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Florida Department of Financial Services

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

**Report No. 2013-09  
April 29, 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 Seminole 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 Seminole County Clerk of Circuit Court serves a population of 424,587.
- 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, 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 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 20<sup>th</sup> 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 10<sup>th</sup> 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 Seminole 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 March 18 through March 20, 2013 at the Seminole 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	\$ 10,683,733	\$ 10,688,700	\$ 4,967

The Clerk's office was budgeted as a "surplus" 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 08-09 <sup>1</sup>	\$ 8,049,391	\$ 8,642,229	\$ 592,838
SFY 09-10	\$ 8,796,573	\$ 10,448,308	\$ 1,651,735
SFY 10-11	\$ 8,671,014 <sup>2</sup>	\$ 10,234,250	\$ 1,563,236
SFY 11-12	\$ 8,705,045 <sup>3</sup>	\$ 10,241,700	\$ 1,536,655

*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 10-11 the budgeted expenditures total was changed 5/6/11 due to the 4<sup>th</sup> quarter true-up process conducted by the CCOC for all clerks as required by Section 28.36(b), F.S. The budgeted surplus decreased as a result of the reduction.*

*Note 3: SFY 11-12 the budgeted expenditures total was changed 6/6/12 due to the 4<sup>th</sup> quarter true-up process conducted by the CCOC for all clerks as required by Section 28.36(b), F.S. The budgeted surplus decreased as a result of the reduction.*

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.

<b>Fiscal Year</b>	<b>Direct Court-Related FTEs</b>	<b>Indirect Overhead FTEs</b>	<b>Total Court-Related FTEs</b>	<b>Total Court &amp; Non-Court FTEs</b>	<b>Cost Allocation Percentage</b>
<b>CFY 08-09</b>	163.50	31.23	194.73	244.75	79.56%
<b>SFY 09-10</b>	144.10	28.04	172.14	221.00	77.89%
<b>SFY 10-11</b>	144.10	28.04	172.14	221.00	77.89%
<b>SFY 11-12</b>	146.60	25.66	172.26	221.50	77.77%

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 11.54%. The budgeted cost allocation decreased from CFY 08-09 to SFY 11-12 by approximately 2.25%.

### ***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 confirmed court-related expenditures that were not in compliance with Section 28.35 F.S., and court funds were expended for unallowable costs. Specifically, Florida Administrative Code 69 I-40.103(5) prohibited the expenditures of state funds for coffee. The Seminole County Clerk's Office reported coffee expenditures of \$3,333.28 in FY 08-09, \$4,020.90 in FY 09-10, \$4,990.15 in FY 10-11, and \$4,059.02 in FY 11-12. The unallowable expenditures for the review period totaled \$16,403.35.

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
<b>CFY 08-09'</b>	\$ 8,049,391	\$ 6,957,267
<b>SFY 09-10</b>	\$ 8,796,573	\$ 8,524,407
<b>SFY 10-11</b>	\$ 8,671,014	\$ 8,236,945
<b>SFY 11-12</b>	\$ 8,705,045	\$ 8,009,171

*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 8.15%. The Clerk's actual expenditures were 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 89% 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, F.S., funds are required to be remitted to the Clerks of Court Trust Fund by the 20<sup>th</sup> 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 10<sup>th</sup> 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.

	Budgeted	Actual
<b>CFY 08-09'</b>	\$ 8,642,229	\$ 8,566,545
<b>SFY 09-10</b>	\$ 10,448,308	\$ 10,556,030
<b>SFY 10-11</b>	\$ 10,234,250	\$ 9,366,657
<b>SFY 11-12</b>	\$ 10,241,700	\$ 9,201,699

