



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

October 8, 2019

The Honorable Tiffany Moore Russell
Clerk of Circuit Court
Orange County
425 North Orange Avenue
Orlando, Florida 32801

Dear Ms. Moore Russell:

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 courtesies 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/tw

Enclosure



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

Florida Department of Financial Services

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

**Report No. 2019-46
October 8, 2019**

SUMMARY

The Department of Financial Services (DFS) has completed an audit of the Orange 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 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.
- In one (1) instance, allocation methodologies 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 Orange County Clerk of the Circuit Court’s Office covered County Fiscal Year (CFY) 16-17, CFY 17-18, and CFY 18-19 (through June 30, 2019). 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 and CFY 18-19 (through June 30, 2019) do not include juror expenditures.

Table 1

Year	Budgeted	Actual
CFY 16-17	\$27,532,536	\$26,117,915
CFY 17-18	\$26,013,264	\$26,005,903
CFY 18-19	\$27,006,971	\$18,681,149 ⁸

The Orange County Clerk of the Circuit Court serves a population of 1,313,880.⁹

The budgeted growth from October 2016 through September 2019 was -1.91%.

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

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

⁸Actual through June 30, 2019.

⁹The Florida Legislature’s Office of Economic and Demographic Research Report Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2018-2019, September 2018.

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.

Year	Budgeted FTEs	Actual FTEs
CFY 16-17	442.00	408.00
CFY 17-18	417.00	389.00
CFY 18-19	396.50	385.50

The budgeted FTEs decreased by -10.29% for the period October 2016 through September 2019.

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 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.

- While the passport cost center is a non-court related function, in CFY 17-18, the Clerk’s office purchased 2,500 postcards for passport applications for \$254 that were charged to the State.
- In CFY 17-18, the Clerk’s office purchased a yearly renewal fee for the “Annual Partners of Education,” by the Orlando Times, Inc. for \$728 that was charged to the State. The Clerk’s office was unable to provide documentation to support the expenditure as being court-related.

We recommend the Clerk’s office ensure that its court-related expenditures are allowable and essential to support the functions outlined in section 28.35(3)(a), F.S.

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. In addition,

section 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, the Clerk's office purchased two signs for the marriage licenses and the passport services divisions to direct customers to the new location for \$164 that was charged to the State.
- In CFY 17-18, we noted an expenditure in the amount of \$671 charged to the State for the purchase of three room signs used to display to the public the services provided within the room.

We recommend the Clerk's office ensure that its court-related expenditures are allowable according to State law.

Section 29.008, F.S., outlines the funding responsibilities of the county for court-related functions. Part of those funding responsibilities include the funding of facilities, construction and leases, maintenance, and security.

Although the county is responsible for the functions stated above, the Clerk's office staff includes a Manager of Facilities and Vendor Relationships whose time is charged 100 percent to the State. The job description provided for the Manager of Facilities and Vendor Relationships lists the essential functions of the job and includes the oversight and management of facilities projects, security, and safety. Upon inquiry, the Clerk's office stated that the position's main role is vendor management. They also stated that this employee serves as a liaison with the county's facilities staff to oversee projects occurring in the Clerk's office, review all contracts, and manage contractors that come into the Clerk's office.

Since this position is responsible for managing both court and non-court related projects and contractors, we recommend that the Clerk's office conduct a time study to sample this position's time and effort spent between court and non-court related activities to ensure accuracy in the budgeting process and the appropriation of State funds.



Tiffany Moore Russell
Clerk of the Circuit and County Courts
Orange County • Florida

Financial Services

DFS Article V Clerk of the Circuit Court Expenditure Compliance Audit for the period October 1, 2016 through June 30, 2019

We would like to thank the staff of the Florida Department of Financial Services, Division of Accounting and Auditing, for the professionalism and assistance provided during the course of their site visit to our office. Below are the findings and recommendations from this site visit as well as our response.

Finding 01 – Administrative Court-Related Expenditures

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.

- While the passport cost center is a non-court related function, in CFY 17-18, the Clerk's office purchased 2,500 postcards for passport applications for \$254 that were charged to the State.
- In CFY 17-18, the Clerk's office purchased a yearly renewal fee for the "Annual Partners of Education," by the Orlando Times, Inc. for \$728 that was charged to the State. The Clerk's office was unable to provide documentation to support the expenditure as being court-related.

We recommend the Clerk's office ensure that its court-related expenditures are allowable and essential to support the functions outlined in section 28.35(3)(a), F.S.

Questioned Costs: \$982.

OCCC RESPONSE: We concur with this recommendation. These expenditures were not properly coded as non-court expenditures at the time of entry into our financial system. These costs were incurred in prior years. We have improved in this area and continue to review our processes to ensure we properly allocate costs.



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Clerk of the Circuit and County Courts
Orange County • Florida

Finding 02 – Facilities Costs

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. In addition, section 29.008(1)(a), 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, the Clerk's office purchased two signs for the marriage licenses and the passport services divisions to direct customers to the new location for \$164 that was charged to the State.
- In CFY 17-18, we noted an expenditure in the amount of \$671 charged to the State for the purchase of three room signs used to display to the public the services provided within the room.

We recommend the Clerk's office ensure that its court-related expenditures are allowable according to State law.

Questioned Costs: \$835.

OCCC RESPONSE: We concur with this recommendation. These costs were incurred in prior fiscal years. We have done a lot of movement of staff and consolidation of offices and some of these costs were inadvertently charged to the court side of our operations. We have discussed this with staff to ensure proper coding of these types of expenditures.

Finding 03 – Allocation of FTEs to Court-Related Costs

Section 29.008, F.S., outlines the funding responsibilities of the county for court-related functions. Part of those funding responsibilities include the funding of facilities, construction and leases, maintenance, and security.

Although the county is responsible for the functions stated above, the Clerk's office staff includes a Manager of Facilities and Vendor Relationships whose time is charged 100 percent to the State. The job description provided for the Manager of Facilities and Vendor Relationships lists the essential functions of the job and includes the oversight and management of facilities projects, security, and safety. Upon inquiry, the Clerk's office stated that the position's main role is vendor management. They also stated that this employee serves as a liaison with the county's facilities staff to oversee projects occurring



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in the Clerk's office, review all contracts, and manage contractors that come into the Clerk's office.

Since this position is responsible for managing both court and non-court related projects and contractors, we recommend that the Clerk's office conduct a time study to sample this position's time and effort spent between court and non-court related activities to ensure accuracy in the budgeting process and the appropriation of State funds.

Questioned Costs: Indeterminate

OCCC RESPONSE: We concur with this recommendation and will review this employee's job duties for court versus non-court allocation and will adjust as necessary. This employee's work varies throughout the year, so we will develop a methodology that properly accounts for this variability.

Sincerely,

Tiffany Moore Russell, Clerk of Courts

Date October 16, 2019