



CHIEF FINANCIAL OFFICER  
JIMMY PATRONIS  
STATE OF FLORIDA

July 11, 2017

The Honorable Neil Kelly  
Clerk of Circuit Court  
Lake County  
550 West Main Street  
Tavares, Florida 32778

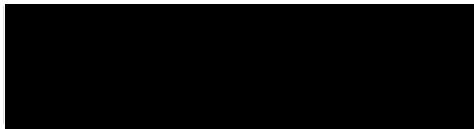
Dear Mr. Kelly:

We completed our Article V Clerk of the Circuit Court Expenditure Compliance Review in accordance with Florida Statutes. Enclosed is a copy of our final report.

We appreciate your advanced preparation for our review 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](mailto:kim.holland@myfloridacfo.com) if you have any questions.

Sincerely,



Christina Smith  
CS:jp

Enclosure



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

Florida Department of Financial Services

**LAKE COUNTY  
CLERK OF THE CIRCUIT COURT  
COMPLIANCE REVIEW**

**Report No. 2017-15  
July 5, 2017**

**SUMMARY**

The Department of Financial Services has completed a review of the Lake County Clerk of Circuit Court's Office pursuant to Section 28.35 2(e), 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 four to five years.

- The Lake County Clerk of Circuit Court serves a population of 309,736.<sup>1</sup>
- The auditors confirmed that court-related expenditures were in compliance with Sections 28.35(3), 28.37(5), 28.24(12) and 29.008, F.S. with the exception of the first item noted in the Observations and Recommendations section.
- Overhead allocation methodologies could be improved.

**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 appropriated the total amount for the Clerks' budgets in the General Appropriations Act (GAA).

The organization that governs the Clerks, the Clerks of Court Operations Corporation (CCOC), is responsible for developing the budgets and certifying a uniform system of performance measures for Clerks. Under the model enacted July 1, 2009, all fines, fees, service charges, and court costs, except as otherwise provided in Sections 28.241 and 34.041, F.S., were 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., required Clerks' collections of court-related fines, fees, service charges, and costs to be considered liabilities due to the State and were 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.

<sup>1</sup> Office of Economic and Demographic Research Report Salaries of Elected County Constitutional Officer and School District Officials for Fiscal Year 2015-16, October 2015

Beginning July 2010, Section 28.245, F.S., required 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 were collected. The Clerks were funded by the State appropriations process from July 1, 2009 through June 30, 2013.

In 2013, the Florida Legislature passed Florida Laws Chapter 2013-44, which returned the Clerks to the pre-2009 funding model and removed the Clerks from the State appropriations process. Beginning November 2013, the Clerks remit to the State the excess of 1/12 of their budget for the previous months' collections. For those Clerks who collect fees less than their approved budgets, the shortage is disbursed from the State of Florida's Clerk of the Court Trust Fund. In addition, the Department of Financial Services' role was changed to providing audits of the Clerks' court-related expenditures only.

**SCOPE**

The Article V compliance review of the Lake County Clerk of the Circuit Court's Office covered County Fiscal Year (CFY) 13-14, CFY 14-15, and CFY 15-16 for court-related expenditures. The review was conducted as an on-site review by the Article V section within the Bureau of Auditing.

**OBJECTIVES & METHODOLOGY**

**EXPENDITURES**

The auditors sampled various court-related expenditure accounts and transactions to determine if the Clerk's office was in compliance with Sections 28.35(3), 28.37(2) and 28.24(12)(d) F.S. The expenditure review confirmed court-related expenditures were in compliance with these Statutes.

The auditors also confirmed that certain court-related payroll expenditures were in compliance with Section 28.35(3), F.S. and budget guidelines established by the CCOC with the exception of the first item noted in the Observations and Recommendation section below.

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 auditors confirmed the accuracy of the expenditures listed on the Clerk's General Ledger by reconciling and testing court related expenditures reported on the CCOC Clerks' Expenditures and Collections Tracking Report for each fiscal year (FY).

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

<b>Fiscal Year</b>	<b>Budgeted</b>	<b>Actual</b>
<b>CFY 13-14</b>	\$6,298,182	\$5,925,271
<b>CFY 14-15</b>	\$5,780,902	\$5,749,714
<b>CFY 15-16</b>	\$5,431,803	\$5,085,406

The budgeted growth from October 2013 through September 2016 is -13.76 %

The table below reflects the full time equivalent (FTEs) for each fiscal year reviewed. The cost allocation percentage shown is the basis for the Clerk’s annual budget submitted to the CCOC and, ultimately, become the basis for State appropriations for court-related functions.

