

State of South Carolina Office of the Governor

NIKKI R. HALEY GOVERNOR

OFFICE OF EXECUTIVE POLICY AND PROGRAMS

May 29, 2015

Mayor Tim Grimsley Town of Cottageville PO Box 57 Cottageville, SC 29435

Dear Mayor Grimsley:

The State Office of Victims Assistance (SOVA) is sending this notice to inform you that we have completed the Programmatic Review and Financial Audit for the Town of Cottageville's Victim Assistance Program and a copy of official report is attached for your review. Due to Proviso 117.55, SOVA is now legislatively mandated to conduct programmatic reviews on any entity or non-profit organization receiving victim assistance funding to ensure that the crime victim funds are expended in accordance with the law.

Once again enclosed is a copy of our audit results. Please be advised that all SOVA audits and follow-up reports are public information. You will have 5 business days from the completion date stated on the front of this report to provide me with a written response. At the end of 5 business days, this report will be posted on the SOVA website at www.sova.sc.gov under the SOVA auditing tab.

Should you have any further questions or concerns, please feel free to contact me or Mr. Dexter Boyd at (803)734-1900.

Sincerely,

Larry Barker, Ph.D.

Director

Cc: Chief Charles Long Ms. Sandy Cox



Office of the Governor State Office of Victim Assistance

May 29, 2015

Programmatic Review and Financial Audit of the Town of Cottageville Victim Assistance FFA Fund

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Acronyms:

FFA – Fines, Fees, and Assessment SOVA – State Office of Victims Assistance SCLEVA – South Carolina Law Enforcement Victim Advocate VAFFA- Victim Assistance Fines Fees and Assessment

Introduction and Laws

PREFACE

This programmatic review and financial audit was initiated in response to a State Office of Victim Assistance's (SOVA) concerns regarding the Victim Assistance Fines, Fees and Assessment fund. On January 28, 2015, the Director of SOVA issued a letter to the County Administrative Office and the Sheriff's Department to inform them of the Town of Cottageville's Victim Assistance Funds audit. The audit was conducted on February 27, 2015.

Governing Laws and Regulations

Proviso 117.55

General Provision 117.55. (GP: Assessment Audit/Crime Victim Funds)

If the State Auditor finds that any county treasurer, municipal treasurer, county clerk of court, magistrate, or municipal court has not properly allocated revenue generated from court fines, fines, and assessments to the crime victim funds or has not properly expended crime victim funds, pursuant to Sections 14-1-206(B)(D), 14-1-207(B)(D), 14-1-208(B)(D), and 14 1-211(B) of the 1976 Code, the State Auditor shall notify the State Office of Victim Assistance. The State Office of Victim Assistance is authorized to conduct an audit which shall include both a programmatic review and financial audit of any entity or non-profit organization receiving victim assistance funding based on the referrals from the State Auditor or complaints of a specific nature received by the State Office of Victim Assistance to ensure that crime victim funds are expended in accordance with the law. Guidelines for the expenditure of these funds shall be developed by the Victim Services Coordinating Council. The Victim Services Coordinating Council shall develop these guidelines to ensure any expenditure which meets the parameters of Article 15, Chapter 3, Title 16 is an allowable expenditure. Any local entity or non-profit organization that receives funding from revenue generated from crime victim funds is required to submit their budget for the expenditure of these funds to the State Office of Victim Assistance within thirty days of the budget's approval by the governing body of the entity or non-profit organization.

Proviso 117.55 (cont.)

