

**CITY OF PICKENS MUNICIPAL COURT
PICKENS, SOUTH CAROLINA**

**State Auditor's Report on Applying
Agreed-Upon Procedures
June 30, 2008**

**CITY OF PICKENS MUNICIPAL COURT
PICKENS, SOUTH CAROLINA**

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State of South Carolina



Office of the State Auditor

1401 MAIN STREET, SUITE 1200
COLUMBIA, S.C. 29201

RICHARD H. GILBERT, JR., CPA
DEPUTY STATE AUDITOR

(803) 253-4160
FAX (803) 343-0723

September 18, 2008

The Honorable Mark Sanford, Governor
State of South Carolina
Columbia, South Carolina

The Honorable Anita Cope, Clerk of Court
City of Pickens Municipal Court
Pickens, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the City of Pickens Municipal Court System Court System for the period July 1, 2007 through June 30, 2008, was issued by Cline Brandt Kochenower & Co., P.A., Certified Public Accountants, under contract with the South Carolina Office of the State Auditor.

If you have any questions regarding this report, please let us know.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard H. Gilbert, Jr.", written in a cursive style.

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

RHGjr/cwc

Richard H. Gilbert, Jr., CPA
Deputy State Auditor
Office of the State Auditor
Columbia, South Carolina

We have performed the procedures described below which were agreed to by the South Carolina Office of the State Auditor solely to assist these users in evaluating the performance of the City of Pickens Municipal Court System and to assist the South Carolina Office of the State Auditor in complying with the 2007-2008 General Appropriations Act (H. 3620) Section 72.75. Anita Cope, Clerk of Court for the City of Pickens, is responsible for compliance with the requirements for the Municipal Court reporting and the South Carolina Office of the State Auditor is responsible for compliance with the requirements of the 2007-2008 General Appropriations Act (H. 3620) Section 72.75. This engagement to apply agreed-upon procedures was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of the specified users of the report. 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 associated findings are as follows:

1. TIMELY REPORTING BY THE CLERK OF COURT

- We researched South Carolina Code of Laws Section 14-25-85 to determine the definition of timely reporting with respect to the Clerk of Court's responsibility for reporting fines, fees and assessments to the Municipal Treasurer.
- We inquired of the South Carolina Judicial Department to determine their requirements for both the manner in which partial pay fines and fees are to be allocated and the timing of the report and remittance submissions by the Clerk and the Treasurer.
- We inquired of the Clerk of Court and Municipal Treasurer to gain an understanding of their policy for ensuring timely reporting and to determine how the treasurer specifically documents timeliness.
- We inspected documentation, including the Clerk of Court Remittance Forms or equivalents for the months of July 1, 2007 through June 30, 2008 to determine if the Clerk of Court submitted the reports to the municipal treasurer in accordance with the law.

We found no exceptions as a result of the procedures.

2. TIMELY ACCURATE RECORDING AND REPORTING BY THE CITY

- We traced each month's reporting by the Clerk of Court to the Municipal Treasurer's Office and to the City's general ledger accounts for the assessments (Sections 14-1-208(A), (B) and (D)) and victim assistance surcharge (Section 14-1-211) for the period July 1, 2007 through June 30, 2008.
- We compared the amounts reported on the Clerk of Court Remittance Forms or equivalents to the Clerk of Court's software system-generated report summaries for three judgmentally determined test months. We tested the system-generated reports for compliance with various laws including Section 35.11 of the General Appropriations Act for the fiscal year 2007 – 2008 and with South Carolina Judicial Department training instructions and interpretations.
- We judgmentally selected and compared individual fine and assessment amounts recorded in the Clerk of Court's software system-generated detail reports to the Judicial Department guidelines range for the offense code to see if the fine and assessment were within the minimum and maximum range.

Our findings are reported under "TIMELY ACCURATE RECORDING AND REPORTING BY THE CITY" in the Accountants' Comments section of this report.

3. PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING

- We inquired as to the format determined by City council and local policy for record keeping as it relates to fines and assessments in accordance with Section 14-1-208(E)(4).
- We compared the fiscal year-ended April 30, 2007 audited Victim Assistance Fund fund balance with all adjustments to the fund balance shown in the Schedule of Fines, Assessments and Surcharges of the audited financial statement on page 32 and to the beginning fund balance as adjusted in that fund for fiscal year 2008.
- We judgmentally selected a sample of Victim Assistance Fund reimbursable expenditures and verified that these expenditures were in compliance with Section 14-1-208(E) and Section 14-1-211(B).

