



**JEFF ATWATER
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA**

Florida Department of Financial Services

**HILLSBOROUGH COUNTY
CLERK OF THE CIRCUIT COURT
PERFORMANCE AND COMPLIANCE REVIEW**

**Report No. 2010-28
May 11, 2011**

SUMMARY

The Chief Financial Officer for the State of Florida is authorized by law to conduct performance and compliance reviews for each of the Clerk of the Circuit Court's accounting of Article V State funding. The Department of Financial Services has completed a review of the Hillsborough County Clerk of Circuit Court's Office as required by Section 28.36(8), Florida Statutes. It is the practice of the Department of Financial Services to conduct these reviews for each Clerk of the Circuit Court every three years.

- The Hillsborough County Clerk of Circuit Court serves a population of 1,196,892.
- The review verified the Clerk's budgeting practices for each county fiscal year (CFY), October through September, and each state fiscal year (SFY), July through June, are in compliance with the Florida Clerks of Court Operations Corporation (CCOC) guidelines.
- The review verified the Clerk's remittances and recording of revenues/liabilities due to the State to be accurate and timely, as required by Section 28.245, Florida Statutes.
- The review verified the Clerk's court-related expenditures were allowable and compliant with Sections 28.35(3) and 29.008, Florida Statutes.
- The Clerk's office was able to meet or exceed all performance standards established by the CCOC except for juror payments for CFY 07-08, CFY 08-09, SFY 09-10, and SFY 10-11 (thru December 2010). Pursuant to Section 40.32(3), Florida Statutes, Clerks are required to issue juror payments within 20 days after completion of juror services.

BACKGROUND

In 1998, revisions to Article V, Section 14, of the Florida Constitution, specified portions of the state courts system and court-related functions that were to be funded from State revenues derived from statutory fines, fees, service charges, and court costs collected by the Clerks of Court.

Prior to July 1, 2009, Clerks prepared budgets using a revenue-based model independent of the State appropriations process. Clerks collected fines, fees, service charges, and court costs to fund their approved budgets and remitted any excess revenues to the Department of Revenue for deposit into the Clerks of Court Trust Fund. The Florida Legislature passed Florida Laws Chapter 2009-61 and Chapter 2009-204, placing the Clerks court-related budgets under the State appropriations process beginning July 1, 2009. The Florida Legislature appropriates the total amount for the Clerks' budgets in the General Appropriations Act (GAA).

The organization that governs the Clerks, the CCOC, is now administratively housed in the Justice Administrative Commission. The CCOC is responsible for developing the budgets and certifying a uniform system of performance measures for Clerks. Under the current model, all fines, fees, service charges, and court costs, except as otherwise provided in Sections 28.241 and 34.041, Florida Statutes, are collected by the Clerks' offices and remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund, in accordance with Section 28.37, Florida Statutes. Beginning in July 2009, Section 28.245, Florida Statutes, requires Clerks' collections of court-related fines, fees, service charges, and costs to be considered liabilities due to the State and is required to be remitted to the Clerks of Court Trust Fund by the 20th of the month immediately following the month in which the monies are collected. Beginning July 2010, Section 28.245, Florida Statutes, requires Clerks to remit liabilities to the Clerks of Court Trust Fund by the 10th of the month immediately following the month in which the monies are collected. The Clerks are now funded by the State appropriations process.

SCOPE

The Article V performance and compliance review of the Hillsborough County Clerk of the Circuit Court's Office covered CFY 07-08, CFY 08-09, SFY 09-10, and SFY 10-11 (through February 2011) court-related budgets certified by the CCOC, pursuant to Section 28.35, Florida Statutes. The review was conducted on March 28-31, 2011, at the Hillsborough County Clerk of Circuit Court's Office.

OBJECTIVES & METHODOLOGY

The performance and compliance review was conducted to ensure Clerk budget methodologies, expenditures, revenues/liabilities due to the State, and performance measures were accurately implemented and recorded according to law.

BUDGETS

The review of the Clerk's budgets verified that the budgets were funded from fines, fees, service charges, and court costs, pursuant to Section 28.37(1), Florida Statutes, and were prepared according to the CCOC instructions.