Failure to comply with this provision shall cause the State Office of Victim Assistance to initiate a programmatic review and a financial audit of the entity's or non-profit organization's expenditures of victim assistance funds. Additionally, the State Office of Victim Assistance will place the name of the non-compliant entity or non-profit organization on their website where it shall remain until such time as they are in compliance with the terms of this proviso. Any entity or non-profit organization receiving victim assistance funding must cooperate and provide expenditure/program data requested by the State Office of Victim Assistance. If the State Office of Victim Assistance finds an error, the entity or non-profit organization has ninety days to rectify the error. An error constitutes an entity or non-profit organization spending victim assistance funding on unauthorized items as determined by the State Office of Victims Assistance. If the entity or non-profit organization fails to cooperate with the programmatic review and financial audit or to rectify the error within ninety days, the State Office of Victim Assistance shall assess and collect a penalty in the amount of the unauthorized expenditure plus \$1,500 against the entity or non-profit organization for improper expenditures. penalty plus \$1,500 must be paid within thirty days of the notification by the State Office of Victim Assistance to the entity or non-profit organization that they are in noncompliance with the provisions of this proviso. penalties received by the State Office of Victim Assistance shall be credited to the General Fund of the State. If the penalty is not received by the State Office of Victim Assistance within thirty days of the notification, the political subdivision will deduct the amount of the penalty from the entity or non-profit organization's subsequent fiscal year appropriation.

Proviso 97.9

97.9 (TREASURY: Penalties for Non-reporting)

If a municipality fails to submit the audited financial statements required under Section 14- 1-208 of the 1976 Code to the State Treasurer within thirteen months of the end of their fiscal year, the State Treasurer must withhold all state payments to that municipality until the required audited financial statement is received.

Proviso 97.9 (cont.)

If the State Treasurer receives an audit report from either a county or municipality that contains a significant finding related to court fine reports or remittances to the Office of State Treasurer, the requirements of Proviso 117.55 shall be followed if an amount due is specified, otherwise the State Treasurer shall withhold twenty-five percent of all state payments to the county or municipality until the estimated deficiency has been satisfied.

If a county or municipality is more than ninety days delinquent in remitting a monthly court fines report, the State Treasurer shall withhold twenty-five percent of state funding for that county or municipality until all monthly reports are current.

After ninety days, any funds held by the Office of State Treasurer will be made available to the State Auditor to conduct an audit of the entity for the purpose of determining an amount due to the Office of State Treasurer, if any.

SC Code of Law Title14

Courts – General Provisions

Collection/Disbursement of Crime Victim Monies at the Municipal & County Levels: below is a brief synopsis of applicable sections.

- Sec. 14-1-206, subsection(s) A, B & D: A person who is convicted of, pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in general sessions court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. The county treasurer must remit 35.35 % of the revenue generated by the assessment imposed in general sessions to the county to be used exclusively for the purpose of providing direct victim services and remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month.
- Sec. 14-1-207 Subsection(s) A, B & D: A person who is convicted of, pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in magistrate's court must pay an amount equal to 107.5 percent of the fine imposed as an assessment.

- Sec. 14-1-207 Subsection(s) A, B & D (cont): The county treasurer must remit 11.16 % of the revenue generated by the assessment imposed in magistrate's court to the county to be used exclusively for the purpose of providing direct victim services and remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month.
- Sec. 14-1-208 Subsection(s) A, B & D: A person who is convicted of, pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in municipal's court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. The county treasurer must remit 11.16 % of the revenue generated by the assessment imposed in municipal court to the county to be used exclusively for the purpose of providing direct victim services and remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month.
- Sec. 14-1-211 Subsection A, B, &D: A one hundred dollar surcharge is imposed on all convictions obtained in general sessions court and a twenty-five dollar surcharge is imposed on all convictions obtained in the magistrate's and municipal court must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer. Any funds retained by the county or city treasurer must be deposited into a separate account for the exclusive use for all activities related to those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts. These funds must be used for, but are not limited to, salaries, equipment that includes computer equipment and internet access, or other expenditures necessary for providing services to crime victims. All unused funds must be carried forward from year to year and used exclusively for the provision of services to the victims of crime. funds must be separately identified in the governmental entity's adopted budget as funds unused and carried forward from previous years.

SC Code of Law Title14 (cont)

Sec. 14-1-207 Subsection(s) A, B & D (cont): To ensure that surcharges imposed pursuant to this section are properly collected and remitted to the city or county treasurer, the annual independent external audit required to be performed for each municipality and each county must include a review of the accounting controls over the collection, reporting, and distribution of surcharges from the point of collection to the point of distribution and a supplementary schedule detailing all surcharges collected at the court level, and the amount remitted to the municipality or county.

