

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

**State Auditor's Report
April 30, 2006**

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

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State of South Carolina



Office of the State Auditor

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DEPUTY STATE AUDITOR

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January 16, 2007

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

The Honorable Lisa Cunningham, Clerk of Court
Town of Bluffton
Bluffton, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Bluffton Municipal Court for the period May 1, 2003 through April 30, 2006, 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/trb

Independent Accountants' Report on Applying Agreed-Upon Procedures

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 Town of Bluffton Municipal Court System and to assist the South Carolina Office of the State Auditor in complying with the 2005 - 2006 General Appropriations Act (H. 3716) Section 72.86 for the fiscal year ended June 30, 2006. Lisa Cunningham, Clerk of Court for the Town of Bluffton 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 2005 - 2006 General Appropriations Act (H. 3716) Section 72.86. 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 May 1, 2003 through April 30, 2006 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 TOWN

- We traced each month's reporting by the Clerk of Court to the Municipal Treasurer's Office and to the Town's general ledger accounts for the assessments (Sections 14-1-208(A), (B) and (D)) and victim's assistance surcharge (Section 14-1-211) for the period May 1, 2003 to April 30, 2006.
- 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 Acts for the fiscal years 2003-04, 2004-05, and 2005-06 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 finding is reported under "TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN" in the Accountants' Comments section of this report.

3. PROPER VICTIM'S ASSISTANCE FUNDS ACCOUNTING

- We inquired as to the format determined by Town 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 years ended June 30, 2003, 2004 and 2005 audited Victims' Rights Fund general ledger fund balances to the fund balance shown in the Schedule of Fines, Assessments and Surcharges on page 30, 35 and 29 respectively, of the audited financial statements and to the beginning fund balances as adjusted in that fund for fiscal years 2004, 2005 and 2006.
- We verified the Victims' Rights Fund reimbursable expenditures were in compliance with Section 14-1-208(E) and Section 14-1-211(B).

Our finding is reported under the "PROPER VICTIM'S 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 May 1, 2003 to April 30, 2006.
- 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 Town's financial statement Schedule of Fines, Assessments and Surcharges on page 30, 35 and 29 respectively, of the fiscal years ended June 30, 2003, 2004 and 2005 related to fines and assessments revenues reporting in accordance with Section 14-1-208(E) to supporting schedules used in the audits 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.

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 thirty-six months ended April 30, 2006 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 Office of the State Auditor, Chairmen of the House Ways & Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, State Treasurer, Office of Victim Assistance, Chief Justice and the Governor and is not intended to be and should not be used by anyone other than these specified parties.



December 19, 2006

ACCOUNTANTS' COMMENTS

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

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**MATERIAL WEAKNESSES AND/OR VIOLATIONS OF STATE LAWS, RULES OR
REGULATIONS**

The procedures agreed to by the agency require that we plan and perform the engagement to obtain reasonable assurance about whether noncompliance with the requirements of State Laws, Rules, or Regulations occurred and whether internal accounting controls over certain transactions were adequate. Management of the entity is responsible for establishing and maintaining internal controls. A material weakness is a condition in which the design or operation of one or more of the specific internal control components does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial statements may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Therefore, the presence of a material weakness or violation will preclude management from asserting that the entity has effective internal controls.

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

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TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN

RECONCILING DEPOSITS WITH RECEIPTS

CONDITION: The Clerk of Court did not account for all receipt numbers and did not reconcile receipts to the amounts reported on the State Treasurer's Revenue Remittance Form. The Clerk of Court used the court dockets to determine the amount of collections to report. The amount collected was documented on a series of calculator tapes. The tapes did not always agree to the amounts shown as collected on court dockets. One deposit in the bank did not agree with the list of amounts by receipt number for that one deposit transmitted in April 2004.

