

**TOWN OF COTTAGEVILLE MUNICIPAL COURT
COTTAGEVILLE, SOUTH CAROLINA**

**STATE AUDITOR'S REPORT
FOR THE PERIOD JULY 1, 2010
THROUGH JUNE 30, 2013**

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State of South Carolina



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INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

November 26, 2013

The Honorable Nikki R. Haley, Governor
State of South Carolina
Columbia, South Carolina

The Honorable Peter A. Constantine, Municipal Judge
Cottageville Municipal Court
Cottageville, South Carolina

Ms. Sandy Cox, Town Clerk/Clerk of Court
Town of Cottageville
Cottageville, South Carolina

We have performed the procedures described below, which were agreed to by the Town of Cottageville and the Town of Cottageville Municipal Court, solely to assist you in evaluating the performance of the Town of Cottageville Municipal Court for the period July 1, 2010 through June 30, 2013, in the areas addressed. The Town of Cottageville and the Town of Cottageville Municipal Court are responsible for its financial records, internal controls and compliance with State laws and regulations. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the Town of Cottageville and the Town of Cottageville Municipal Court. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures and the associated findings are as follows:

1. **Clerk of Court**

- We gained an understanding of the policies and procedures established by the Clerk of Court to ensure proper accounting for all fines, fees, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- We obtained certain judgmentally selected final court dockets from the Municipal Clerk. We randomly selected twenty-five cases from the final court dockets and recalculated the fine, fee, assessment and surcharge calculation to ensure that the fine, fee, assessment or surcharge was properly allocated in accordance with applicable State law. We also determined whether the fine, fee, assessment and/or surcharge adhered to State law and to the South Carolina Court Administration fee memoranda.

The Honorable Nikki R. Haley, Governor
and
The Honorable Peter A. Constantine, Municipal Judge
Ms. Sandy Cox, Town Clerk/Clerk of Court
Town of Cottageville
November 26, 2013

Our findings as a result of these procedures are presented in Adherence to Fine Guidelines, Conviction Surcharge and Installment Fee in the Accountant's Comments section of this report.

2. **Town Clerk**

- We gained an understanding of the policies and procedures established by the Town to ensure proper accounting for court fines, fees, assessments, surcharges, forfeitures, escheatments, or other monetary penalties.
- We obtained copies of all State Treasurer's Revenue Remittance Forms submitted by the Town for the period July 1, 2010 through June 30, 2013. We agreed the line item amounts reported on the State Treasurer's Revenue Remittance Forms to the monthly court remittance reports and to the State Treasurer's receipts. We also agreed the total revenue due to the State Treasurer to the general ledger.
- We determined if the State Treasurer's Revenue Remittance Forms were submitted in a timely manner to the State Treasurer in accordance with State law.
- We verified that the amounts reported by the Town on its supplemental schedule of fines and assessments for the fiscal years ended June 30, 2011 and June 30, 2012, agreed to the State Treasurer's Revenue Remittance Forms and to the Town's general ledger. We also determined if the supplemental schedule of fines and assessments contained all required elements in accordance with State law.

Our findings as a result of these procedures are presented in State Treasurer's Revenue Remittance Form and Supplementary Schedule in the Accountant's Comments section of this report.

3. **Victim Assistance**

- We gained an understanding of the policies and procedures established by the Town to ensure proper accounting for victim assistance funds.
- We made inquiries and performed substantive procedures to determine that any funds retained by the Town for victim assistance were accounted for in a separate account.
- We tested all victim assistance expenditures to ensure that the Town expended victim assistance funds in accordance with State law and South Carolina Court Administration Fee Memoranda, Attachment L.
- We determined if the Town reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with State law.
- We inspected the Town's general ledger to determine if the Victim Assistance Fund balance was retained as of June 1 from the previous fiscal year in accordance with State law.

Our finding as a result of these procedures is presented in Accounting for Victim Assistance Funds in the Accountant's Comments section of this report.

The Honorable Nikki R. Haley, Governor
and
The Honorable Peter A. Constantine, Municipal Judge
Ms. Sandy Cox, Town Clerk/Clerk of Court
Town of Cottageville
November 26, 2013

4. **Status of Prior Findings**

- We inquired about the status of findings reported in the Accountant's Comments section of the State Auditor's Report for the period July 1, 2008 through June 30, 2010, and dated September 30, 2010, to determine if the Town had taken adequate corrective action.

Our findings as a result of these procedures are presented in Adherence to Fine Guidelines, Conviction Surcharge, State Treasurer's Revenue Remittance Form, Supplementary Schedule and Accounting for Victim Assistance Funds in the Accountant's Comments section of this report.