The table below reflects the budgeted expenditures and revenues/liabilities for each fiscal year reviewed, and reflects the budgeted surplus/deficit amounts certified by the CCOC.

| Fiscal Year | Expenditures | Revenues/ Liabilities | Surplus/ (Deficit) |
|------------------|---------------|--------------------------|-----------------------|
| CFY 07-08 | \$ 34,469,220 | \$ 36,176,675 | \$ 1,707,455 |
| CFY 08-09 | \$ 35,404,733 | \$ 37,154,431 | \$ 1,749,698 |

The Clerk's office was budgeted as a "donor" county by the CCOC for CFY 07-08 and CFY 08-09. The Clerk's office was scheduled to make monthly payments to the Clerks of Court Trust Fund based on the "donor" county designation. The Clerk's budgeted surplus increased from CFY 07-08 to CFY 08-09 by approximately 2.47%.

The table below reflects the revised budgeted expenditures and revenues/liabilities following the budget reductions implemented in May 2009.

| Fiscal Year | Expenditures | Revenues/ Liabilities | Surplus/ (Deficit) |
|------------------------------|---------------|--------------------------|-----------------------|
| CFY 08-09¹ | \$ 25,463,096 | \$ 26,628,232 | \$ 1,165,136 |
| SFY 09-10² | \$ 29,102,757 | \$ 31,126,038 | \$ 2,023,281 |
| SFY 10-11³ | \$ 29,102,756 | \$ 30,728,594 | \$ 1,625,838 |

Note 1: CFY 08-09 budgeted expenditures and revenues/liabilities are for the nine month period of October 2008 through June 2009.

Note 2: SFY 09-10 budgeted expenditures and revenues/liabilities are for the twelve month period of July 2009 through June 2010.

Note 3: SFY 10-11 budgeted expenditures and revenues/liabilities are for the twelve month period of July 2010 through June 2011.

Clerks are now required to budget according to the State Fiscal Year (July 1 through June 30) and are provided funding through the State GAA. The CCOC released appropriations in the amount of one-twelfth of each Clerk's approved budget each month for SFY 09-10 and SFY 10-11 (through February).

The table below reflects the budgeted FTEs for each fiscal year reviewed and the court-related allocation percentages applied for shared overhead.

| Fiscal Year | Direct Court-Related FTEs | Indirect Overhead FTEs | Total Court-Related FTEs | Total Court & Non-Court FTEs | Cost Allocation Percentage |
|--------------------|----------------------------------|-------------------------------|---------------------------------|---|-----------------------------------|
| CFY 07-08 | 578.00 | 119.11 | 697.11 | 954.00 | 73.07% |
| CFY 08-09 | 585.00 | 121.37 | 706.37 | 937.00 | 75.39% |
| SFY 09-10 | 509.66 | 101.15 | 610.81 | 821.24 | 74.38% |
| SFY 10-11 | 489.00 | 103.14 | 592.14 | 821.00 | 72.12% |

The cost allocation percentages are applied to overhead costs budgeted to support court-related activities for all fiscal years. The allocation is based on the percentage of time each overhead position's duties are performed for court-related activities. The allocation methodologies applied by the Clerk's office are within the approved budget guidelines set by the CCOC. The budgeted total court-related FTEs decreased from CFY 07-08 to SFY 10-11 by approximately 15.06%. The budgeted cost allocation decreased from CFY 07-08 to SFY 10-11 by approximately 1.30%.

EXPENDITURES

The review sampled various court-related expenditure accounts and transactions to determine if the Clerk's office was in compliance with Section 28.35, Florida Statutes. The expenditure sample confirmed court-related expenditures were in compliance with Section 28.35, Florida Statutes, and funds were expended for allowable court-related costs. The Clerk's CCOC Technology Expense Monthly Tracking Report was in compliance with guidelines set by the CCOC. The Clerk's salary was within the salary requirements developed by the Office of Economic and Demographic Research. The Clerk provided detailed information on expenditures necessary for the performance of court-related functions using the court-related codes in the Uniform Accounting System Manual (UASM). The review confirmed the accuracy of the expenditures listed on the Clerk's General Ledger by reconciling with the expenditures reported on the CCOC Clerks' Trust Fund Collections Tracking Report for each fiscal year.