CRITERIA: Robert McCurdy memo dated June 14, 2005 Section VI (A)(1) states "Every criminal fine and penalty collected by the municipal court is to be forthwith turned over by the municipal court clerk to the Municipal Treasurer for which such court is held. It is recommended that copies of the docket be transmitted with the monies to facilitate accounting of deposits with the treasurer."

CAUSE: Neither the Municipal Treasurer nor the Clerk of Court complied with the memorandum cited above. The list of amounts associated with those receipt numbers for that period in April 2004 was improperly added. When properly added it was \$101 more in cash than was transmitted and deposited with no written explanation.

EFFECT: The information the Clerk of Court transmitted to the Municipal Treasurer did not reconcile to the monthly dockets maintained by the Clerk of Court.

AUDITORS' RECOMMENDATION: The Town should require the implementation of controls recommended by the Court Administration office. The Town should determine the extent of the errors and make the necessary adjustments to its previously filed remittance reports.

MANUAL RECEIPT SYSTEM ISSUES

CONDITION 1: The Clerk of Court used a manual receipt book to prepare the State Treasurer's Revenue Remittance Form. The Clerk of Court did not account for or allocate a portion of the total revenue to surcharges or pullouts when accounting for the fines collected. In addition, assessments were improperly calculated.

CRITERIA: Section 73.3 of the fiscal year 2003-04 Appropriation Act states, "(A) In addition ... a twenty-five dollar surcharge is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in the general sessions court or in magistrates' or municipal court for misdemeanor traffic offenses or for non-traffic violations. No portion of the surcharge may be waived, reduced, or suspended." Section 73.3 further states, "The revenue collected pursuant to subsection (A) must be retained by the jurisdiction, which heard or processed the case and paid to the State Treasurer within thirty days after receipt." In addition, Section 33.7 of the 2003-04 Appropriation Act states "(A) In addition, during Fiscal Year 2003-04, a one hundred dollar surcharge is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in ...municipal court for misdemeanor or felony drug offenses. No portion of the surcharge may be waived, reduced, or suspended. (B) The revenue collected pursuant to subsection (A) must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days after receipt."

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The General Assembly also enacted Act 176 of 2004. The Act was effective February 18, 2004. It imposes an additional \$100 fine that is to be pulled out and sent to the State for violations of Title 56-1-460. Section 35.11 of the fiscal year 2003-04 Appropriation Act states, "The assessment paid pursuant to Sections ...14-1-208 ... for an offense tried in ... municipal court is increased from one hundred to one hundred seven and one-half percent of the fine imposed." Each year's court memo from the Judicial Department makes it clear that "This assessment also applies to municipal ordinances." [Robert McCurdy memo dated June 4, 2004 Section VI (A)(3)]

CAUSE: The Clerk of Court did not account for law enforcement and drug surcharges or the \$100 "pullout fine". The Clerk of Court also used an incorrect formula to calculate the assessment due to the State when recording the collection.

EFFECT: The Clerk did not report any pullouts or surcharges. Assessments were reported, but calculated incorrectly. As a result, pullouts and surcharges that were collected were never reported and the assessment revenues that were reported were reported at incorrect amounts.

We have determined that the pullouts, assessments and surcharges cannot be waived and that the pullouts and surcharges were assessed to the violators. Therefore the Town can correct this error by allocating the pullouts, assessments and surcharges to the proper accounts in the proper amounts and percentages. The affect of these adjustments will reduce the amount of money allocated to the local fine and state and victim's assistance assessments. The amount of the adjustments has not yet been determined. The reallocation will result in less fine revenue and assessments than was previously reported and a liability for the surcharges and pullouts. The Victim's Assistance fund revenue accounts and the Town general fund revenue accounts were over stated as well. The surcharges and pullouts were never reported..

AUDITORS' RECOMMENDATION: The Town should determine the extent of the errors and make the necessary adjustments to its previously filed remittance reports to properly distribute the pullouts and drug and law enforcement surcharges and properly calculate assessments. This would include revising reports made to the State Treasurer's Office. These changes should occur as soon as possible. The Town's external auditor should issue a separate report opining on the Town's determination of its liability.

