



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

July 18, 2019

The Honorable Karen Rushing
Clerk of Circuit Court
Sarasota County
2000 Main Street
Sarasota, Florida 34237

Dear Ms. Rushing:

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,

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

Mark Merry
MM/jp

Enclosure

FLORIDA DEPARTMENT OF FINANCIAL SERVICES

Mark Merry • Assistant Director
Division of Accounting and Auditing

200 East Gaines Street • Tallahassee, Florida 32399-0353 • Tel. 850-413-5510 • Fax. 850-413-5553

Email • mark.merry@myfloridacfo.com

AFFIRMATIVE ACTION • EQUAL OPPORTUNITY EMPLOYER



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

Florida Department of Financial Services

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

**Report No. 2019-40
July 17, 2019**

SUMMARY

The Department of Financial Services (DFS) has completed an audit of the Sarasota 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 six (6) instances totaling \$39,436, the expenditures had been improperly allocated as court-related costs or were not authorized of record as being a reasonable administrative support cost.
- Financial reporting and recording 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 Court Trust Fund. For those Clerks who collect less than their approved budgets, the shortage is disbursed from the Clerks of 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 Sarasota County Clerk of the Circuit Court's Office covered County Fiscal Year (CFY) 16-17, CFY 17-18, and CFY 18-19 (through January 31, 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 January 31, 2019) do not include juror expenditures.

Table 1		
Year	Budgeted	Actual
CFY 16-17	\$7,842,774	\$7,420,403
CFY 17-18	\$7,607,974	\$7,244,846
CFY 18-19	\$7,886,214	\$2,168,512 ⁸

The Sarasota County Clerk of the Circuit Court serves a population of 407,260.⁹

The budgeted growth from October 2016 through September 2019 was 0.55%

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

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

⁸Actual through January 31, 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.

Table 2		
Year	Budgeted FTEs	Actual FTEs
CFY 16-17	141.66	150.00
CFY 17-18	140.33	152.00
CFY 18-19	140.55	148.00 ¹⁰

The budgeted FTEs decreased by -0.78% for the period October 2016 through September 2019.

OBSERVATIONS AND RECOMMENDATIONS

Section (s.) 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.

Section 28.35(3)(b), F. S., outlines the list of court-related functions that Clerks may not fund from filing fees, service charges, costs, and fines, which includes:

- 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 six (6) 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.

Travel Expenditures

As previously stated, s. 28.35(3)(a), F. S., requires that Clerk's office expenditures be reasonable and must support the core functions outlined in statute. Additionally, the Department of Financial Services Reference Guide for State Expenditures requires that travelers provide justification for lodging that exceeds \$150 per night (room rate only). For the below travel expenditures, the Clerk of the Circuit Court Travel Authorization documents did not indicate that the activities were mission-critical. There was also no indication on the travel documentation reviewed that the Clerk's office had considered other means to obtain training such as teleconferencing, webinars, or online training. Additionally, the supporting documentation reviewed did not include justification to support the hotel rates over \$150 per night.

¹⁰Actual through January 31, 2019.

- In CFY 16-17, an employee of the Clerk's office attended the Association of Certified Fraud Examiners (ACFE) national conference in Washington, D.C. to obtain Continuing Professional Education (CPE) credits. The total cost of the trip was \$1,107 of which \$365 was charged to the State. Also, in CFY 17-18, the employee attended the ACFE national conference in New York City to obtain CPE credits. The total charged to the State for this conference was \$1,193. The Clerk's office was unable to demonstrate that the CFE certification was required for the position. Consequently, attendance at the national conferences to obtain CPE credits to maintain the certification cannot be deemed as necessary and essential to performance of the employee's job duties or considered mission-critical travel. There was also no indication that the employee had considered using teleconferencing or other means of obtaining the CPE credits. Also, there was no justification for the hotel rates of \$172 and \$230 per night, respectfully, which were over the \$150 per day limit.
- For the following travel expenditures, there was also no indication that the Clerk's office had considered using teleconferencing or other forms of electronic forms of communication for the training. Also, there was no justification for the hotel rates that exceeded the \$150 daily rate.
 - In CFY 16-17, an expenditure in the amount of \$5,921 of which \$2,802 was allocated to the court for two (2) employees to attend the 2017 Community LIVE Conference held in Las Vegas, NV. The hotel daily room rate was \$209 per night.
 - In CFY 17-18, an expenditure in the amount of \$5,194 of which \$2,848 was allocated to the court for two (2) employees to attend the 2018 Community LIVE Conference held in Nashville, TN. The hotel daily room rate for this conference was \$199 per night.
 - In CFY 18-19, an expenditure in the amount of \$1,834 of which \$1,632 was allocated to the court for one (1) employee to attend the Ontario Systems – Power Up conference in Indianapolis, IN. The hotel rate for this conference was \$204 per night.

