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CHIEF FINANCIAL OFFICER
STATE OF FLORIDA**

Florida Department of Financial Services

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

**Report No. 2010-15
February 14, 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 Polk 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 Polk County Clerk of Circuit Court serves a population of 585,733.
- 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 Section 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.

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 Polk County Clerk of the Circuit Court's Office covered CFY 06-07, CFY 07-08, CFY 08-09, and SFY 09-10 court-related budgets certified by the CCOC, pursuant to Section 28.35, Florida Statutes. The review was conducted on August 23-25, 2010, at the Polk 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 amounts certified by the CCOC:

Fiscal Year	Expenditures	Revenues/ Liabilities	Surplus/ (Deficit)
CFY 06-07	15,005,869	15,902,954	897,085
CFY 07-08	15,502,817	15,538,195	35,378
CFY 08-09	16,085,860	16,432,757	346,897

The Clerk's office was budgeted as a "donor" county by the CCOC for CFY 06-07, 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 decreased from CFY 06-07 to CFY 08-09 by approximately 61.33%.

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 ¹	11,808,734	11,986,368	177,634
SFY 09-10 ²	13,280,137	13,786,173	506,036

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.

Clerks are now required to budget according to 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.

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 06-07	270.55	39.64	310.19	424.50	73.07%
CFY 07-08	278.61	41.54	320.15	433.50	73.85%
CFY 08-09	281.47	39.19	320.66	435.75	73.59%
SFY 09-10	267.85	17.44	285.30	378.45	75.39%

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 approximately 8.02% from CFY 06-07 to SFY 09-10. The budgeted cost allocation increased approximately 3.17% from CFY 06-07 to SFY 09-10.

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 06-07	15,005,869	12,661,528
CFY 07-08	15,502,817	13,442,713
CFY 08-09¹	11,808,734	10,132,284
SFY 09-10²	13,280,137	12,302,013

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.

The budgeted expenditures decreased 11.50% from CFY 06-07 to SFY 09-10. The Clerk's actual expenditures were below budgeted expenditures in CFY 06-07, CFY 07-08, for the nine month period of July 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 06-07	13,485,811	805,493	0	714,565	15,005,869
CFY 07-08	13,936,952	1,188,849	0	377,016	15,502,817
CFY 08-09	13,995,028	1,180,312	0	910,520	16,085,860
CFY 08-09^{1,3}	N/A	N/A	N/A	N/A	11,808,734
SFY 09-10^{2,3}	N/A	N/A	N/A	N/A	13,280,137

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.

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, 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 were 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 06-07	15,902,954	15,766,072
CFY 07-08	15,538,195	16,826,180
CFY 08-09¹	11,986,368	11,726,265
SFY 09-10²	13,786,173	13,426,569

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.

The budgeted revenues/liabilities decreased 13.31% from CFY 06-07 to SFY 09-10. The Clerk's actual revenues/liabilities were below budgeted revenues/liabilities for CFY 06-07, for the nine month period of CFY 08-09, and SFY 09-10. The Clerk's actual revenues/liabilities were above budgeted revenues/liabilities for CFY 07-08.

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 06-07	897,086	2,104,544	1,000,000	3,104,544
CFY 07-08	35,378	2,383,467	1,000,000	3,383,467
CFY 08-09¹	177,634	53,130	1,540,853	1,593,983
SFY 09-10	506,036	146,432 ²	978,123 ³	1,124,555

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

Note 2: Section 28.37(2), Florida Statutes, considers all court related fines, fees, services 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 \$146,432 is the difference of the liabilities remitted of \$13,426,569 less the appropriations received of \$13,280,137.

Note 3: Based on the financial information submitted through June 2010, the Clerk's office was projected to submit a settle up of \$978,123 by August 15, 2010. The settle up was not due at the time of our review.

The Clerk's office exceeded the budgeted remittances for CFY 06-07, CFY 07-08, for the nine month period of October 2008 through June 2009 of CFY 08-09 and for SFY 09-10.

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. 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 and CFY 08-09. 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 06-07	CFY 07-08	CFY 08-09	SFY 09-10
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
COLLECTIONS	CFY 06-07	CFY 07-08	CFY 08-09	CFY 09-10
Standard	5 of 9	5 of 9	5 of 9	5 of 9
Clerk Reported	7 of 9	8 of 9	7 of 9	8 of 9
FISCAL MANAGEMENT	CFY 06-07	CFY 07-08	CFY 08-09	SFY 09-10
Standard	6 of 9	6 of 9	6 of 9	6 of 8
Clerk Reported	9 of 9	9 of 9	9 of 9	8 of 8
JUROR PAYMENTS	CFY 06-07	CFY 07-08	CFY 08-09	SFY 09-10
Standard	N/A ¹	100%	100%	100%
Clerk Reported	N/A ¹	100%	100%	100%

Note 1: CFY 06-07 juror payments data not applicable for this time period.

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

TOTAL REPORTED	CFY 06-07	CFY 07-08	CFY 08-09	SFY 09-10
Cases	189,763 ¹	181,991	173,285	168,981
Defendants	70,722 ¹	66,294	63,006	61,764
Financial Receipts	N/A ²	473,785	434,691	242,509

Note 1: CFY 06-07 cases and defendants do not include notices of appeal.

Note 2: CFY 06-07 financial receipts data not applicable for this time period.

OBSERVATIONS & RECOMMENDATIONS

Based upon the review, we found the Clerk's budgeting practices and expenditure and revenue methodologies for State funds to be compliant with Florida Statutes and the guidelines established by the CCOC. We concluded that the Polk County Clerk's Office is currently able to report on all required performance standards.



Richard M. Weiss

Clerk of the Circuit Court and County Court

County Recorder

Clerk, Auditor and Accountant to the Polk County Board of County Commissioners

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The Mission of the Office of Clerk of the Circuit Court is to function as a team dedicated to our customers by

- ~ preparing and maintaining accurate records
- ~ furnishing assistance in an understanding and compassionate manner, and
- ~ providing services with competence, professionalism, and courtesy

In compliance with laws, rules and regulations.

February 11, 2011

Jeff Atwater, Chief Financial Officer
State of Florida
Florida Dept of Financial Services
Tallahassee, FL

Dear Mr. Atwater:

The Polk County Clerk of Circuit Court agrees with the findings in this year's budget review by the Department of Financial Services.

We appreciate the professionalism of the DFS staff who participated in the review both here in our office as well as offsite.

Sincerely,

Richard M. Weiss
Richard M. Weiss
Clerk of the Circuit Court