We were not engaged to and did not conduct an audit, the objective of which would be the expression of an opinion on compliance with the collection and distribution of court generated revenue at any level of court for the period July 1, 2010 through June 30, 2013, and, furthermore, we were not engaged to express an opinion on the effectiveness of internal controls over compliance with the laws, rules and regulations described in paragraph one and the procedures of this report. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Governor, Chairman of the House Ways and Means Committee, Chairman of the Senate Finance Committee, Chairman of the House Judiciary Committee, Chairman of the Senate Judiciary Committee, members of the Town of Cottageville Town Council, Town of Cottageville Municipal Judge, Town of Cottageville Clerk/Clerk of Court, State Treasurer, State Office of Victim Assistance, and the Chief Justice and is not intended to be and should not be used by anyone other than these specified parties.



Richard H. Gilbert, Jr., CPA
Deputy State Auditor

ACCOUNTANT'S COMMENTS

SECTION A – VIOLATIONS OF STATE LAWS, RULES OR REGULATIONS

Management of the entity is responsible for establishing and maintaining internal controls to ensure compliance with State Laws, Rules or Regulations governing court collections and remittances. The procedures agreed to by the entity require that we plan and perform the engagement to determine whether any violations of State Laws, Rules or Regulations occurred.

The conditions described in this section have been identified as violations of State Laws, Rules or Regulations.

ADHERENCE TO FINE GUIDELINES

We selected twenty-five cases from the final court dockets to ensure that the fine, fee, assessment and/or surcharge levied by the Municipal Court adhered to State law. Based on the tests performed, we noted the following instances in which the judge assessed fines above the maximum set by State law:

1. An individual was fined \$30.00 for a seatbelt violation. Section 56-5-6540 (A) of the 1976 South Carolina Code of Laws, as amended, states, "A person who is adjudicated to be in violation of the provisions of this article must be fined not more than twenty-five dollars, no part of which may be suspended."
2. An individual was fined \$25.06 for speeding 10 mph or less over the speed limit. Section 56-5-1520(G) of the 1976 South Carolina Code of Laws, as amended, states, "A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows: (1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars."

The Town Clerk/Clerk of Court stated the first instance was due to the former clerk and judge misunderstanding the fine, and the second instance was due to oversight.

We recommend the Municipal Court develop and implement procedures to ensure that fines levied by the court adhere to applicable State law.

CONVICTION SURCHARGE

During our test of Municipal Court collections and remittances, we noted one instance where the Court did not assess and collect the \$25 conviction surcharge as required by State law.

Section 14-1-211 (A)(1) of the 1976 South Carolina Code of Laws, as amended, states, "In addition to all other assessments and surcharges...a twenty-five dollar surcharge is imposed on all convictions obtained in...municipal courts in this State. No portion of the surcharge may be waived, reduced, or suspended." This section does not apply to misdemeanor traffic or parking violations.

The Town Clerk/Clerk of Court stated she was unsure as to why the Court's accounting system (LawTrak) did not assess the conviction charge.

We recommend the Municipal Court implement procedures to ensure the conviction surcharge is properly assessed and collected in accordance with State law.

INSTALLMENT FEE

During our test of Municipal Court collections and remittances, we noted one instance where the Court did not assess and collect the three percent installment fee from an individual who paid in installments.

Section 14-7-725 of the 1976 South Carolina Code of Laws, as amended, states, "...where criminal fines, assessments, or restitution payments are paid through installments, a collection cost charge of three percent of the payment also must be collected by the clerk of court, magistrate, or municipal court from the defendant...".

The Town Clerk/Clerk of Court stated this was due to oversight.

We recommend the Municipal Court implement procedures to ensure the installment fee is assessed and collected in accordance with State law.

STATE TREASURER'S REVENUE REMITTANCE FORM

During our testing of the Town's State Treasurer's Revenue Remittance Forms (STRRF), we noted seventeen out of thirty-six STRRF were not submitted to the State Treasurer by the fifteenth day of each month as required by State law. The forms were submitted from three days to approximately fifteen months late. The remaining nineteen STRRF were completed by Town personnel; however, the Town could not provide us with the State Treasurer's Receipt to document the STRRF had been submitted or received. We also noted during our testing that the amounts reported on the Town's November 2011 STRRF did not agree to the Town's court accounting records.

To determine the amount that the Town underreported to the State, we prepared a Schedule of Court Fines and Fees for the 36 months ended June 30, 2013. See Schedule at Attachment 1.

