



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

May 18, 2021

The Honorable Jerome Kaszubowski
Clerk of Circuit Court
Highlands County
590 South Commerce Avenue
Sebring, Florida 33870-3867

Dear Mr. Kaszubowski,

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,


Mark Merry
MM/had

Enclosure



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

Florida Department of Financial Services

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

**Report No. 2021-65
May 11, 2021**

SUMMARY

The Department of Financial Services (DFS) has completed an audit of the Highlands 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 four (4) instances, the expenditures had been improperly allocated as court-related costs.
- Allocation methodologies for payroll and administrative 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.

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

¹Section 34.031, Florida Statutes.

²Sections 28.35(3)(a) and 29.008, Florida Statutes.

³Chapter 2013-44, Laws of Florida.

⁴Chapter 2017-126, Laws of Florida.

⁵Section 28.36, Florida Statutes.

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

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 Highlands County Clerk of the Circuit Court’s Office covered County Fiscal Year (CFY) 18-19, CFY 19-20, and CFY 20-21 (through December 31, 2020). The audit consisted of a desk review that included an analysis of sample selection with 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 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 18-19, CFY 19-20, and CFY 20-21 do not include juror expenditures.

Table 1

Year	Budgeted	Actual
CFY 18-19	\$1,686,635	\$1,685,105
CFY 19-20	\$1,640,098	\$1,640,098
CFY 20-21	\$1,823,314	\$398,431 ⁸

The Highlands County Clerk of the Circuit Court serves a population of 103,434.⁹

The budgeted growth from October 2018 through September 2021 was 8.10%.

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.

⁷Sections 28.35(3)(a) and 29.008, Florida Statutes.

⁸Actual through December 31, 2020.

⁹The Florida Legislature’s Office of Economic and Demographic Research Report Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2020-2021, September 2020.

Table 2

Year	Budgeted FTEs	Actual FTEs
CFY 18-19	31.76	26.95
CFY 19-20	32.82	26.93
CFY 20-21	32.60	28.34

The budgeted FTEs increased by 2.64% for the period October 2018 through September 2021.

OBSERVATIONS AND RECOMMENDATIONS

Section (s.) 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; data collection and reporting; 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.

Financial Reporting and Recording

Unallowable Expenditures

During our testing of the Clerk's office administrative expenditures, we note three (3) instances in which the expenditure, contrary to statutory guidance, had been allocated as a court cost, or was not authorized of record as a reasonable administrative support cost.

- In CFY 18-19, the Clerk's office purchased a decorated cake for a retirement party, allocating the total amount of \$84 to the State.
- In CFY 18-19, we noted two (2) instances in which paper products and supplies were purchased (paper plates, plastic cups, paper towels, dish soap), allocating the total amount of \$27 to the State.

We recommend that the Clerk's office ensure that its court-related expenditures are allowable and reasonable according to s. 28.35(3)(a), F.S. We also recommend that the Clerk's office reimburse the Clerks of Courts Trust Fund in the amount of \$111.

County Funding

Section 29.008(1)(c), F.S., requires counties to fund the cost of maintenance which includes all reasonable and necessary costs of custodial and grounds keeping services and renovation and reconstruction as needed to accommodate functions for the circuit and county courts, the public defenders' offices, and state attorneys' offices and for performing the court-related functions of the offices of the clerks of the circuit and county court and for maintaining the facilities in a condition appropriate and safe for the use intended.

- In CFY 19-20, the Clerk's office paid for an additional HD Thermography Inspection for \$1,345, allocating the total amount to the State.

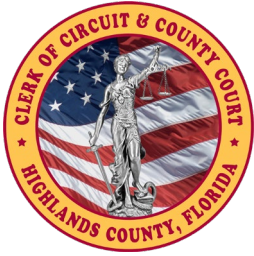
We recommend the Clerk's office ensure that its court-related expenditures are allowable according to s. 29.008(1)(c), F.S. We also recommend the Clerk's office reimburse the Clerks of the Court Trust Fund for the expenditure above totaling \$1,345.

Allocation Methodology

The allocation of FTEs between court and non-court functions, should be based on an accumulation of relevant, sufficient, and reliable data and compared to subsequent actual data to determine the reliability of the estimate. The Clerk's office does not have a clear methodology for allocating payroll and administrative expenditures for employees who work on both court and non-court-related functions. Their current allocation methodology is based on subjective and objective review of the workload. The Clerk's office was unable to provide supporting documentation for the allocations obtained from historical time tracking, nor for the allocations determined by Department Directors.