Our findings are reported under "PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING" in the Accountants' Comments section of this report.

4. TIMELY ACCURATE REPORTING TO THE STATE TREASURER

- We vouched the amounts reported in the South Carolina State Treasurer's Revenue Remittance Forms to Clerk of Court Remittance Forms or equivalents for the period July 1, 2007 through June 30, 2008.
- We scanned the South Carolina State Treasurer's Revenue Remittance Forms for timely filing in accordance with Section 14-1-208(B).
- We traced amounts recorded in the City's financial statement Schedule of Fines, Assessments and Surcharges of the year ended April 30, 2007 report related to fines and assessments revenues reporting on page 32 in accordance with Section 14-1-208(E) to supporting schedules used in the audit to comply with Section 14-1-208(E).
- We traced and agreed amounts in the supporting schedules to the Clerk of Court Remittance Forms or South Carolina State Treasurer's Revenue Remittance Forms.

Our finding is reported under "TIMELY ACCURATE REPORTING TO THE STATE TREASURER" in the Accountants' Comments section of this report.

5. CALCULATION OF UNDERREPORTED ASSESSMENTS AND SURCHARGES

- Using the court dockets and collections provided, we calculated the fine, assessment and surcharge amounts for the Child Restraint fines since May 9, 2006, in accordance with the South Carolina Code of Laws and the South Carolina Judicial Department memorandums.
- We compared our calculation to the amounts previously remitted on the State Treasurer's Revenue Remittance form to determine if the City had over/(under) remitted court fines, fees and assessments to the State Treasurer's Office.
- We compared our calculation of court fines, fees and surcharge amounts with the amounts recorded in the Victims Assistance fund to determine if the City had over/(under) remitted court assessments related to Victims Assistance.

The results of our procedures disclosed that the City had under reported amounts due to the State and the Victims' Assistance fund. See Attachment 1 for further details.

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 twelve months ended June 30, 2008 and, furthermore, we were not engaged to express an opinion on the effectiveness of the internal controls over compliance with the laws, rules and regulations described in paragraph one and the procedures of this report. 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, Chairmen of the House Ways and Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, members of the Pickens City Council, City clerk of court, City treasurer, State Treasurer, State Office of Victim Assistance, Chief Justice and the Office of the State Auditor and is not intended to be and should not be used by anyone other than these specified parties.



July 18, 2008

ACCOUNTANTS' COMMENTS

**CITY OF PICKENS MUNICIPAL COURT
PICKENS, SOUTH CAROLINA**
State Auditor's Report
June 30, 2008

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. 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.

CITY OF PICKENS MUNICIPAL COURT
PICKENS, SOUTH CAROLINA
State Auditor's Report, Continued
June 30, 2008

TIMELY ACCURATE RECORDING AND REPORTING BY THE CITY

ADHERENCE TO JUDICIAL DEPARTMENT FINE GUIDELINES

CONDITION: The Municipal Court Judge did not adhere to the Judicial Department minimum/maximum fine guidelines.

CRITERIA: Judicial Department Guidelines for Fines – Minimums and Maximums. These guidelines are obtained from the minimum and maximum fines recorded in the respective laws.

CAUSE: The Judge rounds up the maximum fines which inadvertently places the fine outside of the range set by the law. The judge assesses Driving Under the Influence (**DUI**) offenders \$992.50, which is 50 cents more than the law allows.

EFFECT: By not adhering to the minimum/maximum fines as required by law, the judge is violating the law.

AUDITORS' RECOMMENDATION: We recommend that the City judge comply with the fine guidelines.

IMPROPERLY ALLOCATING CHILD RESTRAINT VIOLATION COLLECTIONS

CONDITION: The City did not properly allocate the surcharge for the child restraint violations as required by law. We determined that there was only one violation issued during the year.

CRITERIA: South Carolina Code of Laws Section 56-5-6450, as amended by Senate Bill 800, requires assessments and surcharges to be applied to child restraint violations effective May 9, 2006.

CAUSE: The City's software system was not modified to allocate child restraint violations.

EFFECT: The City processed the collections of child restraint violations as a regular traffic fine. Because the City did not properly account for the child restraint violations neither the State nor Victim Assistance received their allocated portion of these collections.

AUDITORS' RECOMMENDATION: The City should make the necessary adjustments to its accounting system to properly distribute the fine in accordance with the law. The City should also reimburse the State Treasurer's Office in accordance with the attached schedule.

