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STATE OF FLORIDA

Florida Department of Financial Services

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

**Report No. 2013-12
May 31, 2013**

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 Pasco County Clerk of Circuit Court's Office as required by Section 28.36(8), Florida Statutes (F.S.). 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 Pasco County Clerk of Circuit Court serves a population of 466,533.
- 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, but not timely, as required by Section 28.245, F.S.
- The review verified the Clerk's court-related expenditures were not limited to those that are allowable and compliant with Sections 28.35(3) and 29.008, F.S.
- The Clerk's office was not able to meet or exceed all performance standards established by the CCOC.

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 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, F.S., 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, F.S. Beginning July 2009, Section 28.245, F.S., requires Clerks' collections of court-related fines, fees, service charges, and costs to be considered liabilities due to the State and 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, F.S., 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 Pasco County Clerk of the Circuit Court's Office covered CFY 08-09, SFY 09-10, SFY 10-11, and SFY 11-12 court-related budgets certified by the CCOC, pursuant to Section 28.35, F.S. The review was conducted April 15 through April 18, 2013 at the Pasco 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), F.S., 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 08-09	\$ 15,920,148	\$ 10,527,804	\$ (5,392,344)

The Clerk's office was budgeted as a "deficit" county by the CCOC for CFY 08-09.

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	\$ 11,687,579	\$ 7,708,343	\$ (3,979,236)
SFY 09-10	\$ 13,069,807	\$ 10,747,442	\$ (2,322,365)
SFY 10-11	\$ 13,069,807	\$ 8,440,648	\$ (4,629,159)
SFY 11-12	\$ 12,725,709	\$ 8,457,962	\$ (4,267,747)

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

Clerks are now required to budget according to State Fiscal Year (July 1 through June 30) and are provided funding through the State General Appropriations Act. The CCOC released appropriations in the amount of one-twelfth of each Clerk's approved budget each month for SFY 09-10, SFY 10-11 and SFY 11-12.

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 08-09	239.43	58.35	297.78	392.13	75.94%
SFY 09-10	219.68	30.31	249.99	315.89	79.14%
SFY 10-11	240.43	0.00	240.43	324.42	74.11%
SFY 11-12	237.66	0.00	237.66	237.66	100.00%

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 08-09 to SFY 11-12 by approximately 20.19%. The budgeted cost allocation increased from CFY 08-09 to SFY 11-12 by approximately 31.68%.

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, F.S. The expenditure sample disclosed court-related expenditures that were not in compliance with Section 28.35, F.S., and court funds were expended for unallowable costs. The Pasco County Clerk's Office reported storage charges of \$3,960.00 in FY 09-10 and storage charges of \$12,000.00 in FY 10-11, for a total of \$15,960.00 in unallowable expenditures for the review period.

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.

	Budgeted	Actual
CFY 08-09¹	\$ 11,687,579	\$ 10,419,915
SFY 09-10	\$ 13,069,807	\$ 13,069,807
SFY 10-11	\$ 13,069,807	\$ 12,872,836
SFY 11-12	\$ 12,725,709	\$ 12,725,709

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

The budgeted expenditures increased from CFY 08-09 to SFY 11-12 by 8.88%. The Clerk's actual expenditures were equal to or below budgeted expenditures from CFY 08-09 to SFY 11-12.

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 90% 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 not always remitted to the Department of Revenue for deposit into the Clerks of Court Trust Fund in a timely manner. Pursuant to Section 28.245, F.S., 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 were collected. Beginning July 2010, Section 28.245, F.S., 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 in accurately remitting and recording the collections provided to the State General Revenue Fund. However, the Clerk's office has not been timely in the remittance of the Chapter 2008-111 receipts, as required by Section 28.245, F.S.

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

	Budgeted	Actual
CFY 08-09¹	\$ 7,708,343	\$ 7,598,907
SFY 09-10	\$ 10,747,442	\$ 8,255,686
SFY 10-11	\$ 8,440,648	\$ 7,141,099
SFY 11-12	\$ 8,457,962	\$ 7,133,049

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

The budgeted revenues/liabilities increased from CFY 08-09 to SFY 11-12 by 9.73%. The Clerk's actual revenues/liabilities were below budgeted revenues/liabilities in CFY 08-09, SFY 09-10, SFY 10-11, and SFY 11-12.

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/(Deficit) Remittances	Actual Payments from the Trust Fund	Actual Remittances to the Trust Fund	Settle Up Remittance to Trust Fund	Total Remittances to/ (from)Trust
CFY 08-09¹	\$ (3,979,236)	\$ 3,165,564	\$ -	\$ 1,777,442	\$ (1,388,122)
SFY 09-10^{2,3}	\$ (2,322,365)	\$ 13,069,807	\$ 8,255,686	\$ -	\$ (4,814,121)
SFY 10-11	\$ (4,629,159)	\$ 12,872,836	\$ 7,141,099	\$ -	\$ (5,731,737)
SFY 11-12	\$ (4,267,747)	\$ 12,725,709	\$ 7,133,049	\$ -	\$ (5,592,660)

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

Note 2: Beginning SFY 09-10, the Actual Payments from the Trust Fund total was the monthly amount received as appropriated by the state, in accordance with 28.36, F.S.

