

**STATE OF FLORIDA
AUDITOR GENERAL**



COMPLIANCE SUPPLEMENT

**COURT-RELATED BUDGETS
AND PERFORMANCE STANDARDS**

**AUDITS OF
CLERKS OF THE CIRCUIT COURT**

**For the Period
October 1, 2008, through September 30, 2009**

COMPLIANCE SUPPLEMENT
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CLERKS OF THE CIRCUIT COURT
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Background and Purpose

The purpose of this compliance supplement is to assist auditors in identifying the significant compliance issues that impact the operations of the clerks of the circuit courts (clerks) pertaining to the budget compliance and performance measure requirements in Sections 28.35 and 28.36, Florida Statutes.¹ The compliance supplement is intended to serve as a resource for auditors and is not intended to supplant the judgment, or risk assessments, of the independent certified public accountant engaged to perform the audit.

Substantive changes were enacted in the 2009 Legislative session that affect court-related fines, fees, and service charges, as well as the funding mechanism for clerks. The changes affecting Sections 28.35 and 28.36, Florida Statutes, were enacted in [Chapter 2009-204, Laws of Florida](#). Section 28.35, Florida Statutes, establishes the Florida Clerks of Court Operations Corporation (Corporation) and assigns responsibilities to the Corporation, including development of performance measures and standards for clerks' court-related functions; establishes the court-related functions clerks may and may not fund from State appropriations; and requires certified public accountants conducting audits of clerks to report, as part of the audit, whether or not the clerks have complied with the requirements of Sections 28.35 and 28.36, Florida Statutes. Section 28.36, Florida Statutes, establishes the budget procedure for preparing budget requests for funding for the court-related functions of the clerks.

The more significant provisions of Chapter 2009-204, Laws of Florida, effective July 1, 2009, include:

- Except as otherwise provided in Sections 28.241 and 34.041, Florida Statutes, all court-related fines, fees, service charges, and costs are considered State funds and shall be remitted by the clerks to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission. However, 10 percent of all court-related fines collected by the clerks shall be deposited into the clerks' Public Records Modernization Trust Funds to be used exclusively for additional clerk court-related operational needs and program enhancements.
- Clerks will be funded by State appropriation on the State fiscal year (July 1 to June 30). Proposed budgets will be based upon the clerk's 4th quarter of one fiscal year and the first three quarters of the following fiscal year.
- The Corporation is to establish a budget procedure for preparing budget requests for funding for the court-related functions of the clerks. Each clerk shall prepare a proposed budget and submit it to the Corporation by October 1 each year in the manner and form prescribed by the Corporation.
NOTE: for the 2009-10 fiscal year, the Corporation allocated 25% of the appropriated budget to the clerks as of July 1, 2009, and proposed budgets for the remaining three quarters (October 1, 2009, through June 30, 2010) were due to the Corporation by August 17, 2009. Clerks are also required to forward a copy of their budget requests to the Supreme Court.
- The Corporation is responsible for developing and certifying a uniform system of performance measures and applicable performance standards for court-related functions and the service unit costs required in Section 28.36, Florida Statutes, and measures for clerk performance in meeting the performance standards. The Corporation shall develop the performance measures and standards in consultation with the Legislature and the Supreme Court. The Legislature may modify the clerk performance measures and performance standards in legislation implementing the General Appropriations Act.

- The Legislature shall appropriate the total amount for the budgets of the clerks in the General Appropriations Act.
- For the 2009-10 fiscal year, the Corporation shall release appropriations in an amount equal to one-twelfth of each clerk's approved budget each month. Beginning in the 2010-11 fiscal year, The Corporation shall release appropriations to each clerk quarterly and the amount released will be based on the performance of the clerk in the preceding quarter.

¹ Note: Unless otherwise specified, all statutory references are to the [2009 Florida Statutes](#).

Budgets

Compliance Elements

Clerks were required by Section 28.36(2), Florida Statutes (2008), to prepare a budget for each county fiscal year, relating solely to the performance of the standard list of court-related functions listed in Section 28.35(4)(a), Florida Statutes (2008). These functions, for which clerks could use filing fees, service charges, court costs, and fines, include:

- 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
- Payment of expenses for meals and lodging provided to jurors
- Payment of jurors and witnesses
- Data collection and reporting
- Processing of jurors
- Determinations of indigent status
- Reasonable administrative support costs to enable the clerks to carry out these court-related functions

Pursuant to Chapter 2009-204, Laws of Florida, effective July 1, 2009, Section 28.35(4)(a), Florida Statutes (2008), was renumbered as Section 28.35(3)(a), Florida Statutes.