Upon inquiry, the Clerk's office noted that attendance at these conferences was necessary to remain up to date on their system capabilities and new products; however, there was no documentation on the travel forms to indicate the travel was mission-critical or to justify the hotel rates in excess of \$150 per night, as required by law.

We recommend the Clerk's office adhere to the statutes and rules governing travel charged to the State, and maintain documentation on file to justify that travel is mission-critical and that other forms of electronic communication were considered. Written justification such as comparison rates for hotels in the area should also be maintained. Since maintaining the CFE certification is not a requirement for the position of the Clerk of Court, we further recommend that the Clerk's office consider other sources of funding for attendance at the ACFE conferences or online and local training options. We also recommend the Clerk's office reimburse the Clerks of Court Trust Fund for the ACFE conference expenditures totaling \$1,558.

Financial Reporting and Recording

As noted on page 3 of this report, s. 28.35(3)(a), F.S., outlines the list of court-related functions that Clerks may fund from filing fees, services charges, costs, and fines and is limited to those functions expressly authorized by law or court rule. The Clerk's office was unable to demonstrate that the following expenditures were reasonable to support the essential functions of the Clerk's office.

- In CFY 18-19, we noted total expenditures of \$42,000 for leadership training sessions of which \$13,860 was allocated to the court. The Clerk's office entered into an agreement with Focused Consulting, LLC for the purpose of creating individual development plans. The Clerk's office stated that the consultant helped the Clerk's office provide a better quality of customer service.
- In CFY 17-18, we noted an expenditure for \$12,500 for an annual subscription to PayScale Insight Subscription & Services, which is the largest aggregator of salary information, of which \$4,125 was allocated to the courts. The Clerk's office informed us that the subscription allows them to access data to ensure that their pay ranges are marketable.

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. Additionally, we recommend the Clerk's office consider utilizing free web-based sites for researching salary ranges or through networking with other Clerk's offices. We also recommend the Clerk's office reimburse the Clerks of Court Trust Fund for the expenditures above for \$17,985.

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

- In CFY 16-17, we noted an invoice for expenditures totaling \$15,788 of which \$13,419 was allocated to various court-related cost centers. The expenditures were for an archive writer, micro file with film unit, and two Kodak Prostar archive processors.
- In CFY 16-17, we sampled an expenditure in the amount of \$7,616 for support and maintenance for three (3) scanners of which \$6,474 was allocated to various court-related cost centers.

We recommend the Clerk's office ensure that its court-related expenditures are allowable according to Sections (ss.) 29.008 and 28.35(3)(a), F.S. We also recommend the Clerk's office reimburse the Clerks of Court Trust Fund for the expenditures above for \$19,893.



KAREN E. RUSHING
Clerk of the Circuit Court and County Comptroller

2000 Main Street • P.O. Box 3079 • Sarasota, FL 34230-3079 • Phone: 941-861-7400 • www.SarasotaClerk.com

July 24, 2019

Mark Merry
Assistant Director
Division of Accounting & Auditing
Office of Chief Financial Officer Jimmy Patronis
Florida Department of Financial Services
200 East Gaines Street
Tallahassee, FL 32399-0353

Re: Sarasota County Article V Clerk of the Circuit Court Compliance Audit

Dear Mr. Merry,

Our responses to the Observations and Recommendations in Audit Report 2019-40 are outlined below.