County Fiscal Year	Total Direct Court-Related FTEs	Allocated Court-Related FTEs	Total Court-Related FTEs	Total Court & Non-Court FTEs	Cost Allocation Percentage
CFY 13-14	113.00	10.21	123.21	212.00	58.12%
CFY 14-15	100.00	33.77	133.77	209.73	63.78%
CFY 15-16	98.00	24.39	122.39	198.51	61.65%

**PERCENTAGES FOR BUDGET: FTE GROWTH AND ALLOCATION GROWTH**

FTE Growth CFY 13-14 to CFY 15-16                      -.67%  
 Cost Allocation Percentage Growth                        6.08%

**OBSERVATIONS & RECOMMENDATIONS**

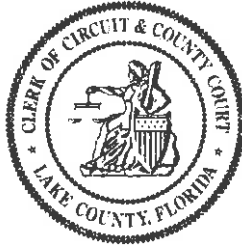
1) Section 29.008(1)(f)1, F.S., requires the county to fund the cost of communication services, including cellular telephones. During our testing of payroll court-related expenditures, we noted that five (5) Clerk’s office employees were being paid \$80 every other pay period as a cellphone allowance in CFY 13-14 and CFY 14-15. The \$80 was allocated between court and non-court expenditure accounts based on the Clerk’s methodology for allocating employees’ time.

We recommend the Clerk’s office ensure that its court-related expenditures are allowable according to Section 28.35 (3)(a), F.S. We also recommend that the Clerk’s office reimburse the State for any cell phone related expenditures paid from the Clerks of the Court Trust Fund for CFY 14-15. (We noted there were no moneys received from the Trust fund in CFY 13-14).

2) The Clerk’s office uses a simple formula to calculate its cost allocation percentage based on the ratio of total court-related direct support FTEs to total court and non-court direct support FTEs. This percentage is used to allocate the time of indirect employees between court and non-court related activities. The Clerk’s office, however, was unable to provide supporting documentation of the actual time and effort of indirect employees to verify the accuracy of the cost allocation percentage calculation.

Without accurate time-keeping of court and non-court related functions for indirect employees, the Clerk has no assurance that the calculated percentages used for budgeting purposes were accurate or need to be revised for the next budget cycle.

We recommend the clerk establish a method for tracking employees’ time and effort between court-related and non-court related activities, to ensure accuracy in the budgeting process and the appropriation of State funds. The methodology should include a basis for concluding whether the budgetary estimates are accurate. The Clerk’s office should consider using a sampling method similar to the Title IV-D process that includes random moment sampling or a time study.



*Clerk of the Circuit Court*

July 13, 2017

Christina Smith, Director  
Division of Accounting and Auditing  
Florida Department of Financial Services  
200 East Gaines Street  
Tallahassee, Florida 32399-0353

Re: 2017 Lake County Article V Clerk of Court Expenditure Compliance Review

Dear Ms. Smith:

My office is in receipt of your letter dated July 11, 2017 in which you indicated you had enclosed the final report of the above referenced compliance review. It is my understanding that I have the opportunity to respond to such report before it actually becomes final. What follows is my response thereto.

#### Observation and Recommendation 1

The Office disagrees with both the characterization of the twenty-four hour on-call pay as a cell phone allowance and the recommendations associated therewith.

The five (5) employees noted in the report are required to be on-call twenty-four hours a day, seven days per week. In return for this inconvenience to the employees, the Office provides a payroll stipend. The employee is not required to expend this stipend for any particular purpose, and is not required to even own a cell phone, much less expend the stipend for a cell phone or cell phone service. The employee merely has to make themselves available, and have the ability to be contacted, for Office business, all day, every day of the year. There is no Office policy to the contrary. As such is the case, the Office is in full compliance with Section 28.35(3)(a), Florida Statutes.

#### Observation and Recommendation 2

The Office disagrees with the characterization of the formula for determining indirect cost allocations as being inaccurate and the insinuation that the formula is somehow improper. The Office disagrees that the Title IV-D moment sampling method or a time study would be more

***NEIL KELLY***

*Clerk of the Circuit Court • County Court • Board of County Commissioners  
550 West Main Street • Post Office Box 7800 • Tavares, Florida 32778-7800  
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appropriate, but does find it informative that your office is apparently urging us to adopt an indirect cost methodology related to the Title IV-D program.

The Title IV-D program random moment sampling, contrary to the apparent belief of your office, is not an indirect cost allocation methodology, but rather a direct cost methodology which allocates the direct cost of child support personnel between Title IV-D child support cases and non-Title IV-D child support cases. This methodology is sanctioned by OMB Circular A-87. Similarly, OMB Circular A-87 also sanctions methodologies for indirect cost allocations. That circular refers readers thereof to guidelines and illustrations of indirect cost proposals as provided in a brochure published by the Department of Health and Human Services entitled "A Guide for State and Local Government Agencies: Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government." That brochure specifically authorizes the cost allocation plan adopted by this Office; hence no recalculation of indirect cost is necessary, nor is a change in methodology necessary.

Sincerely,

A large black rectangular redaction box covering the signature area.

Neil Kelly  
Clerk of the Circuit Court

cc: Jim Parker  
Kristy Mullane  
Jo-Anne Drury  
Kevin McDonald