



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

August 1, 2019

The Honorable Laura E. Roth
Clerk of Circuit Court
Volusia County
Post Office Box 6043
Deland, Florida 32721-6043

Dear Ms. Roth:

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
Assistant Division Director

MM/ct
Enclosure



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

Florida Department of Financial Services

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

**Report No. 2019-42
August 1, 2019**

SUMMARY

The Department of Financial Services (DFS) has completed an audit of the Volusia 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 totaling \$2,365, the expenditures had been improperly allocated as court-related costs or were not authorized of record as being a reasonable administrative support cost.
- 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 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 Volusia County Clerk of the Circuit Court's Office covered County Fiscal Year (CFY) 16-17, CFY 17-18, and CFY 18-19 (through March 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 March 31, 2019) do not include juror expenditures.

Year	Budgeted	Actual
CFY 16-17	\$10,740,346	\$9,389,189
CFY 17-18	\$10,157,612	\$9,766,606
CFY 18-19	\$10,545,633	\$4,626,634 ⁸

The Volusia County Clerk of the Circuit Court serves a population of 523,405.⁹

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

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

⁸Actual through March 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.

The budgeted growth from October 2016 through September 2019 was -1.81%.

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	206.45	277.00
CFY 17-18	220.00	263.00
CFY 18-19	209.00	266.00 ¹⁰

The budgeted FTEs increased by 1.23% 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 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. The Clerk's office was unable to provide documentation indicating that the following expenditures were essential to the statutory duties and responsibilities of the Clerk's office.

- In CFY 17-18, the Clerk's office purchased framed artwork for \$77 for a court employee.
- In CFY 17-18, we noted an expenditure for \$351 of which \$277 was allocated to the court for the purchase and embroidering of 15 polo shirts. Upon further inquiry, it was noted that these employees work in the mailroom and are considered non-court employees.

¹⁰Actual through March 31, 2019.

- In CFY 18-19, the Clerk's office purchased a microwave oven for \$176 which was charged to the State as a court-related cost. Although the clerk's office stated the microwave oven was placed at the jail to be used by a court employee, this expenditure is not an allowable cost to the State.

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 17-18, we noted two (2) expenditures totaling \$1,835 for office equipment maintenance for microfilm scanners used in the Clerk's office.

We recommend the Clerk's office ensure that its court-related expenditures are allowable according to ss. 28.35(3)(a) and 29.008, F.S. We also recommend the Clerk's office reimburse the Clerks of Court Trust Fund for the expenditures above for \$2,365.

The Clerk's office does not have a clear methodology for allocating payroll expenditures for shared employees who work on both court and non-court-related functions. Their current methodology includes estimates of the time and effort of the indirect employees based on the ratio of other Clerk employees who worked solely on court-related functions to those that worked on both court and county-related functions. Upon inquiry, the Clerk's office was unable to provide supporting documentation for the actual time and effort the shared employees spent working on court-related versus non-court-related functions.

Without accurate time-keeping of court and non-court related functions, the Clerk's office has no assurance that the estimates used for charging salaries to the State or used for budgeting purposes are accurate.

We recommend the Clerk's office establish a method for sampling employees' time and effort between court-related and non-court related activities to ensure the allocation of payroll expenditures reflects an accurate appropriation of state funds. The methodology should include a basis for concluding whether the budgetary calculations are accurate. The Clerk's office might consider using a sampling method such as a time study, or guidance such as that found in Code of Federal Regulation (2 CFR 200), Appendix V.



LAURA E. ROTH
CLERK OF THE CIRCUIT COURT

SEVENTH JUDICIAL CIRCUIT - VOLUSIA COUNTY
P.O. BOX 6043 DELAND, FLORIDA 32721-6043 - WWW.CLERK.ORG

August 2, 2019

Mr. Mark Merry,
Assistant Division Director
Florida Department of Financial Services
Division of Accounting and Auditing

Re: Compliance Audit Dated August 1, 2019

Dear Mr. Merry:

In reference to the above mentioned audit report for the Volusia County Clerk of the Circuit Court, for the fiscal years ended 2017, 2018 and six months of fiscal 2019, I concur with the findings and the office will make reimburse to the Clerk of Court Trust fund in the amount of \$2,365.

Sincerely,

Laura E. Roth
Clerk of Court,
Volusia County, Florida