The Town Clerk/Clerk of Court stated that the Town did not consistently submit its STRRF and associated court-generated revenue to the State Treasurer because the revenue was used to pay Town operating expenses. The Town Clerk/Clerk of Court also stated she did not know why the amounts reported on the November 2011 STRRF did not agree to the LawTrak monthly report.

Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the Town to remit the balance of the assessment revenue to the State Treasurer on a monthly basis by the fifteenth day of each month and make reports on a form and in a manner prescribed by the State Treasurer.

We recommend the Town implement procedures to ensure the STRRF are submitted by the fifteenth day of each month in compliance with State law and have been reconciled to court accounting records and reviewed for accuracy. We also recommend the Town remit court-generated revenue due to the State in accordance with Attachment 1.

SUPPLEMENTARY SCHEDULE

During our testing of the schedule of court fines, assessments and surcharges included in the Town's financial statements for the years ended June 30, 2012 and June 30, 2011, we noted amounts reported for court fines, assessments, and surcharges collected, retained and remitted did not agree to the Town's State Treasurer's Revenue Remittance Forms and/or the Town's general ledger. Additionally, victim advocate court assessments and surcharges, expenditures, funds available to carry forward, and funds carried forward from prior year did not agree to the Town's general ledger.

We did not receive a response from the independent auditors who prepared the Town's financial statements as to why certain amounts reported on the schedule did not agree to the Town's STRRF or to its general ledger.

Section 14-1-208 (E)(1), of the 1976 South Carolina Code of Laws, as amended, states, "The supplementary schedule must include the following elements: (a) all fines collected by the clerk of court for the municipal court; (b) all assessments collected by the clerk of court for the municipal court; (c) the amount of fines retained by the municipal treasurer; (d) the amount of assessments retained by the municipal treasurer; (e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section; and (f) the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward."

We recommend the Town implement procedures to ensure the amounts reported on the supplementary schedule are accurately reported in accordance with State law.

ACCOUNTING FOR VICTIM ASSISTANCE FUNDS

During our review of the Town's general ledger, we noted three cash transfers totaling \$4,165.38 from the victim assistance account to the Town's general fund for salaries and benefits for certain employees. The Town Clerk/Clerk of Court could not provide statistical data or time and activity reports, as required by the State Office of Victim Assistance, to support these charges to the victim assistance fund; therefore, we deem the victim assistance expenditures to be unallowable.

Section 14-1-211(B) of the 1976 South Carolina Code of Laws, as amended, states, "The revenue collected pursuant to subsection (A)(1) must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer, for the purpose of

providing services for the victims of crime, including those required by law. Any funds retained by the county or city treasurer pursuant to subsection (A)(1) must be deposited into a separate account for the exclusive use for all activities related to the requirements contained in this provision.” In addition, Section 14-1-208(D) of the 1976 South Carolina Code of Laws, as amended, states, “The revenue retained by the municipality under subsection (B) must be used for the provision of services for the victims of crime including those required by law. These funds must be appropriated for the exclusive purpose of providing victim services as required by Article 15 of Title 16.”

Due to the Town’s improper accounting of victim assistance funds, we prepared a Schedule of Court Fines and Fees for the 36 months ended June 30, 2013, to determine the amount the Town should reimburse its victim assistance funds. See Schedule at Attachment 1.

We recommend the Town establish and implement policies and procedures to ensure victim assistance revenue is used only for victim assistance related expenditures in accordance with State law. We also recommend the Town reimburse the victim assistance funds in accordance with Attachment 1 for the expenditures that were not adequately supported by documentation.

SECTION B – STATUS OF PRIOR FINDINGS

During the current engagement, we reviewed the status of corrective action taken on each of the findings reported in the Accountant's Comments section of the Report on Agreed Upon Procedures of the Town of Cottageville Municipal Court for the period July 1, 2008 through June 30, 2010, and dated September 30, 2010. We determined that the deficiencies titled Adherence to Fine Guidelines, Assessment and Collection of Surcharges and Fees – Victim Fund Surcharge, and Timely Submission of State Treasurer's Revenue Remittance Form still exist; consequently, we have reported similar findings in Section A of the report. For the deficiencies titled Accounting for Victim Assistance Funds and Supplementary Schedule, we determined the Town has taken adequate corrective action. However, we noted additional deficiencies during our testwork which will be reported in similar findings in Section A of the report. We also determined for the deficiency titled Assessment and Collection of Surcharges and Fees – Breathalyzer Fee the Town has taken adequate corrective action. The finding titled Timely Submission of Clerk of Court's Monthly Remittance Form is no longer applicable and therefore will not be repeated.