Section 28.35(4)(b), Florida Statutes, prohibited the use of filing fees, service charges, court costs, and fines for:

- Functions not specified above
- Functions assigned by administrative orders which are not required for the clerks to perform the court-related functions specified above
- Enhanced levels of service which are not required for the clerks to perform the court-related functions specified above
- Functions identified as local requirements in law or local optional programs.

Pursuant to Chapter 2009-204, Laws of Florida, effective July 1, 2009, Section 28.35(4)(b), Florida Statutes (2008), was renumbered as Section 28.35(3)(b), Florida Statutes.

Instructions for the preparation of the budget for court-related functions for the county fiscal year ended September 30, 2009, were approved by the Executive Council on April 8, 2008, and provided by the Corporation to the clerks. Revised instructions were subsequently prepared and provided to the clerks as a result of the passage of Chapter 2009-204, Laws of Florida. For the 2009-10 fiscal year, the Corporation allocated 25% of the appropriated budget to the clerks as of July 1, 2009, and proposed budgets for the remaining three quarters (October 1, 2009, through June 30, 2010) were due to the Corporation by August 17, 2009. Clerks were also required to forward a copy of their budget requests to the Supreme Court.

Audit Procedures

The following procedures are recommended for auditors as a basis for determining whether or not the clerks complied with the budget requirements. The auditor may justify and use alternative procedures that provide an equivalent level of assurance as to compliance with these requirements.

1. Obtain and review the clerk's signed "Budget Program Expenditure Certification" provided to the Corporation for the fiscal year ended September 30, 2009. This document may be used in evaluating the allowability of disbursements tested in suggested audit procedure No. 5, below.
2. Obtain the budgets prepared pursuant to Section 28.36, Florida Statutes, and Corporation instructions and verify the budgeted amount to the budget approval letters provided to the clerk by the Corporation.
3. Obtain and review the most recent "Budget Review" report, if available, prepared by the Chief Financial Officer pursuant to Section 28.35(3)(b), Florida Statutes (2008). These reports may be obtained online at http://www.fldfs.com/aadir/localgov/article_v.htm. Consider the results of the review in performing and reporting on the results of the audit.
4. Determine whether the clerk's accounting system could be relied upon to reasonably ensure accurate and complete recording of court-related expenditures consistent with the certified budget and the Uniform Accounting System (UAS) Manual promulgated by the Department of Financial Services (See Appendix B of the "Instructions for Preparation and Submission of Clerks' Article V Budgets for Fiscal Year 2008-09" for UAS code definitions for non-court expenditures and court-related expenditures.)
5. For the period October 1, 2008, through June 30, 2009, verify, on a sample basis, the accuracy of the Court Revenue/Expenditure Tracking Report. Compare the report to the clerk's accounting records and obtain explanations for material differences. Verify that the amounts reported as remitted to the Department of Revenue by the Clerks on the Court Revenue/Expenditure Tracking Report agree with the amounts shown on the Department of Revenue records showing remittances by the Clerks. Also, verify that the amounts remitted by the Clerks agree with the amounts included in the instructions provided by the Corporation. [Note: During this period, clerks were to remit fees in accordance with instructions provided by the Corporation, which provided for a uniform monthly remittance amount based on the projected surplus for the fiscal year and subject to adjustment during the fiscal year.]
6. For the period July 1, 2009, through September 30, 2009, verify, on a sample basis, the accuracy of the Court Expenditure and Clerks' Trust Fund Collections Tracking Report (new form adopted by the Corporation to assist in implementing Chapter 2009-204, Laws of Florida). Compare the report to the clerk's accounting records and obtain explanations for material differences. Verify, on a sample basis, that the amounts reported as remitted to the Department of Revenue (into the Clerks of Court Trust Fund within the Justice Administrative Commission) on this reporting form agree with the amounts shown on the Department of Revenue records showing remittances by the Clerks.
7. For the period October 1, 2008, through September 30, 2009, determine that the total amount due to be remitted to the Department of Revenue by the Clerks was remitted by the Clerks (see

Section 28.37(4), Florida Statutes (2008) and 28.37(2), Florida Statutes (2009)). (NOTE: Pursuant to Chapter 2009-204, Laws of Florida, effective July 1, 2009, all court-related fines, fees, service charges, and costs are considered State funds and shall be remitted by the Clerks to the Department of Revenue for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission. However, 10 percent of all court-related fines collected by the Clerks shall be deposited into the Clerk's Public Records Modernization Trust Fund to be used exclusively for additional clerk court-related operational needs and program enhancements.)