CONDITION 2: The Clerk of Court did not report every Uniform Traffic Ticket receipted fine payment on the State Treasurer's Revenue Remittance Form. In addition, the Clerk of Court did not report any of the Careless Operation of a Vehicle municipal fines when reporting information to the State Treasurer.

CRITERIA: Section 35.11 of the fiscal year 2003-2004 Appropriation Act states, "The assessment paid pursuant to Sections ...14-1-208 ... for an offense tried in ... municipal court is increased from one hundred to one hundred seven and one-half percent of the fine imposed." Each year's court memo from the Judicial Department makes it clear that "This assessment also applies to municipal ordinances." [Robert McCurdy memo dated June 4, 2004 Section VI (A)(3)]

CAUSE: The Clerk of Court did not realize that assessments and surcharges should be applied to municipal ordinance violations such as Careless Operation of a Vehicle.

EFFECT: The Town retained all of the assessments, pullouts and surcharges on those fines because they did not report those fines as collected.

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We have determined that the pullouts, assessments and surcharges cannot be waived and that the pullouts and surcharges were assessed to the violators. Therefore the Town can correct this error by allocating the pullouts, assessments and surcharges to the proper accounts in the proper amounts and percentages. The affect of these adjustments will reduce the amount of money allocated to the local fine and state and victim's assistance assessments. The amount of the adjustments has not yet been determined. The reallocation will result in less fine revenue and assessments than was previously reported and a liability for the surcharges and pullouts. The Victim's Assistance fund revenue accounts and the Town general fund revenue accounts were over stated as well. The surcharges and pullouts were never reported.

AUDITORS' RECOMMENDATION: The Town should determine the extent of the errors and make the necessary adjustments to its previously filed remittance reports to properly report the Careless Operation violations including all assessments and surcharges. These changes should occur as soon as possible. This would include revising reports previously submitted to the State Treasurer's Office. The Town's external auditor should issue a separate report opining on the Town's determination of its liability.

INSTALLMENT PAYMENTS

CONDITION 1: The Town does not assess a 3% collection fee on fines paid on an installment basis as mandated by law.

CRITERIA: Section 14 -17 – 725 of the 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"

CAUSE: The purpose of the fee is to help offset the administrative cost to the Town. The Town elected not to assess the mandated fee.

EFFECT: The Town is not complying with Section 14 -17 – 725

AUDITORS' RECOMMENDATION

We recommend the Clerk of Court comply with the law related to installment payments and begin charging the 3% as required by law.

CONDITION 2: The Clerk of Court did not report installment payments when collected, as required.

CRITERIA: South Carolina Judicial Department Memorandum dated June 14, 2005 Section VI.A.11 states "Funds collected as installments should not be held until full payment is received but must be remitted each month to the Town Treasurer."

CAUSE: The Clerk did not report partial payments.

EFFECT: The Town is not complying with Section 35.11 of the Temporary Provisions of the General Appropriations Act for the fiscal year 2005 – 2006.

AUDITORS' RECOMMENDATION

We recommend the Clerk of Court allocate installment payments as they are collected in accordance with the South Carolina Judicial Department Memorandum dated June 14, 2005. The Town should also determine the extent of the underpayments and make adjustments to its previously filed remittance reports to properly report the installment payments already collected including all assessments and surcharges as allocated. These changes should occur as soon as possible. This would include revising reports previously submitted to the State Treasurer's Office. The Town's external auditor should issue a separate report opining on the Town's determination of its liability.

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ADHERENCE TO JUDICIAL DEPARTMENT FINE GUIDELINES

CONDITION: The Municipal Court Judge was not adhering to the Judicial Department minimum fine guidelines included in legislation. By not assessing the minimum fines as required in the legislation, the Town is not complying with the law.

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

CAUSE: The Clerk of Court maintains a copy of the hand written completed docket that contains the original charge and the judge's decision for the fine amount for the period May 2003 through April 2004. There was no indication on that hand written record of the judge changing the charge as part of the ruling and thus changing the fine for that reason.