The supplementary schedule must include the following elements:

- (a) All surcharges collected by the clerk of court for the general sessions, magistrates, or municipal court;
- (b) The amount of surcharges retained by the city or county treasurer pursuant to this section;
- (c) The amount of funds allocated to victim services by fund source; and
- (d) How those funds were expended, and any carry forward balances.

The supplementary schedule must be included in the external auditor's report by an "in relation to" paragraph as required by generally accepted auditing standards when information accompanies the basic financial statements in auditor submitted documents.

AUDIT OBJECTIVES

The SC State Legislative Proviso 117.55 mandates the State Office Victim Assistance to conduct programmatic reviews on any entity or non-profit organization receiving victim assistance funding to ensure that the crime victim funds are expended in accordance with the law.

Audit Objectives were;

- To determine if the Town of Cottageville has contacted the State Treasurer's Office regarding the arrangements made to repay remittances owed to the State.
- To determine if there was justification for the town to purchase a vehicle using the VAFFA fund and was it used for direct victim services.
- To determine if services provided to crime victims is in accordance with State law.

RESULTS IN BRIEF

State Treasurer's Repayment Plan

No, the Town of Cottageville has not contacted the State Treasurer's Office regarding the agreement to repay courtgenerated revenue owed to the State.

Victim Advocate Vehicle

No, there was no justification for the town to purchase a vehicle using the VAFFA fund because of the minimal number of victims assisted by the victim advocate each year. However, the vehicle has been noted as being used for direct victim services on an as needed basis.

Victim Service Program

Yes, services are provided to crime victims in accordance with State law. However; during the audit site visit, several options were discussed with the town regarding how services could be provided in the future.

A. State Treasurer's Repayment Plan

Objective

Has the Town of Cottageville contacted the State Treasurer's Office regarding the arrangements made to repay remittances owed to the State?

Conclusion

No, the town has not contacted the State Treasurer's Office regarding the agreement to repay court-generated revenue owed to the State.

Background

The Town of Cottageville's State Auditor's Report for the Period July 1, 2010 Through June 30, 2013.

SOVA's 90 Day Follow-up Audit for The Town of Cottageville's State Auditor's Report for the Period July 1, 2010 Through June 30, 2013.

Discussion

Prior to conducting this audit, the State Auditor's Office and the State Office of Victim Assistance (SOVA) noted in the Town of Cottageville's State Auditor's Report for the period July 1, 2010 through June 30, 2013 and SOVA's 90 Day Follow-up Audit for The Town of Cottageville's State Auditor's Report that the Town of Cottageville was delinquent in remitting court-generated revenue owed to the State. Additionally, the State Auditor's Report for period ending June 30, 2015 recommended the town remit the revenue owed to the State. During the State 90 Day Followup audit conducted by SOVA, the auditor noted during several interviews with the Mayor, Chief of Police and Town Clerk that the town had an agreement in place with the State Treasurer's Office to repay the revenue owed to the State. However, when the SOVA auditor inquired about the details of the agreement, the Mayor, Chief of Police nor the Town Clerk knew the specific terms of what the agreement was or the status of the town in the payment plan process. On February 27, 2015 during the audit site visit, the Town Judge and Clerk were asked to provide documentation outlining the repayment agreement details. At that time, the Mayor and Town Clerk confirmed that a repayment plan agreement was put in place.

However, they were not sure if the amount stated in the most recent State Auditor's Report was included in the original agreement because the agreement was put in place prior to the State Audit Report being completed. Also, they did not have any documentation.

Therefore, in an effort to provide technical assistance and ensure the Mayor, Town Clerk and Police Chief are aware of the details of the agreement; the auditor asked the town to contact the State Treasurer's Office and request information regarding the repayment agreement. This information was to include the total amount owed to the State, how much has been remitted and how the funds would be repaid. The auditor requested the information be forwarded to SOVA. After not receiving the requested information, the SOVA auditor contacted the State Treasurer's Office to see if the Mayor or Town Clerk had contacted them as recommended during the audit site visit. The auditor received an email from the State Treasurer's Office stating "We have not been contacted by any representative from the Town of Cottageville regarding these matters."