Note 3: Beginning SFY 09-10, the Actual Remittances to the Trust Fund total was the monthly collections remitted by the clerks' offices to the state, in accordance with 28.245 F.S.

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), F.S. The review confirmed the Clerk's office to be in compliance with the performance measure guidelines and standards defined by the CCOC. The Clerk's independent audit report confirmed the Clerk's office to be in compliance with Section 28.35, F.S. for all years reviewed. The review verified that the Clerk maintains a partial fee payment system, pursuant to Section 28.246, F.S.

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 08-09	SFY 09-10	SFY 10-11	SFY 11-12
Standard	12 of 20	12 of 20	12 of 20	12 of 20
Clerk Reported	20 of 20	17 of 20	18 of 20	20 of 20
COLLECTIONS	CFY 08-09	CFY 09-10	SFY 10-11	SFY 11-12
Standard	5 of 9	5 of 9	5 of 9	5 of 9
Clerk Reported	7 of 9	8 of 9	7 of 9	6 of 9
FISCAL MANAGEMENT	CFY 08-09	SFY 09-10	SFY 10-11	SFY 11-12
Standard	6 of 9	6 of 8	6 of 9	6 of 9
Clerk Reported	9 of 9	8 of 8	9 of 9	9 of 9
JUROR PAYMENTS	CFY 08-09	SFY 09-10	SFY 10-11	SFY 11-12
Standard	100%	100%	100%	100%
Clerk Reported	99.3%	99.7%	99.9%	100%

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

TOTAL REPORTED	CFY 08-09	SFY 09-10	SFY 10-11	SFY 11-12
Civil	106,321	98,029	87,166	87,462
Criminal	28,788	38,651	42,345	39,379
Financial Receipts	417,325	411,092	403,951	399,857

OBSERVATIONS & RECOMMENDATIONS**Observation Number One:**

Based upon our review, we found the Clerk's budgeting practices and expenditures and revenue methodologies for State funds to be efficient and accurate. However, expenditures during the review period were not limited to court-related functions as specified in Sections 28.35 (3) and 29.008, F.S. The Pasco County Clerk's Office reported unallowable expenditures of \$15,960.00 that were outside the scope of State funding authority for the review period of FY 08-09 through FY 11-12.

Recommendation Number One:

The Pasco County Clerk's Office should closely adhere to and follow all expenditures requirements prescribed in Florida Statutes. The Clerk should reimburse the Clerks of the Court Trust Fund for unallowable expenditures totaling \$15,960.00 for the review period of FY 08-09 through FY 11-12. Documentation of any outstanding reimbursements or transfers should be completed and remitted to DFS within 30 days of receiving this report, pursuant to Section 28.36, F.S.

Observation Number Two:

The Pasco County Clerk's office has not been timely in the remittance of the collections revenues/liabilities and Chapter 2008-111 receipts, as required by Section 28.245, F.S. The Clerk's office was late 17 out of 48 times during the review period of FY 08-09 through FY 11-12.

Recommendation Number Two:

The Pasco County Clerk's Office should closely adhere to and follow all remittance requirements prescribed by Section 28.245, F.S.

Observation Number Three:

The Pasco County Clerk's office did not meet or exceed the performance standard for juror payments issued timely for FY 08-09, FY 09-10 and FY 10-11. The Clerk's office issued 4,101 out of 4,128 out juror payments within 20 days for FY 08-09, 5,526 out of 5,540 juror payments within 20 days for FY 09-10 and 3,197 out of 3,199 juror payments within 20 days for FY 10-11. Pursuant to Section 40.32(3), F.S., Clerks are required to issue juror payments within 20 days after completion of juror services.

Recommendation Number Three:

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

Huggins, Sally

From: O'Neil, Paula [PONeil@pascoclerk.com]
Sent: Thursday, June 20, 2013 4:38 PM
To: Huggins, Sally
Cc: Christine Mettler; Steven Rosales; Nikki Alvarez-Sowles; Laurie Ansorge
Subject: Pasco County Response to a findings

Dear Ms. Huggins:

Below are my responses to the recent correspondence from you. Thank you for your assistance.

Observation/Recommendation Number One:

The unallowable expenditure identified in Observation and Recommendation Number One was reimbursed. A change in procedure was implemented so that such expenses no longer fall under the Fines and Forfeitures Fund.

Observation/Recommendation Number Two:

The remittance submittal procedures and process will be reviewed and changes will be implemented as necessary to submit remittances within the timeframe prescribed by section 28.245, Florida Statutes.

Observation/Recommendation Number Three:

The processes and procedures for juror payments for the Pasco County Clerk & Comptroller's Office will be reviewed and changes will be implemented as needed to adhere to section 40.32(3), Florida Statutes. During the timeframe identified, 43 out of 12,867 jurors received payment outside of that timeframe, approximately 0.3%. In some cases, the jurors requested payment well past the service dates. A change in procedure was implemented on February 20, 2013 to provide weekly payment to jurors for their service. In addition, the Office will review and research same-day payment for jury service.

Sincerely,



Paula S. O'Neil, Ph.D.