JUDGE'S RULING ON SEATBELT FINES

CONDITION: When the defendant pled not guilty before the judge and was found guilty, the City Judge assessed seatbelt violators \$76.50 which is in excess of the maximum fine allowed by law. There were only two seatbelt violation citations of this type adjudicated for the year.

CRITERIA: South Carolina Code of Laws Section 56-5-6450 states a violator "must be fined not more than twenty-five dollars, no part of which may be suspended. Court costs, assessments, or surcharges may not be assessed against a person who violates a provision of this article."

CAUSE: The judge did not adhere to the fine required by law.

EFFECT: By not adhering to the minimum/maximum fines, violators were charged a fine that was in excess of the amount allowed by law.

AUDITORS' RECOMMENDATION: The City should refund the overcharged amount to the defendants.

CITY OF PICKENS MUNICIPAL COURT
PICKENS, SOUTH CAROLINA
State Auditor's Report, Continued
June 30, 2008

PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING

LACK OF AN EXPENDITURE ALLOCATION PLAN

CONDITION: The City does not properly allocate expenses between victim assistance and other benefiting programs. The City also cannot document that victim assistance revenues are expended for victim assistance purposes.

CRITERIA: South Carolina Code of Laws Section 14-1-208(D) 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."

CAUSE: The City has not developed an allocation plan that accounts for all expenses charged to victim assistance revenues. The City combines all expenditures in the general fund.

EFFECT: The City is unable to demonstrate that it has properly expended the Victim Assistance revenues in accordance with the law.

AUDITORS' RECOMMENDATION: The City should establish a separate fund or account within the general fund to account for victim assistance revenues and expenses. In addition, the City should develop and implement an allocation plan that will fairly allocate and charge expenditures to the proper fund.

LACK OF PROPER ACCOUNTING

CONDITION: The City does not properly account for the Victim Assistance money it collects. The City does not maintain accurate financial records for victim assistance financial activity.

CRITERIA: South Carolina Code of Laws Section 14-1-208 (B) states "The City Treasurer must remit 12 percent of the revenue generated by the assessment imposed in subsection (A) to the municipality to be used for the purposes set forth in subsection (D)..." and South Carolina Code of Laws Section 14-1-208 (D) states "These funds must be appropriated for the exclusive purpose of providing victim services... All unused funds must be carried forward from year to year and used exclusively for the provision of services for victims of crime. All unused funds must be separately identified..." and Code of Laws Section 14-1-208 (E)(4) states "The clerk of court and municipal treasurer shall keep records of fines and assessments required to be reviewed pursuant to this subsection..."

CAUSE: The City has not established separate accounts for Victim Assistance. Because the City has expended all funds allocated to Victim Assistance in prior years it did not believe it was necessary to establish or maintain a separate fund or account for Victim Assistance accounting transactions.

EFFECT: The City's cannot document that the City spent victim assistance revenues on allowable victim assistance activity using their accounting records.

AUDITORS' RECOMMENDATION: The City should design and implement a system that will prospectively keep accurate records. The City should comply with law and remit revenue to the Victim Assistance account monthly and also make monthly accounting entries to the Victim Assistance account.

CITY OF PICKENS MUNICIPAL COURT
PICKENS, SOUTH CAROLINA
State Auditor's Report, Continued
June 30, 2008

TIMELY ACCURATE REPORTING TO THE STATE TREASURER

REQUIRED SUPPLEMENTAL SCHEDULE OF FINES AND ASSESSMENTS

CONDITION: The Supplementary Schedule of Fines and Assessments, which was prepared by an independent external auditor and submitted to the State, did not include all of the information that is required by law to be included on the schedule. The schedule did not include the beginning balance, fines collected, fines retained by the City, amount of fines remitted to the State Treasurer, victim assistance expenditures or any balance carried forward.

CRITERIA: South Carolina Code of Laws Section 14-1-208(E) requires that the municipality have an audited supplementary schedule indicating all fines and assessments collected by the municipal court, the amount of the fines and assessments retained by the City Treasurer and the amount of fines and assessments remitted to the State Treasurer, and the total funds, by source, allocated to victim services activities, how those funds were expended, and any balances carried forward.

CAUSE: The City relied on the independent auditor to include all required information on the schedule.

EFFECT: The Supplementary Schedule of Fines and Assessments did not comply with the law.

AUDITORS' RECOMMENDATION: The City is responsible for the schedule, and therefore should ensure the schedule complies with State law.