*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 18.51%. The Clerk’s actual revenues/liabilities were below budgeted revenues/liabilities in CFY 08-09, 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
<b>CFY 08-09'</b>	\$ 592,838	\$ -	\$ 3,725	\$ 1,605,553	\$ 1,609,278
<b>SFY 09-10<sup>2,3</sup></b>	\$ 1,651,735	\$ 8,796,573	\$ 10,556,030	\$ 272,166	\$ 2,031,623
<b>SFY 10-11</b>	\$ 1,563,236	\$ 8,671,014	\$ 9,366,657	\$ 434,070	\$ 1,129,713
<b>SFY 11-12</b>	\$ 1,536,655	\$ 8,705,045	\$ 9,201,699	\$ 695,874	\$ 1,192,528

*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 Section 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 Section 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 CFY 08-09, CFY 09-10, CFY 10-11, and CFY 11-12. 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.**

<b>TIMELINESS</b>	<b>CFY 08-09</b>	<b>SFY 09-10</b>	<b>SFY 10-11</b>	<b>SFY 11-12</b>
Standard	12 of 20	12 of 20	12 of 20	12 of 20
Clerk Reported	20 of 20	20 of 20	20 of 20	20 of 20
<b>COLLECTIONS</b>	<b>CFY 08-09</b>	<b>CFY 09-10</b>	<b>SFY 10-11</b>	<b>SFY 11-12</b>
Standard	5 of 9	5 of 9	5 of 9	5 of 9
Clerk Reported	9 of 9	9 of 9	8 of 9	9 of 9
<b>FISCAL MANAGEMENT</b>	<b>CFY 08-09</b>	<b>SFY 09-10</b>	<b>SFY 10-11</b>	<b>SFY 11-12</b>
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
<b>JUROR PAYMENTS</b>	<b>CFY 08-09</b>	<b>SFY 09-10</b>	<b>SFY 10-11</b>	<b>SFY 11-12</b>
Standard	100%	100%	100%	100%
Clerk Reported	100%	100%	100%	100%

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

<b>TOTAL REPORTED</b>	<b>CFY 08-09</b>	<b>SFY 09-10</b>	<b>SFY 10-11</b>	<b>SFY 11-12</b>
Civil	144,577	153,113	141,426	126,986
Criminal	47,343	27,729	28,119	26,638
Financial Receipts	465,211	431,749	434,736	448,958

**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), F.S. and Florida Administrative Code 69 I-40.103. The Seminole County Clerk's Office reported unallowable expenditures of \$16,403.35 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 Seminole County Clerk's Office should closely adhere to and follow all expenditures requirements prescribed in Florida Statutes and the Florida Administrative Code 69 I40-103. The Clerk should reimburse the Clerks of the Court Trust Fund for unallowable expenditures totaling \$16,403.35 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.



**Huggins, Sally**

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**From:** Bruce McMenemy [bruce@seminoleclerk.org]  
**Sent:** Thursday, May 23, 2013 3:16 PM  
**To:** Huggins, Sally; Perrin, Alex  
**Cc:** Maryanne Morse; Lewis Dundas  
**Subject:** DFS Audit/Review Response Seminole County

Ms. Huggins:

Please consider this our response to the audit comment that we received relative to the completion of your recent engagement in Seminole County.

As I related previously, while I believe our provision of "coffee service" was/is appropriate, we do agree that perhaps the service should be reduced at the "margins". Hence, we have remitted the amount of \$16,403.35 to the Department of Revenue on May 22, 2013 per Payment Confirmation #153047546 pursuant to your request, and have adjusted this program accordingly.

The Clerk and I want to acknowledge the outstanding professionalism and demeanor of your staff in the conduct of this audit which covered approximately a 4 year time span. We were especially impressed and frankly found very refreshing, both you and Alex Perrin taking the time to review and correctly analyze our use of innovative and "outside the box" programs that we have utilized during these extremely difficult times in meeting our obligations to our employees, the public, and at the same time ensuring multi-million dollar returns of "excess fees" to the beleaguered taxpayers.

In closing, thank you for the wonderful effort and "job well-done".

*Bruce McMenemy, Chief Deputy  
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