The table below reflects the budgeted and actual expenditures for each fiscal year reviewed.

| Fiscal Year | Budgeted | Actual |
|------------------------------|---------------|----------------------------|
| CFY 07-08 | \$ 34,469,220 | \$ 32,713,551 |
| CFY 08-09¹ | \$ 25,463,096 | \$ 24,502,847 |
| SFY 09-10² | \$ 29,102,757 | \$ 28,553,956 |
| SFY 10-11³ | \$ 29,102,756 | \$ 17,960,166 ⁴ |

Note 1: CFY 08-09 budgeted and actual expenditures are for the nine month period of October 2008 through June 2009.

Note 2: SFY 09-10 budgeted expenditures are for the twelve month period of July 2009 through June 2010.

Note 3: SFY 10-11 budgeted expenditures are for the twelve month period of July 2010 through June 2011.

Note 4: SFY 10-11 actual expenditures are for the eight month period of July 2010 through February 2011.

The budgeted expenditures decreased from CFY 07-08 to SFY 10-11 by 15.57%. The Clerk's actual expenditures were below budgeted expenditures in CFY 07-08, for the nine month period of October 2008 through June 2009 of CFY 08-09 and SFY 09-10.

The table below reflects the budget categories that make up total budgeted expenditures for each fiscal year reviewed.

| Fiscal Year | Personal Services | Operating Expenses | Capital Outlay | Budget Reserve | Total Expenditures |
|--------------------------------|-------------------|--------------------|----------------|----------------|----------------------------|
| CFY 07-08 | \$ 31,766,276 | \$ 2,702,944 | \$ - | \$ - | \$ 34,469,220 |
| CFY 08-09 | \$ 32,917,706 | \$ 2,483,648 | \$ 3,379 | \$ - | \$ 35,404,733 |
| CFY 08-09^{1,3} | N/A | N/A | N/A | N/A | \$ 25,463,096 |
| SFY 09-10^{2,3} | N/A | N/A | N/A | N/A | \$ 29,102,757 |
| SFY 10-11 | \$ 27,049,370 | \$ 2,053,386 | \$ - | \$ - | \$ 29,102,756 ⁴ |

Note 1: CFY 08-09 represents revised CFY 08-09 budgeted figures for the nine month period of October 2008 through June 2009, based on the May 2009 budget reductions implemented by the CCOC.

Note 2: SFY 09-10 represents the budgeted expenditures for the twelve month period of July 2009 through June 2010.

Note 3: The categories of Personal Services, Operating Expenses, Capital Outlay, and Budget Reserve are listed as N/A in CFY 08-09 and SFY 09-10 due to the implementation of budget reductions in May 2009.

Note 4: SFY 10-11 total appropriation is subject to change due to the Unit Cost adjustment, pursuant to Section 28.36(10)(b), Florida Statutes.

The Clerk's office budgets personnel related costs (employee salaries and benefits) in the budget category of personal services. The total budgeted expenditures in each fiscal year reviewed were approximately 93% personnel related.

REVENUES/LIABILITIES DUE TO THE STATE

The review confirmed that fines, fees, service charges, and court costs collected by the Clerk's office were remitted to the Department of Revenue for deposit into the Clerks of Court Trust Fund in a timely manner. Pursuant to Section 28.245, Florida Statutes, funds are required to be remitted to the Clerks of Court Trust Fund by the 20th of the month immediately following the month in which the monies are collected. Beginning July 2010, Section 28.245, Florida Statutes, requires Clerks to remit liabilities to the Clerks of Court Trust Fund by the 10th of the month immediately following the month in which the monies are collected. The review confirmed the accuracy of the revenues/liabilities listed on the Clerk's General Ledger by reconciling with the revenues/liabilities reported on the CCOC Clerks' Trust Fund Collections Tracking Report for each fiscal year. The Clerk's office is in compliance with Florida Laws Chapter 2008-111, and is timely and accurate in remitting and recording the collections provided to the State General Revenue Fund.

The table below reflects the budgeted and actual revenues/liabilities for each fiscal year reviewed.

| Fiscal Year | Budgeted | Actual |
|------------------------------|-----------------|----------------------------|
| CFY 07-08 | \$ 36,176,675 | \$ 37,421,034 |
| CFY 08-09¹ | \$ 26,628,232 | \$ 25,834,068 |
| SFY 09-10² | \$ 31,126,038 | \$ 31,870,907 |
| SFY 10-11³ | \$ 30,728,594 | \$ 17,824,700 ⁴ |

Note 1: CFY 08-09 budgeted and actual revenues/liabilities are for the nine month period of October 2008 through June 2009.

