



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

March 15, 2021

The Honorable Pam Childers
Clerk of Circuit Court
Escambia County
190 West Government Street
Pensacola, Florida 32502

Dear Ms. Childers,

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,

[Redacted signature]

MM/hd

Enclosure



JIMMY PATRONIS CHIEF FINANCIAL OFFICER STATE OF FLORIDA

Florida Department of Financial Services

ESCAMBIA COUNTY CLERK OF THE CIRCUIT COURT COMPLIANCE AUDIT

**Report No. 2021-62
March 12, 2021**

SUMMARY

The Department of Financial Services (DFS) has completed an audit of the Escambia 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 one (1) instance, the expenditure had been improperly allocated as a court-related cost.
- 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.

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.

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 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 Escambia County Clerk of the Circuit Court’s Office covered County Fiscal Year (CFY) 17-18, CFY 18-19, and CFY 19-20. 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 17-18, CFY 18-19, and CFY 19-20 do not include juror expenditures.

Year	Budgeted	Actual
CFY 17-18	\$6,014,557	\$5,704,155
CFY 18-19	\$6,244,314	\$5,720,508
CFY 19-20	\$6,008,368	\$5,769,927

The Escambia County Clerk of the Circuit Court serves a population of 321,134.

The budgeted growth from October 2017 through September 2020 was -0.10%.

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.

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

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

Table 2

Year	Budgeted FTEs	Actual FTEs
CFY 17-18	121.47	96.76
CFY 18-19	121.01	99.26
CFY 19-20	126.01	98.36

The budgeted FTEs increased by 3.74% for the period October 2017 through September 2020.

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.

County Funding

Section 29.008(1)(a), F.S. states counties are required to fund the cost of facilities which include office space, appurtenant equipment, furnishings, and structures for the offices of the Clerks of the Circuit Court. In addition, s. 29.008(1)(a)1, F.S., notes as of July 1, 2005, equipment and furnishings shall be limited to that appropriate and customary for courtrooms, hearing rooms, jury facilities, **and other public areas in courthouses and any other facility occupied by the courts**, state attorneys, public defenders, guardians ad litem, and criminal conflict and civil regional counsel.

- In CFY 19-20, the Clerk's office purchased 172 chairs for Jury assembly for \$21,116, 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)(a), F.S.

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. Upon inquiry, the Clerk’s office was unable to provide supporting documentation for the allocation of employees’ time or administrative expenditures between court and non-court related functions.

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.

Additionally, during our testing of the Clerk’s office administrative expenditures, we noted the following ten (10) instances in which the administrative expenditure allocations were not in accordance with the employee’s FTE allocation resulting in an overcharge to the State of \$3,366.

CFY	Date	Amount	Percentage Allocated to Court	Calculated Amount Allocated to Court	Employee's FTE Allocation Percentage	Calculated Amount to be Allocated based on Employee's FTE Allocation	Amount Over Allocated as Court Costs
17-18	1/12/2018	899.86	70%	629.90	41%	368.94	260.96
18-19	3/1/2019	902.88	100%	902.88	41%	370.18	532.70
18-19	5/16/2019	659.08	70%	461.36	41%	270.22	191.13
18-19	5/16/2019	180.00	70%	126.00	41%	73.80	52.20
18-19	5/16/2019	495.00	100%	495.00	41%	202.95	292.05
18-19	6/21/2019	1,441.47	70%	1,009.03	0%	0.00	1,009.03
19-20	11/7/2019	359.97	100%	359.97	41%	147.59	212.38
19-20	11/7/2019	359.97	100%	359.97	70%	251.98	107.99
19-20	11/7/2019	359.97	100%	359.97	70%	251.98	107.99
19-20	12/23/2019	600.00	100%	600.00	0%	0.00	600.00
Total		6,258.20		5,304.08		1,937.64	3,366.44

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.



Pam Childers

Clerk of the Circuit Court and Comptroller, Escambia County

Clerk of Courts • County Comptroller • Clerk of the Board of County Commissioners • Recorder • Auditor

March 26, 2021

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

RE: Escambia County Clerk of the Circuit Court and Comptroller
Article V Compliance Audit
Report No. 2021-62 dated March 12, 2021

Dear Mr. Merry,

In reference to your letter dated March 15, 2021, please see the following response to the observations and recommendations presented in Audit Report 2021-62.

- *DFS Recommendation:* We recommend the Clerk's office ensure that its court-related expenditures are allowable according to s. 29.008(1)(a), F.S.

Response: The Escambia County Clerk's office has very good controls and training regarding classification of expenditures. This was an error that occurred during a period of hardship given budget cuts, reduced staff, and our ability to hire and retain competent professional staff.

- *DFS Recommendation:* 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.

Response: During budget season departmental managers are asked to evaluate their employees that have split percentages for court and county functions. Managers use a variety of objective measures and also include subjective evaluation for those items that may not have been easily tracked. We will continue to review our allocation methods and apply percentages to the best of our ability.

Should you have any questions or require further information, please do not hesitate to contact us.

Sincerely,



Codey Leigh, General Counsel
Escambia County Clerk of the Circuit Court and Comptroller