The State Treasurer's Office also submitted the following details which outlined the current repayment agreement they have with the Town of Cottageville:

- \$5,000.00 is being withheld each quarter from the town and applied to the debt owed to the State.
- 25% of all state funding is being withheld from the town in accordance with Proviso 97.9. (These funds will be released to the town once all delinquent court generated revenue has been repaid).
- The total delinquent amount as of February 2015 is \$845,180.69.
- The amount currently being withheld from the town is \$61,783.40.
- The balance in court generated revenue still owed to the State as of January 31, 2015 is \$740,189.69.

To ensure the town is kept up to date and aware of the details of the current repayment agreement, it is recommended the Town Mayor, Chief and or Town Clerk/Court Clerk initiate and maintain regular contact with the State Treasurer's Office in an effort to gain knowledge, full understanding and comprehension of the repayment plan regarding the delinquent funds being paid in full.

Therefore, the Town Mayor, Chief and or Town Clerk/Court Clerk is required to request and maintain proper documentation from the State Treasurer's Office outlining the repayment status updates on an annual basis. Also, the town is required to maintain proper documentation outlining what the payment status is on an annual basis and follow up as needed to ensure that all parties are informed of the necessary information regarding this matter.

Recommendation(s) and Comments

A-1

It is recommended that the Town Mayor, Chief and or Town Clerk/Court Clerk initiate and maintain regular contact with the State Treasurer's Office in an effort to gain knowledge, full understanding and comprehension of the repayment plan regarding the delinquent funds being paid in full. Therefore, the Town Mayor, Chief and or Town Clerk/Court Clerk is required to request and maintain proper documentation from the State Treasurer's Office outlining the repayment status updates on an annual basis. They must also show documentation where they have notated and contacted the State Treasurer's Office.

During the 90 Day Follow-up Programmatic Review documentation must be submitted to the auditor showing that contact has been made and show status of the conversation regarding the payment plan and repayment of funds owed to the State.

B. Victim Advocate Vehicle

Objective

Was there justification for the town to purchase a vehicle using the VAFFA fund? Also, was the vehicle used for direct victim services?

Conclusion

No, there was no justification for the town to purchase a vehicle using the VAFFA fund because of the minimal number of victims assisted by the victim advocate each year. However, the vehicle has been noted as being used for direct victim services on an as needed basis.

Background

The Town of Cottageville's State Auditor's Report for the period July 1, 2010 through June 30, 2013.

SOVA's 90 Day Follow-up Audit for The Town of Cottageville's State Auditor's Report for the period July 1, 2010 through June 30, 2013.

Discussion

While conducting the SOVA Budget Review Phase for FY 12-13, it was noted that the Town of Cottageville's Victim Assistance budget listed a "Victim Advocate Car." The auditor reviewing the town's file called on January 18, 2013 to inquire about the car because the file indicated the advocate was part time. The Town Clerk stated they had purchased the vehicle in November 2012 from the Victim Assistance Fines Fees and Assessment (VAFFA) Fund but had not used the vehicle yet. At that time, the auditor requested some additional information regarding the vehicle. On July 1, 2013 after receiving and reviewing the requested information, the Town Clerk was notified that since the Victim Advocate was only part time and had very little activity providing direct victim services, there was no justification for the town to have purchased the vehicle. Therefore, the auditor recommended the vehicle be sold for the Fair Market Value (FMV) and the proceeds placed back into the Victim Assistance Fund. The Town Clerk stated that she would speak with the Mayor about the issue and have him follow up with SOVA. On July 9, 2013, a follow up call was made to the Chief reiterating the sale of the vehicle and why it was necessary. Also, several messages were left on July 11th and October 18th again reiterating the sale of the vehicle.

Additionally, on January 10, 2014, a letter was sent to the Chief to update SOVA on the status of the sale of the vehicle. On January 13, 2014 the Town Clerk called and stated the vehicle had not been scheduled to be sold and that the Chief would call me when he returned to the office. However, there was no immediate returned phone call from the Chief.