Town of Cottageville Municipal Court
 Schedule of Court Fines and Fees Over/(Under) Reported
 For the 36 months ended June 30, 2013

Attachment 1

	<u>Allocation in Accordance with State Law</u>																		
	Total Court Collections	Public Defender Application Fee - \$40	Body Piercing	Marriage License Fee	Bond Estreatment	Boating Under the Influence (BUI)	DUS DPS Pullout - \$100	DUI Assessment - \$12	DUI Surcharge	DUI DPS Pullout - \$100	DUI/DUAC Breathalyzer Test Conviction Fee - \$25	Drug Surcharge - \$100 per case	Law Enforc. - \$25 Per Case	Criminal Justice Academy Surcharge - \$5 Per Case	Municipal - State Assessment	Municipal Education Program \$140 Application Fee	Municipal - Victim Services Assessment	Municipal - Victim Services Surcharge	Municipal - Other Victim Services Assessments
Total FYE June 2011	212,207.86	-	-	-	-	-	1,655.83	51.12	410.99	410.99	45.80	3,852.36	39,544.57	7,746.51	139,986.49		17,605.36	897.84	
Total FYE June 2012	185,056.21	-	-	-	-	-	1,212.28	(12.00)	(100.00)	(100.00)		3,524.06	42,577.24	8,395.38	113,933.41		14,327.42	1,298.42	
Total FYE June 2013	171,101.26	-	-	-	-	-	905.72	3.90	32.53	32.53		2,353.14	37,721.61	7,492.24	108,233.94		13,605.59	720.06	
Total Court Collections per Cash Receipt Records	568,365.33	-	-	-	-	-	3,773.83	43.02	343.52	343.52	45.80	9,729.56	119,843.42	23,634.13	362,153.84	-	45,538.37	2,916.32	-
Remittances per State Treasurer's Revenue Remittance Forms	231,586.17	-	-	-	-	-	1,575.10	36.99	308.16	308.16	13.23	4,099.07	52,688.20	10,429.57	162,127.69				
Total Retained for Victim Assistance	40,389.25																37,756.43	2,632.82	-
	<u>296,389.91</u>																		
Balance Due From/(Due to) State	(288,324.47)	-	-	-	-	-	(2,198.73)	(6.03)	(35.36)	(35.36)	(32.57)	(5,630.49)	(67,155.22)	(13,204.56)	(200,026.15)	-			
Balance Due From/(Due to) Victim Assistance	(8,065.44)																(7,781.94)	(283.50)	-
Additional Amounts Due to Victim Assistance:																			
1) Transfer from victim assistance account to town general fund account not used for Victim's Assitance	(4,165.38)																		
2) Amount forgiven by SOVA for July 2010 through November 2010 based on SOVA's 90 day follow-up.	8,082.52																		
Total Due From/(Due to) Victim Assistance	(4,148.30)																		
State Treasurer Revenue Remittance Form Line		Line A	Line B	Line C	Line D	Line E	Line F	Line G	Line H	Line I	Line IA	Line J	Line K	Line KA	Line L	Line LA	Line N	Line O	Line OA

TOWN'S RESPONSE



Town of Cottageville
PO Box 57
10913 Cottageville Hwy. Cottageville S.C. 29435
Office 843.835.8655

February 6, 2014

RE: MD&A Letter

The town is still in a poor financial condition and needs to develop more ways to generate revenue. Several things are being done to increase revenue.

Traffic control is a major issue for the town due to its geographic location on a major highway. There are also a number of businesses located within the town which includes one bank. Therefore, it is crucial for the Town to maintain a Police Department.

As the Town no longer has property taxes, it is difficult for it to obtain revenue from the citizens it serves. It is difficult to find new funding other than trying to obtain grants.

The STO has worked with the town toward paying the delinquent assessments it owes. The Victim's Advocate funds are all current. All required reports are current with the STO.

Although the town is in better financial condition than it was a year ago, it will still take quite some time to reach the point of being financially solvent.

I will continue to work with the Financial Advisory Committee toward this goal.

Sincerely,

A handwritten signature in black ink, appearing to read 'Timothy Grimsely', is written over a horizontal line.

Timothy Grimsely
Mayor

5 copies of this document were published at an estimated printing cost of \$1.52 each, and a total printing cost of \$7.60. Section 1-11-125 of the South Carolina Code of Laws, as amended requires this information on printing costs be added to the document.