Without an accurate basis for allocating costs, the Clerk's office has no assurance that the estimates used for charging salaries to the State or used for budgeting purposes are accurate or need to be revised for the next budget cycle.

As a best practice, we recommend the Clerk's office establish a method for sampling employees' time and effort between court-related and non-court related functions to ensure the allocation of payroll and administrative expenditures reflect an accurate appropriation of State funds. The methodology should include a basis for concluding whether the budgetary calculations are accurate. The Clerk's office may consider using a sampling method such as a time study, case file reporting, or guidance such as that found in Code of Federal Regulation (2 CFR 200), Appendix V. We also recommend that the allocation percentages used to charge expenditures to the State be based on the employee's FTE allocation.



Jerome Kaszubowski
Clerk of Circuit Court & Comptroller
Highlands County, Florida

CLERK OF CIRCUIT COURT
CLERK OF COUNTY COURT
COUNTY AUDITOR
COUNTY RECORDER
CLERK TO THE BOARD OF COUNTY COMMISSIONERS

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May 20, 2021

Mr. Mark Merry
Assistant Director
Florida Department of Financial Services
Division of Accounting and Auditing
200 East Gaines Street
Tallahassee, FL 32399-0353

In reference to your letter dated May 18, 2021, our responses to the observations and recommendations found in report 2021-65 are as follows:

Unallowable Expenditures

During our testing of the Clerk's office administrative expenditures, we note three (3) instances in which the expenditure, contrary to statutory guidance, had been allocated as a court cost, or was not authorized of record as a reasonable administrative support cost.

- In CFY 18-19, the Clerk's office purchased a decorated cake for a retirement party, allocating the total amount of \$84 to the State.
- In CFY 18-19, we noted two (2) instances in which paper products and supplies were purchased (paper plates, plastic cups, paper towels, dish soap), allocating the total amount of \$27 to the State.

We recommend that the Clerk's office ensure that its court-related expenditures are allowable and reasonable according to s. 28.35(3)(a), F.S. We also recommend that the Clerk's office reimburse the Clerks of Courts Trust Fund in the amount of \$111.

Response: The Clerk's office concurs with the two observations of unallowable expenditures charged to the State. We have amended procedures and are training staff to ensure these types of expenditures are not charged to the State in the future. We are in the process of reimbursing the Clerk of Courts Trust Fund for these costs.



County Funding

Section 29.008(1)(c), F.S., requires counties to fund the cost of maintenance which includes all reasonable and necessary costs of custodial and grounds keeping services and renovation and reconstruction as needed to accommodate functions for the circuit and county courts, the public defenders' offices, and state attorneys' offices and for performing the court-related functions of the offices of the clerks of the circuit and county court and for maintaining the facilities in a condition appropriate and safe for the use intended.

- In CFY 19-20, the Clerk's office paid for an additional HD Thermography Inspection for \$1,345, allocating the total amount to the State.

We recommend the Clerk's office ensure that its court-related expenditures are allowable according to s. 29.008(1)(c), F.S. We also recommend the Clerk's office reimburse the Clerks of the Court Trust Fund for the expenditure above totaling \$1,345.

Response: The Clerk's office concurs this expenditure should have been the responsibility of the County. We are in the process of reimbursing the Clerk of Courts Trust Fund for this expenditure.

Allocation Methodology

The Clerk's office has no assurance that the estimates used for charging salaries to the State or used for budgeting purposes are accurate or need to be revised for the next budget cycle. As a best practice, we recommend the Clerk's office establish a method for sampling employees' time and effort between court-related and non-court related functions to ensure the allocation of payroll and administrative expenditures reflect an accurate appropriation of State funds. The methodology should include a basis for concluding whether the budgetary calculations are accurate. The Clerk's office may consider using a sampling method such as a time study, case file reporting, or guidance such as that found in Code of Federal Regulation (2 CFR 200), Appendix V. We also recommend that the allocation percentages used to charge expenditures to the State be based on the employee's FTE allocation.

Response: The Clerk's office concurs with this recommendation and has implemented a time study for those employees working on both court and non-court functions.

Respectfully,

[Redacted Signature]

Jerome Kaszubowski
Highlands County Clerk of Circuit Court and Comptroller