During a follow up telephone conversation on January 17, 2014, the Chief stated he would put the vehicle up for sale in the paper that week. On March 13, 2014 while speaking with the Town Clerk, the auditor requested a copy of documentation verifying the car was up for sale. However, documentation was not received. Therefore, an additional request was made on March 19th by the auditor since the documentation had not been submitted to SOVA. Again there was no documentation submitted to SOVA. Another call was made on May 29, 2014 by the auditor who spoke with the Town Clerk. She stated the vehicle had not been sold but was parked on a nearby lot and was for sale. She was notified at that time we would follow up with the status of the sale.

Again on June 3, 2014, SOVA contacted the Town Clerk and Mayor letting them know the vehicle needed to be sold. At that time, the Mayor requested something in writing stating the vehicle needed to be sold and he also stated that he did not feel the town should have to sell the vehicle even though during previous conversations it was noted they did not have justification for the purchase.

Several additional calls were made by SOVA and messages left regarding an updated status of the vehicle on June 5 and August 8th. However, again there was no response. On the site visit date, February 27, 2015, SOVA auditors discussed and explained in depth again to the Town Mayor, Chief and Town Clerk why the vehicle needed to be sold. The Town Mayor stated that a local car dealership made an offer to buy the vehicle. He was informed at that time that research would need to be conducted to determine the value of the vehicle.

Therefore, after returning to the office and researching the value of the vehicle and discussing it with management, it was agreed the town could sell the vehicle to the local dealer and place the proceeds from the sale into the victim assistance account.

It was determined that according to Kelly Blue Book, the Fair Market Value would be \$2,800.00. On March 13, 2015, the Town Clerk submitted a copy of the check for \$2,600.00 from the car dealership showing the car had been sold. In addition, a copy of the bank statement was submitted on May 6, 2015 showing the \$2,600.00 was placed into the victim assistance bank account.

Recommendation(s) and Comments

B-1 No further recommendations at this time.

C. Victim Services Options

Objective

Are services provided to crime victims in accordance with State law?

Conclusion

Yes, services are provided to crime victims in accordance with State law. However; during the audit site visit, several options were discussed with the town regarding how services could be provided in the future.

Background

The Town of Cottageville's State Auditor's Report for the period July 1, 2010 through June 30, 2013.

SOVA's 90 Day Follow-up Audit for The Town of Cottageville's State Auditor's Report for the period July 1, 2010 through June 30, 2013.

Discussion

Prior to conducting this audit, on January 18, 2013, the Town of Cottageville was required to maintain Time and Activity Sheets in order to determine an allowable percentage that could be paid from the Victim Assistance Fund toward the advocate's salary providing direct victim services. Because the advocate was part time and had additional duties, the Time and Activity Sheets are vital. While making requests for the town to submit copies of the completed Time and Activity Sheets on May 16, 2013, the Town Clerk stated there had been no victim assistance activity. Also, on January 17, 2014 when asked to submit Time and Activity Sheets, the Chief stated there had been no victim activity to document as it relates to providing direct victim services.

After a year, the town submitted Time and Activity Sheets that included victim assistance activity and 3.5% was determined to be the allowable percentage calculated by SOVA. Because the town had so few victim assistance activities, it was recommended during the audit site visit that the town consider developing a contract with a neighboring municipality or county to provide victim services. They were encouraged to do so immediately to ensure services are available if warranted.

The SOVA auditor explained the contract process and procedure as well as notified the Mayor, Town Clerk and Chief of the information that should be placed in the contract, such as fund transfers, updated job descriptions and monthly, quarterly and year-end reports provided to the town etc. While discussing the contract as an option, the Town Mayor mentioned several possible local agencies that the town may consider contracting with for victim services. The auditor encouraged this type of partnership to ensure all crime victims are provided with the proper services.