8. Determine whether or not court-related expenditures were kept within the total certified budget, adjusted for any amendments authorized by the Corporation. Request explanations for any budget overexpenditures.
9. Perform a test of disbursements charged to the certified budget and determine whether or not each disbursement was:
 - a. Adequately supported by invoices, payrolls, or other appropriate documentation.
 - b. Charged to the correct account.
 - c. For an authorized function as set forth in Section 28.35(4)(a), Florida Statutes (2008), (renumbered as Section 28.35(3)(a), Florida Statutes, pursuant to Chapter 2009-204, Laws of Florida).
 - d. Not for a prohibited function as set forth in Section 28.35(4)(b), Florida Statutes (2008), (renumbered as Section 28.35(3)(b), Florida Statutes, pursuant to Chapter 2009-204, Laws of Florida).
 - e. Reasonable as to amount.
10. Review and test the clerk's systems for allocating shared costs to court-related functions and for charging indirect costs to such functions to determine whether the systems were in accord with the Corporation's budget instructions and provided for a reasonable and documented allocation of shared and indirect costs to court-related functions.

Performance Measures

Compliance Elements

Section 28.35(2)(e), Florida Statutes(2008), requires the Corporation to develop and certify a uniform system of performance measures and applicable performance standards for court-related functions and clerk performance in meeting the performance standards. These measures and standards are intended to facilitate an objective determination of the performance of each clerk in accordance with minimum standards for fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs. For more information on performance measures and performance standards, see Exhibit G of the "Instructions for Preparation and Submission of Clerks' Article V Budgets for Fiscal Year 2008-2009".

Chapter 2009-204, Laws of Florida, revised Section 28.35(2)(e), Florida Statutes, (including renumbering this section as Section 28.35(2)(d), Florida Statutes) to include a requirement for developing performance measures and standards for service unit costs and to require the Corporation to develop the performance measures and performance standards in consultation with the Legislature and

the Supreme Court. The revision also provides that the Legislature may modify the clerk performance measures and performance standards in legislation implementing the General Appropriations Act or other law and requires the Corporation to notify the Legislature and the Supreme Court of any clerk not meeting performance standards and provide a copy of any corrective action plans.

Output Measures

Performance measures in effect during the period October 1, 2008, through September 30, 2009, consisted of the following output measures:

1. Number of defendants for new and reopened cases for each criminal court division (circuit, county, juvenile delinquency, and traffic).
2. Number of cases filed for new and reopened cases for each civil court division (circuit, county, traffic, circuit probate, family, and juvenile dependency).
3. Number of financial receipts, number of jurors summoned, number of juror payments issued, number of notices of appeal filed, and projected number of reports completed.

Outcome Measures

Timeliness – for criminal court - circuit, county, juvenile delinquency, and traffic cases and for civil court - circuit, county, traffic, circuit probate, family, and juvenile dependency cases

1. Percentage of new cases opened within a specified number of business days after initial documents are clocked in.
2. Percentage of docketed entries entered within a specified number of business days from the clock-in/action taken date.
3. Percentage of juror payments issued within 20 days after completion of jury service (required by Section 40.32, Florida Statutes).

Collection Rates – for criminal court - circuit, county, juvenile delinquency, and traffic cases and for civil court - circuit, county, traffic, circuit probate, and family cases

4. Collection rate percentage (collections divided by adjusted assessments)

Instructions for the calculation of the performance measures were included in the timeliness and collection rate business rules provided by the Corporation.

Fiscal Management Measures and Standards

In addition to the output and the outcome measures, the Corporation established nine fiscal management measures and standards that address the establishment of various financial management systems and the filing of certain required reports.

