



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

November 19, 2012

The Honorable Lydia Gardner
Clerk of Circuit Court
Orange County
425 North Orange Avenue
Orlando, Florida 32802

Dear Ms. Gardner:

We completed our Article V Clerk of the Circuit Court Performance and Compliance Review in accordance with Florida Statutes. Enclosed is a copy of our final report which includes your response to our review.

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 Mark Merry at (850) 413-3074 or mark.merry@myfloridacfo.com if you have any questions.

Sincerely,

A black rectangular redaction box covering the signature of Christina Smith.

Christina Smith

CS:sa

Enclosure



**JEFF ATWATER
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA**

Florida Department of Financial Services

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

**Report No. 2012-06
November 15, 2012**

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 Orange 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 Orange County Clerk of Circuit Court serves a population of 1,157,342.
- 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 were accurate but not timely, as required by Section 28.245, F.S.
- The review verified the Clerk's court-related expenditures were limited to those that are allowable and compliant with Sections 28.35(3) and 29.008, F.S.
- The Clerk's office was able to meet or exceed all performance standards established by the CCOC except for juror payments.

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, 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 Orange County Clerk of the Circuit Court's Office covered CFY 07-08, 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 September 10, 2012 through September 12, 2012 at the Orange 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 07-08	\$ 33,448,272	\$ 34,565,596	\$ 1,117,324
CFY 08-09	\$ 36,757,690	\$ 37,320,000	\$ 562,310

The Clerk's office was budgeted as a "surplus" county by the CCOC for CFY 07-08 and CFY 08-09. The Clerk's office was scheduled to remit monthly payments to the Clerks of Court Trust Fund based on the "surplus" county designation. The Clerk's budgeted surplus decreased from CFY 07-08 to CFY 08-09 by approximately 49.67%.

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	\$ 27,701,171	\$ 28,046,961	\$ 345,790
SFY 09-10	\$ 30,274,186	\$ 32,337,562	\$ 2,063,376
SFY 10-11	\$ 29,826,469 ²	\$ 29,500,000	\$ (326,469)
SFY 11-12	\$ 29,406,333 ³	\$ 30,025,000	\$ 618,667

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 4th quarter true-up process conducted by the CCOC for all clerks as required by Section 28.36(b), F.S. The budgeted surplus became a deficit as a result of the reduction.

Note 3: SFY 11-12 the budgeted expenditures total was subject to the same 4th quarter true-up process as SFY 10-11.

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, 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 07-08	562.05	23.28	585.33	607.50	96.35%
CFY 08-09	564.55	23.32	587.87	609.00	96.53%
SFY 09-10	470.25	36.04	506.29	526.75	96.12%
SFY 10-11	502.25	0.00	502.25	522.25	96.17%
SFY 11-12	483.25	17.32	500.57	520.25	96.22%

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 07-08 to SFY 11-12 by approximately 14.48%. The budgeted cost allocation decreased from CFY 07-08 to SFY 11-12 by approximately .14%.

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 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.

	Budgeted	Actual
CFY 07-08	\$ 33,448,272	\$ 33,315,801
CFY 08-09¹	\$ 27,701,171	\$ 27,645,161
SFY 09-10	\$ 30,274,186	\$ 30,274,186
SFY 10-11	\$ 29,826,469	\$ 29,825,339
SFY 11-12	\$ 29,406,333	\$ 29,406,253

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

The budgeted expenditures decreased from CFY 07-08 to SFY 11-12 by 12.08%. The Clerk's actual expenditures were below budgeted expenditures from CFY 07-08, CFY 08-09, SFY 10-11 and SFY 11-12. Actual expenditures were equal to budgeted expenditures in SFY 09-10.

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 Laws of Florida Chapter 2008-111 revenue, is accurate in recording the collections provided to the State General Revenue Fund but not timely in remitting them.

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

	Budgeted	Actual
CFY 07-08	\$ 34,565,596	\$ 36,957,569
CFY 08-09¹	\$ 28,046,961	\$ 27,995,651
SFY 09-10	\$ 32,337,862	\$ 32,931,098
SFY 10-11	\$ 29,500,000	\$ 31,771,854
SFY 11-12	\$ 30,025,000	\$ 30,272,571

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 decreased from CFY 07-08 to SFY 11-12 by 13.14%. The Clerk’s actual revenues/liabilities were above budgeted revenues/liabilities for CFY 07-08 and SFY 09-10 through SFY 11-12. Actual revenues/liabilities were below budgeted revenues/liabilities for the nine-month period of CFY 08-09.