Also, while conducting the audit site visit, the Town Mayor mentioned using the funds to possibly develop a shelter or other non-profit organization. The SOVA auditor explained that this was unallowable because he would need staff to work in the shelter and coordinate services for victims. Also, he must ensure proper guidelines are followed and would have major responsibilities and accountability as the Town Mayor and managing a shelter which did not appear to be in the best interest of the town. However, the auditor encouraged the Mayor to explore the option of donating funds to an already existing nearby non-profit organization or shelter that provided direct services to victims of the Town of Cottageville or could provide assistance if needed. In addition, technical assistance was provided by explaining the Donation Form and documentation that is required if the town wished to proceed with donating the victim assistance funds in this manner.

Recommendation(s) and Comments

C-1

It is recommended the town consider developing and implementing a contract with a neighboring municipality or county to provide direct victim services to crime victims. They are also to immediately contact the other agencies and provide documentation showing the status of the contact that was made.

D. Technical Assistance

Documentation Provided

During our site visit we explained and provided the following documents:

- 1. Copy of the Legislative Proviso 117.55
- 2. Copy of the Legislative Proviso 97.9
- 3. Copy of a Sample Budget
- 4. Sample Staff Hired Report
- 5. Sample Time and Activity Report
- 6. Sample Expenditure Report
- 7. Victim Advocate Procedural Manuel
- 8. Copy of 2013 Approved Guidelines
- 9. Technical Assistance and Support

Other Matters

There are no other matters.

Corrective Action

Proviso 117.55 states:

"If the State Office of Victim Assistance finds an error, the entity or non-profit organization has ninety days to rectify the error. An error constitutes an entity or non-profit organization spending victim assistance funding on unauthorized items as determined by the State Office of Victims Assistance. If the entity or non-profit organization fails to cooperate with the programmatic review and financial audit or to rectify the error within ninety days, the State Office of Victim Assistance shall assess and collect a penalty in the amount of the unauthorized expenditure plus \$1,500 against the entity or non-profit organization for improper expenditures. This penalty plus \$1,500 must be paid within thirty days of the notification by the State Office of Victim Assistance to the entity or non-profit organization that they are in non-compliance with the provisions of this proviso. All penalties received by the State Office of Victim Assistance shall be credited to the General Fund of the State. If the penalty is not received by the State Office of Victim Assistance within thirty days of the notification, the political subdivision will deduct the amount of the penalty from the entity or non-profit organization's subsequent fiscal year appropriation.

The Town of Cottageville was informed at the site visit conclusion that there appeared to have been some errors as noted in this report. The findings were reviewed with the Town Mayor, Town Clerk and Chief of Police. They were advised that this Programmatic Review and Financial Audit will warrant the need for further discussion with management and unless otherwise noted, the 90 Day window to correct all errors will begin 5 business days following the completion date noted on this final report.

The site visit was completed on February 27, 2015. The final report was issued to the Town of Cottageville on May 29, 2015.

In August 2015, the auditor will schedule to meet with applicable departments in the Town of Cottageville for the 90 Day Follow-up Review of errors found in this report.

Official Post-Audit Response

The County/City has 5 business days from the date listed on the front of this report to provide a written response to the <u>SOVA Director</u>:

Larry Barker, Ph.D. 1205 Pendleton St., Room 401 Columbia, SC 29201

At the end of the five day response period, this report and all post-audit responses (located in the Appendix) will become public information on the State Office of Victim Assistance (SOVA) website:

www.sova.sc.gov



State of South Carolina Office of the Governor

NIKKI R. HALFY GOVERNOR

OLFICE OF EXECUTIVE POLICY AND PROGRAMS

| Programmatic Review Completed by: | | | |
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| Dexter L. Boyd, Lead Auditor | 5/29/15 | | |
| Dexier L. Boyd, Lead Additor | Date | | |
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| Reviewed by: | | | |
| Rulelle Schelan O | 5/29/15 | | |
| Richelle A. Copeland, Sr. Additor | Date | | |
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| Ethel Douglas Ford, CPM, Deputy Director | D ate | | |
| Le Barke | 5/29/15 | | |
| Larry Barket, Ph.D. Director | Date | | |
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