**CITY OF PICKENS MUNICIPAL COURT
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State Auditor's Report, Continued
June 30, 2008

SECTION B – OTHER WEAKNESS

The condition described in this section has been identified while performing the agreed-upon procedures but is not considered a violation of State Laws, Rules or Regulations.

CITY OF PICKENS MUNICIPAL COURT
PICKENS, SOUTH CAROLINA
State Auditor's Report, Continued
June 30, 2008

TIMELY ACCURATE RECORDING AND REPORTING BY THE CITY

COMINGLING VICTIM ASSISTANCE GRANTS AND COURT MONIES

CONDITION: The City comingles victim assistance grant revenues and expenditures with victim assistance court revenues and expenditures in the City's general fund.

CRITERIA: Fund accounting requires special revenues be accounted for in separate funds and not commingled.

CAUSE: The City's current accounting system does not include separate accounts for the different victim assistance activity.

EFFECT: Because the City has commingled victim assistance transactions with other general fund transactions it cannot easily document that victim assistance revenue was expended on allowable activity.

AUDITORS' RECOMMENDATION: The City should consider developing a system to adequately tracks all revenue and match the victim assistance expenditures to the revenues.

City of Pickens Municipal Court
 Schedule of Court Fines and Fees
 For the 36 months ended June 30, 2008

Allocation in Accordance with Judicial
 Department Memo

Allocation in Accordance
 with State Law

	<u>REPORTING ERRORS</u>	<u>Law Enforement Surcharge</u>	<u>DUI/\$12</u>	<u>DUI/\$100</u>	<u>Drug Surcharge P 33.7</u>	<u>Conviction Surcharge</u>	<u>Fine & Assessment</u>	<u>State Assessment</u>	<u>Victim Services</u>	<u>Fine</u>	<u>DUS PULLOUT</u>	<u>DUI PULLOUT</u>
Corrections to State Treasurer Remittance Form:	\$ 76.50	25.00					51.50	23.70	2.98	24.82		
Balance Due Victim Services:	2.98					<u>0.00</u>			<u>2.98</u>			
Balance Due State:	\$ 48.70	<u>25.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>			<u>23.70</u>			<u>0.00</u>	<u>0.00</u>
State Treasurer Revenue Remittance Form Line		K			J	O		L	N		F	

Attachment 1

RESPONSE TO:

1. Timely Accurate Recording and Reporting by the City.

a. Adherence to Judicial Department Fine Guidelines

The fines and assessments of \$992.50 for Driving Under the Influence offenses were based on the City's interpretation of current fines and assessments allowed by South Carolina law. In addition, these assessments were calculated by the City's software system. All assessments were submitted to the State Treasurer and no additional fines retained by the City. The State Treasurer's office has never notified the City that there was an issue with the amount collected and submitted. Further, the City has adhered to the minimum/maximum fines as required by law, but the overage resulted from calculation of assessments and court costs. The City would take issue with the auditor's statement that "the judge is violating the law" based on improper calculation of assessments. The City has corrected this oversight based on the auditor's comments.

b. Improperly Allocating Child Restraint Violation Collections

This problem related to the allocation by the City's software. The City contacted the software vendor at the time of the audit and the software was updated to correct this problem.

c. Judge's Ruling on Seat Belt fines

The City admits that the \$76.50 assessed on 2 seat belt violation charges was in excess of fines and assessments allowed for this charge. In investigating these 2 cases, the excess amount resulted from the following circumstances:

- 1) The officers had indicated a bond amount of \$76.50 and when sentencing the 2 individuals, the Judge failed to realize the incorrect amount.
- 2) The assessed amount was based on a \$25 fine as prescribed by statute, but assessments and court costs as required on all other traffic charges were inadvertently added.

The City has taken steps to assure that this will be assessed properly.

Administrator's Response

Victim Assistance Funds Accounting

The Code Section quoted in the auditor's report has no mention of an "expenditure allocation plan." The City of Pickens does have a budget, and is audited annually by the CPA firm of McKinley, Cooper and Co., LLP. As explained to the auditors who visited City Hall, the City of Pickens spends well in excess of any annual Victims Assistance Revenues in salary and benefits alone for its Victim Advocate. Payroll records exist for the individual who holds the Advocate position. A journal entry is made at the end of each fiscal year to account for expenditures charged to that account. With fund accounting, I saw no need for additional account maintenance fees, check fees, deposit fees and transfer fees.

I believe that all Grant monies have been accounted for with the South Carolina Department of Public Safety. The grant was satisfactorily closed.