Note 2: SFY 09-10 budgeted revenue/liabilities are for the twelve month period of July 2009 through June 2010.

Note 3: SFY 10-11 budgeted revenues/liabilities are for the twelve month period of July 2010 through June 2011.

Note 4: SFY 10-11 actual revenues/liabilities are for the eight month period of July 2010 through February 2011.

The budgeted revenues/liabilities decreased from CFY 07-08 to SFY 10-11 by 15.06%. The Clerk's actual revenues/liabilities were above budgeted revenues/liabilities for CFY 07-08 and SFY 09-10. The Clerk's actual revenues/liabilities were below the budgeted revenues/liabilities for the nine month period of October 2008 through June 2009 of CFY 08-09.

The table below reflects the budgeted and actual remittances made to the Clerks of Court Trust Fund for each fiscal year reviewed.

| Fiscal Year | Budgeted Surplus Remittances | Actual Remittances during the Year | Settle Up Remittances at Year End | Total Remittances |
|------------------------------|------------------------------|------------------------------------|-----------------------------------|-------------------|
| CFY 07-08 | \$ 1,707,455 | \$ 1,707,455 | \$ 3,000,028 | \$ 4,707,483 |
| CFY 08-09¹ | \$ 1,165,136 | \$ 1,165,136 | \$ 166,085 | \$ 1,331,221 |
| SFY 09-10² | \$ 2,023,281 | \$ 2,768,150 ⁴ | \$ 548,801 | \$ 3,316,951 |
| SFY 10-11³ | \$ 1,625,838 | N/A | N/A | N/A |

Note 1: CFY 08-09 budgeted surplus remittances were based on the nine month period of October 2008 through June 2009.

Note 2: SFY 09-10 budgeted surplus remittances were based on the twelve month period of July 2009 through June 2010.

Note 3: SFY 10-11 budgeted surplus remittances (budgeted revenues/liabilities less appropriation) were based on the twelve month period of July 2010 through June 2011. The actual remittances, settle up remittances, and total remittances information was not available during the time of our review.

Note 4: Section 28.37(2), Florida Statutes, considers all court related fines, fees, service charges, and costs collected by the Clerks to be state funds and requires the funds to be remitted to the Clerks of Court Trust Fund. For SFY 09-10 the surplus of \$2,768,150 is the difference of the liabilities remitted of \$31,870,907 less the appropriations received of \$29,102,757.

PERFORMANCE MEASURES

The CCOC has the responsibility of developing and certifying a uniform system of performance measures and applicable performance standards for the court-related functions, pursuant to Section 28.35(3)(a), Florida Statutes. The review confirmed the Clerk's office to be in compliance with the performance measure guidelines and standards defined by the CCOC except for the timely issuance of juror payments for CFY 07-08, CFY 08-09, SFY 09-10, and SFY 10-11 (thru December 2010). Pursuant to Section 40.32(3), Florida Statutes, Clerks are required to issue juror payments within 20 days after completion of juror services. The Clerk's independent audit report confirmed the Clerk's office to be in compliance with Section 28.35, Florida Statutes, for CFY 06-07, CFY 07-08, CFY 08-09, and CFY 09-10. The review verified the Clerk maintains a partial fee payment system, pursuant to Section 28.246, Florida Statutes.

The table below reflects the standards of timeliness, collections, fiscal management, and juror payments achieved by the Clerk's office for each fiscal year reviewed.

| TIMELINESS | CFY 07-08 | CFY 08-09 | SFY 09-10 | SFY 10-11 |
|--------------------------|------------------|------------------|------------------|-----------------------|
| Standard | 12 of 20 | 12 of 20 | 12 of 20 | 12 of 20 |
| Clerk Reported | 19 of 20 | 19 of 20 | 17 of 20 | 15 of 20 ¹ |
| COLLECTIONS | CFY 07-08 | CFY 08-09 | CFY 09-10 | CFY 10-11 |
| Standard | 5 of 9 | 5 of 9 | 5 of 9 | 5 of 9 |
| Clerk Reported | 6 of 9 | 6 of 9 | 6 of 9 | 6 of 9 ² |
| FISCAL MANAGEMENT | CFY 07-08 | CFY 08-09 | SFY 09-10 | SFY 10-11 |
| Standard | 6 of 9 | 6 of 9 | 6 of 8 | N/A |
| Clerk Reported | 8 of 9 | 9 of 9 | 8 of 8 | N/A |
| JUROR PAYMENTS | CFY 07-08 | CFY 08-09 | SFY 09-10 | SFY 10-11 |
| Standard | 100% | 100% | 100% | 100% |
| Clerk Reported | 99.9% | 99.7% | 99.8% | 99.9% ¹ |