Recommendation 1: We recommend the Clerk's office adhere to the statutes and rules governing travel charged to the State, and maintain documentation on file to justify that travel is mission-critical and that other forms of electronic communication were considered. Written justification such as comparison rates for hotels in the area should also be maintained. Since maintaining the CFE certification is not a requirement for the position of the Clerk of Court, we further recommend that the Clerk's office consider other sources of funding for attendance at the ACFE conferences or online and local training options. We also recommend the Clerk's office reimburse the Clerks of Court Trust Fund for the ACFE conference expenditures totaling \$1,558.

Response: The group room rate offered for conferences are hotels either where the conference is being held or close by and decisions to stay at one hotel or another is driven by availability of the facility. Staying at one of the conference sites offered avoids additional travel costs, such as taxi fees, which could quickly exceed any room savings by staying at another hotel. Given that the Clerk of the Circuit Court is responsible for millions of dollars, has large complexed systems and numerous employees handling money along with auditing responsibilities for guardianship matters this office believes excellence in money management and fraud prevention is mission critical. All required yearly audits of the Office begin, performed by external auditors, begin with a conversations regarding potential risks of fraud.

Although it is true having a CFE certification is not a requirement to becoming a Clerk of the Circuit Court it is difficult to argue that it does not benefit the people served by the office or that knowledge and training in this area is not mission critical to the functions of responsibility. We will reimburse \$1,558 to the Clerks of Court Trust Fund.

Recommendation 2: The Clerk's office was unable to demonstrate that the following expenditures were reasonable to support the essential functions of the Clerk's office.

- In CFY 18-19, we noted total expenditures of \$42,000 for leadership training sessions of which \$13,860 was allocated to the court. The Clerk's office entered into an agreement with Focused Consulting, LLC for the purpose of creating individual development plans. The Clerk's office stated that the consultant helped the Clerk's office provide a better quality of customer service.
- In CFY 17-18, we noted an expenditure for \$12,500 for an annual subscription to PayScale Insight Subscription & Services, which is the largest aggregator of salary information, of which \$4,125 was allocated to the courts. The Clerk's office informed us that the subscription allows them to access data to ensure that their pay ranges are marketable.

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.

Additionally, we recommend the Clerk's office consider utilizing free web-based sites for researching salary ranges or through networking with other Clerk's offices. We also recommend the Clerk's office reimburse the Clerks of Court Trust Fund for the expenditures above for \$17,985.

Response: This office places high value on serving the public and in doing so believes it is absolutely mission critical to have leadership development programs so that all employees go the "extra mile" to help the people we serve. Our leadership programs focus on being servants to the people. All employees, new or existing, are continually trained that working for the Clerk requires that they embrace our culture "IMPACT". This acronym stands for I= Integrity M = Make a difference P = Proficiency A= Accountable C= Conscientious T= Trustworthy. I believe that leadership training is essential to performing the functions of the Clerk's office.

PayScale allows us to maintain a classification and compensation program, as required by Florida Statute 110.2035 (1)(b) in addition to providing marketable pay ranges. Given the cost of employee turnover this is one effort to minimize such.

That said we will reimburse \$17,985 to the Clerks of Court Trust Fund, although we do not agree with the recommendation.

Recommendation 3: Section 29.008(1)(f)1, 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 an invoice for expenditures totaling \$15,788 of which \$13,419 was allocated to various court-related cost centers. The expenditures were for an archive writer, micro file with film unit, and two Kodak Prostar archive processors.
- In CFY 16-17, we sampled an expenditure in the amount of \$7,616 for support and maintenance for three (3) scanners of which \$6,474 was allocated to various court-related cost centers.

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 Court Trust Fund for the expenditures above for \$19,893.

Response: Each year Clerks are given Budget Request Instructions from the Florida Clerks of Court Operations Corporation. Attached to the instructions is a legal opinion about the use of budget money for IT expenses. The scanners referred to are mission critical and are required to file all non-electronically filed documents submitted to the Court. It was believed that the expenses listed above were eligible. We will reimburse \$19,893 to the Clerks of Court Trust Fund. In the future per your recommendation, we will allocate the cost of these expenditures under F.S. 29.008.

Should you have any questions, please feel free to contact the Clerk Finance Officer, Peter Ramsden, at 941-861-5166 and thank you for your service.

Sincerely,



Karen E. Rushing
Clerk of the Circuit Court and County Comptroller