Audit Procedures

The following procedures are recommended for auditors in determining whether or not the clerks complied with the performance measurement requirements. The auditor may justify and use alternative procedures that provide an equivalent level of assurance as to compliance with these requirements.

1. Evaluate the ability of the processes established and implemented by the clerk for collecting and reporting performance data information to provide information that is timely and accurate.
2. For those counties where the Florida Association of Court Clerks (FACC) performed performance measure calculations on behalf of the clerk, obtain the necessary information from the FACC to allow the application of audit procedures necessary to a determination of compliance with the performance measure requirements. Verify that clerks reported performance measure data for all categories included within the reporting period for the performance measures adopted by the Corporation (see Instructions for Preparation and Submission of Clerks' Article V Budgets for Fiscal Year 2008-09, Exhibit G).

Output Measures

3. For the audit period, verify the number of new and reopened civil cases filed, by court; the number of defendants for new and reopened criminal court cases filed, by court; the number of financial receipts; the number of jurors summoned; the number of juror payments issued; and the number of notices of appeal filed as reported to the Corporation.
4. For outputs, compare the projected performance measures filed as part of the budget submission process with the actual performance measures (as verified in Audit Procedure 3, above) and obtain explanations for significant differences. In the event of significant differences without satisfactory explanations, evaluate the estimation procedures for the purpose of recommending improvements.
5. Select samples of reported defendants, civil cases, financial receipts, jurors summoned, juror payments, and notices of appeal and determine that they were properly reported as to classification by court and properly counted as provided in the budget instructions.

Timeliness and Collection Rate Outcome Measures

6. For timeliness and collection rate outcome measures, compare the actual performance measures reported by the clerk to the performance standards included on the clerk's budget documents (see Exhibit G of the "Instructions for Preparation and Submission of Clerks' Article V Budgets for Fiscal Year 2008-2009").. In the event of significant underachievement of performance measures, obtain explanations from the clerk.
7. Select samples of new cases opened during the period October 1, 2008, through September 30, 2009, and verify, by court, the reported numbers of business days between the initial clocking of documents and the opening of the related cases and the reported number of

business days from clock-in/action taken day until processing date. Also, select a sample to test the timeliness of juror payments.

8. Verify the collection rate calculations reported by the clerk for a sample of the assessments and collections reported during the reporting period. For civil courts, this calculation should be made using all collections during that period for cases filed during the period. For criminal courts, the calculations should be made using all collections during that period for cases for which assessments were made during the period, regardless of when the cases were filed.
9. Using the samples in 7, above, or separate samples as needed, verify the collection status of each case as of September 30, 2009, and determine whether the cases and related collections were correctly considered in the calculation of the applicable collection rate.

Fiscal Management Measures and Standards

10. Verify the accuracy of the responses provided to the Corporation regarding the standards adopted by the Corporation.

Other

11. For the 3-month period July 1, 2009, through September 30, 2009, if a clerk has not met the performance standards and the Corporation has notified the clerk, pursuant to Section 28.35(2)(d), Florida Statutes, identifying the nature of each deficiency and any corrective action recommended and taken by the affected clerk, determine whether the clerk has taken the recommended corrective action.

Reporting Considerations

Auditor General Rule 10.554(1)(i)8. requires that the management letter include statements as to whether or not the clerk complied with the the requirements of Section 28.35 and 28.36, Florida Statutes.

Compliance with the budgets and performance standards is dependent on the establishment of effective processes for recording and accumulating budget, expenditure, and performance data and the complete and accurate recording, reporting, and documentation of such information. Any reporting of noncompliance with these requirements should include audit findings that address the circumstances of the noncompliance. Even where a determination of overall compliance is made, any deficiencies noted by the auditor in the processes for accumulating and reporting budget, expenditure, and performance data should be included in the management letter findings. All findings should include the specific information required by Auditor General Rule 10.557(4)(d). Examples of findings that may be reported include, but are not limited to:

Lack of adequate systems in place for the accumulation and reporting of budget, expenditure, or performance data

Incorrect recording of budget, expenditure, or performance data

Incorrect reporting of budget, expenditure, remittance, or performance data

Expenditures of court-related revenues or State appropriations for unauthorized purposes

Incorrect accumulation of data or calculation of measures

Budget overexpenditures

Failure to report performance measure information to the Corporation

Failure to achieve performance measurement standards