Note 1: SFY 10-11 timeliness and juror payments data was reported through December 2010.

Note 2: CFY 10-11 collections data was reported through December 2010.

The table below reflects the Clerk's cases, defendants and financial receipts for each fiscal year reviewed.

| TOTAL REPORTED | CFY 07-08 | CFY 08-09 | SFY 09-10 | SFY 10-11 |
|-----------------------|------------------|------------------|------------------|----------------------|
| Cases | 408,133 | 363,065 | 352,592 | 216,930 ¹ |
| Defendants | 146,483 | 139,027 | 128,004 | 80,068 ¹ |
| Financial Receipts | 585,271 | 535,002 | 701,775 | N/A ² |

Note 1: SFY 10-11 cases and defendants are for the eight month period of July 2010 through February 2011.

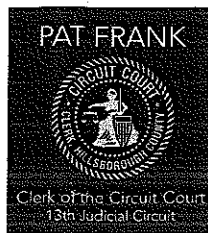
Note 2: SFY 10-11 financial receipts data not available at the time of our review.

OBSERVATIONS & RECOMMENDATIONS**Observation Number One:**

Based upon our review, we found the Clerk's budgeting practices and expenditure and revenue methodologies for State funds to be efficient and accurate. We concluded the Hillsborough County Clerk's office is currently able to report on all required performance standards. However, the Hillsborough County Clerk's office did not meet or exceed the performance standard for juror payments issued timely for CFY 07-08, CFY 08-09, SFY 09-10, and SFY 10-11 (thru December 2010). Pursuant to Section 40.32(3), Florida Statutes, Clerks are required to issue juror payments within 20 days after completion of juror services.

Recommendation Number One:

The Hillsborough County Clerk's office should closely adhere to Section 40.32(3), Florida Statutes, regarding timely payment for juror services.



May 2, 2011

Honorable Jeff Atwater
Chief Financial Office
State of Florida, Department of Financial Services

Honorable Atwater:

This is the response to the DFS observation noted in the Performance & Compliance Review Report 2010-28 dated April 26, 2011:

Observation Number One:

Based upon our review, we found the Clerk's budgeting practices and expenditure and revenue methodologies for State funds to be efficient and accurate. We concluded the Hillsborough County Clerk's office is currently able to report on all required performance standards. However, the Hillsborough County Clerk's office did not meet or exceed the performance standard for juror payments issued timely for CFY 07-08, CFY 08-09, SFY 09-10, and SFY 10-11 (thru December 2010). Pursuant to Section 40.32(3), Florida Statutes, Clerks are required to issue juror payments within 20 days after completion of juror services.

Recommendation Number One:

The Hillsborough County Clerk's office should closely adhere to Section 40.32(3), Florida Statutes, regarding timely payment for juror services

Clerk's Response:

We agree with the Observation that the Clerk's Office did not achieve the 100% payment of jurors within the 20 days notated in Florida Statute 40.32(3). However, the Clerk's Office did achieve the following percentages for these periods:

| <u>Fiscal Year</u> | <u>Percent</u> |
|---------------------------|-----------------------|
| 07-08 | 99.94% |
| 08-09 | 99.70% |
| 09-10 | 99.76% |
| 10-11 | 99.98% |

We will perform the following actions to further our efforts towards achieving the 100% goal:

- *Review the procedure for processing jury payments*
- *Train any new jury team members on the jury system*
- *Review any jury payment exceptions and modify our procedure to reduce the risk of non-payment within 20 days.*

Regards;



Pat Frank
Clerk of the Circuit Court
13th Judicial Circuit
Tampa, Florida

Cc: Mr. Burton Marshall
Chief, Bureau of Local Government
Department of Local Government