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 07-08	\$ 1,117,324	\$ -	\$ 36,957,569	\$ 600,949	\$ 37,558,518
CFY 08-09¹	\$ 345,790	\$ -	\$ 27,995,651	\$ 4,700	\$ 28,000,351
SFY 09-10^{2,3}	\$ 2,063,676	\$ 30,274,186	\$ 32,931,098	\$ -	\$ 2,656,912
SFY 10-11	\$ (326,469)	\$ 29,826,469	\$ 31,771,854	\$ 1,130	\$ 1,946,516
SFY 11-12⁴	\$ 618,667	\$ 29,406,333	\$ 30,272,571	80	\$ 866,319

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 CFY 07-08 through CFY 10-11. The review verified 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 07-08	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	12 of 20
Clerk Reported	20 of 20	20 of 20	20 of 20	20 of 20	20 of 20
COLLECTIONS	CFY 07-08	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	5 of 9
Clerk Reported	9 of 9	8 of 9	7 of 9	7 of 9	7 of 9
FISCAL MANAGEMENT	CFY 07-08	CFY 08-09	SFY 09-10	SFY 10-11	SFY 11-12
Standard	6 of 9	6 of 9	6 of 8	6 of 9	6 of 9
Clerk Reported	9 of 9	9 of 9	8 of 8	9 of 9	9 of 9
JUROR PAYMENTS	CFY 07-08	CFY 08-09	SFY 09-10	SFY 10-11	SFY 11-12
Standard	100%	100%	100%	100%	100%
Clerk Reported	98.6%	100%	100%	100%	100%

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

TOTAL REPORTED	CFY 07-08	CFY 08-09	SFY 09-10	SFY 10-11	SFY 11-12
Criminal	120,029	110,445	112,541	101,256	83,183
Civil	478,751	418,517	417,753	400,372	382,982
Financial Receipts	1,593,981	1,609,484	1,552,651	979,329	947,246

OBSERVATIONS & RECOMMENDATIONS**Observation Number One:**

The Orange County Clerk's office has not been timely in the remittance of collections and the Chapter 2008-111 receipts, as required by Section 28.245, F.S.

Recommendation Number One:

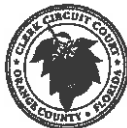
The Orange County Clerk's Office should closely adhere to and follow all remittance requirements prescribed by Section 28.245, F.S.

Observation Number Two:

Based upon our review, we found the Clerk's budgeting practices and expenditure and revenue methodologies for State funds to be efficient and accurate. We concluded the Orange County Clerk's office is currently able to report on all required performance standards. However, the Orange County Clerk's office did not meet or exceed the performance standard for juror payments issued timely for CFY 07-08. 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 Two:

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



Lydia Gardner
Clerk of the Circuit and County Courts
Orange County • Florida

Financial Services Division – Accounting

November 16, 2012

Honorable Jeff Atwater
Chief Financial Officer, State of Florida
Department of Financial Services – Bureau of Auditing

Mr. Atwater,

This letter is in response to the Department of Financial Services' audit of the Orange County Clerk of the Circuit and County Courts for the fiscal years CFY 2007-2008 through SFY 2011-2012, as documented in its Report No. 2012-06, dated November 15, 2012.

Observations and Recommendations

Observation Number One:

The Orange County Clerk's office has not been timely in the remittance of collections and the Chapter 2008-111 receipts, as required by Section 28.245, F.S.

Recommendation Number One:

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

Management's Response:

We concur with this recommendation. For the sixty months covered by this audit, there were three months not remitted timely. Statute requires remittance by the 10th of the month. For two of the remittances, the 10th was on a weekend and we completed our remittance on the following Monday rather than on the Friday before the 10th. On the other remittance, we had just completed a system conversion and were validating the financial data before we submitted the remittance to DOR; as such, we were unable to complete the remittance by the 10th of the month.

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Observation Number Two:

Based upon our review, we found the Clerk's budgeting practices and expenditure and revenue methodologies for State funds to be efficient and accurate. We concluded the Orange County Clerk's office is currently able to report on all required performance standards. However, the Orange County Clerk's office did not meet or exceed the performance standard for juror payments issued timely for CFY 07-08. 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 Two:

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

Management's Response:

We concur with this recommendation. For the semi-annual reporting period ending March 31, 2008, we had one weekly check run that was issued beyond the twenty day statutory requirement. This was due to a system error when converting the juror list from our Court Administration office to the format needed in our financial system. We were unable to correct and validate the data errors in the file and process the checks within the twenty day period. This was a one-time error and we have met the juror processing standards for all other reporting periods before and since the period noted in this recommendation.

We would like to thank your staff for the professionalism shown during the audit and for their assistance in ensuring our compliance with applicable statutes.

Sincerely,



Michael C. Murphy, CPA
Chief Financial Officer
Orange County Clerk of the Circuit and County Courts

