures.

| Table 1 | | |
|------------------|-----------------|---------------|
| Year | Budgeted | Actual |
| CFY 16-17 | 21,977,365 | 21,903,084 |
| CFY 17-18 | 21,321,065 | 21,237,514 |

The Pinellas County Clerk of the Circuit Court serves a population of 954,569.⁸

The budgeted growth from October 2015 through September 2018 was -2.99%.

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.

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.

Table 2

| Year | Budgeted FTEs | Actual FTEs |
|------------------|----------------------|--------------------|
| CFY 16-17 | 352.08 | 346.25 |
| CFY 17-18 | 327.00 | 321.25 |

The budgeted FTEs decreased by 7.12% 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.

During our testing of the Clerk’s office administrative expenditures, we noted five (5) instances in which the expenditure, contrary to statutory guidance, had been allocated as court costs, or were not authorized of record as a reasonable administrative support cost.

- In CFY 17-18, we noted two (2) expenditures totaling \$465 for supplies (disposable plates, table covers, cutlery, etc.) related to an in-house leadership retreat. The documentation provided by the Clerk’s office did not demonstrate that the expenditures were a reasonable administrative support cost or were essential to the statutory duties and responsibilities of the Clerk’s office.

We recommend the Clerk’s office allocate as court-related expenditures only those costs considered reasonable administrative support costs to enable the Clerk’s office to carry out its court-related functions.

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

- In CFY 16-17, we noted two (2) expenditures totaling \$17,998 for a computer software license and the maintenance of a copier.

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. Also, s. 29.008 (1)(a)1., F.S., notes as of July 1, 2005, equipment and furnishings shall be limited to that appropriate and customary for courtrooms, hearing rooms, jury facilities, **and other public areas in courthouses and any other facility occupied by the courts**, state attorneys, public defenders, guardians ad litem, and criminal conflict and civil regional counsel

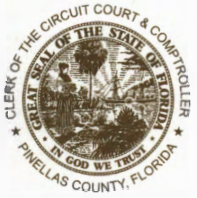
- In CFY 16-17, we noted one (1) expenditure for \$650 to transport and unload furniture from the Clerk's Self-Help Center to the county surplus warehouse.

We recommend the Clerk's office ensure that its court-related expenditures are allowable according to Sections 29.008 and 28.35(3)(a), F.S. We also recommend the Clerk's office reimburse the Clerks of the Courts Trust Fund for the expenditures above for \$18,648.

The following administrative expenditures sampled during our audit may indicate that manual and electronic oversight controls need to be improved. Otherwise, as indicated below, citizens may endure undue hardships due to clerical errors. We noted the following during our testing of administrative expenditures:

- In CFY 16-17, an expenditure in the amount of \$797 to pay the correct recipient of a restitution payment that was initially sent to the wrong person.
- In CFY 16-17, an expenditure in the amount of \$169 for reimbursement to an individual wrongfully arrested who, consequently, had to pay for towing costs of their motorcycle because the Clerk's office did not remove a citation from the individual's account related to an earlier traffic incident.
- In CFY 17-18, an expenditure of \$245 for the reimbursement of towing fees to an individual wrongfully arrested that resulted from a driver's license suspension erroneously left on a driver's license record.

We recommend the Clerk's office ensure that adequate controls for cash handling, recording and disbursements are in place and being followed in order to detect and to prevent these types of clerical errors.



KEN BURKE

CLERK OF THE CIRCUIT COURT AND COMPTROLLER — PINELLAS COUNTY, FLORIDA

Clerk of the County Court
Recorder of Deeds
Clerk and Accountant of the Board of County Commissioners
Custodian of County Funds
County Auditor
Clerk of the Water and Navigation Control Authority

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March 18, 2019

The Honorable Jimmy Patronis
Florida Chief Financial Officer
200 East Gaines Street
Tallahassee, FL 32399-0301

Dear Mr. Patronis,

This letter is in response to the your report no. 2019-35, dated March 8, 2019, related to the Pinellas County Clerk of the Circuit Court compliance audit covering CFY16-17 and CFY 17-18. Your audit specifically addressed Pinellas County's accounts and records of various court-related transactions. In response to your observations and recommendations, we offer the following:

- A. **DFS Recommendation:** We recommend the Clerk's office allocate as court-related expenditures only those costs considered reasonable administrative support costs to enable the Clerk's office to carry out its court related functions.

Response: Acknowledged, effective immediately, all future purchases of supplies for leadership retreats will not be allocated as court costs.

- B. **Recommendation:** We recommend the Clerk's office ensure that its court-related expenditures are allowable according to Sections 29.008 and 28.35(3)(a), F.S. We also recommend the Clerk's office reimburse the Clerk of Courts Trust Fund for the expenditures above for \$18,648.00.

Response: Acknowledged, effective immediately, all future purchases for computer software licenses, copy machine maintenance and transportation of furniture to the surplus warehouse will be charged to the County in accordance with the applicable statutes.

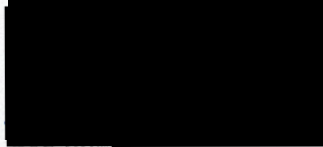
- C. **Recommendation:** We recommend the Clerk's office ensure that adequate controls for cash handling, recording and disbursements are in place and being followed in order to detect and to prevent these types of clerical errors.

Response: Acknowledged, relevant operating procedures will be evaluated and vetted to ensure the procedures are clear, understandable and followed. Additional training will be provided as needed.

March 18, 2019
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Should you have any questions or require further information, please feel free to contact me or my Finance Director, Jeanette Phillips at 727-464-3341 and 727-464-8303, respectively.

Sincerely,

A large black rectangular redaction box covering the signature area.

Ken Burke

Attachment: Florida Department of Financial Services, Report No. 2019-35, Pinellas County Clerk of the Circuit Court Compliance Audit

cc: Claretha Harris, CPA, Chief Deputy Director, Finance Division
Jeanette L. Phillips, CPA, CGFO, Director, Finance Division
Brett Allmond, Manager, Clerk's Accounting