EFFECT: The judge may have reduced the charge and the fine amount would be decreased accordingly and this information was not documented on the docket to support a lower fine. The original charge still appears on the docket.

AUDITORS' RECOMMENDATION: The Clerk of Court's office should ensure that accurate final dockets contain documentation of all changes including changes in charges as a result of a judge's sentence.

PROPER VICTIM'S ASSISTANCE FUNDS ACCOUNTING

CORRECTLY ALLOCATING VICTIMS' ASSISTANCE REVENUES

CONDITION: As explained in the findings in the "Timely and Accurate Reporting by the Town" section, the Victim's Assistance revenues have not been properly allocated to the Victim's Assistance fund. The Victim's Assistance funding is dependent in part on the assessment amounts that were incorrectly calculated and on the victims' conviction surcharge that was never recorded.

CRITERIA: South Carolina Code of Laws Section 14-1-208(B) and (D) and 211 require monies generated from the assessments to be split between the State and Victim's Assistance and a surcharge is established for Victims' Assistance.

CAUSE: Misunderstandings in the application of the law caused incomplete assessment calculations and resulted in Victim's Assistance funds being misstated.

EFFECT: Inaccurate allocations of funds to Victim's Assistance.

AUDITORS' RECOMMENDATION:

The Town should determine the extent of the errors and make the necessary adjustments to its accounting system to properly distribute revenue to the Victim's Assistance fund. These changes should occur as soon as possible and in conjunction with the other recommendations.

TIMELY ACCURATE REPORTING TO THE STATE TREASURER

TIMELY REPORTING BY THE TOWN

CONDITION: Two of the twelve State Treasurer's Revenue Remittance Reports for the procedures' period of May 1, 2005 through April 30, 2006 were not timely filed. The delays ranged from 5 to 13 days after the proscribed deadline.

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CRITERIA: South Carolina Code of Laws Section 14-1-208(B). Section 14-1-208(B) requires the Town Treasurer to remit the balance of the assessment money to the State Treasurer by the fifteenth day of the month.

CAUSE: The Town was unable to meet the deadlines proscribed in the law for those two months due to workloads.

EFFECT: South Carolina Code of Laws Section 14-1-208(B) was violated for two of the twelve months in the period of May 1, 2005 through April 30, 2006.

AUDITORS' RECOMMENDATION:

The Town should develop and implement a policy to ensure compliance with State law.

SCHEDULE OF FINES AND ASSESSMENTS

CONDITION 1: The schedules did not agree or reconcile to the Clerk of Court collections or to the amounts reported on the State Treasurer's Revenue Remittance forms. Also, the amounts reported on the schedules do not accurately reflect the fines and fee financial activity based on the errors noted above.

CRITERIA: South Carolina Code of Laws Section 14-1-208(E) states "To ensure that fines and assessments imposed pursuant to this section and Section 14-1-209(A) are properly collected and remitted to the State Treasurer, the annual independent external audit required to be performed for each municipality pursuant to Section 5-7-240 must include a review of the accounting controls over the collection, reporting, and distribution of fines and assessments from the point of collection to the point of distribution and a supplementary schedule detailing all fines and assessments collected at the court level, the amount remitted to the municipal treasurer, and the amount remitted to the State Treasurer."

CAUSE: The Town's had not developed and implemented internal controls to ensure that fines and assessments imposed were properly accounted for and remitted to the State Treasurer.

EFFECT: The Town's Schedule for the June 30, 2005, 2004 and 2003 fiscal year financial statements does not contain all financial activity related to Court fines and assessments.

AUDITORS' RECOMMENDATION: The Town should design and implement internal control procedures to ensure that Court fines and assessments are properly receipted, recorded in the Town's accounting records, and remitted to the State Treasurer. The Town should also maintain documentation reconciling the schedule to the books of account.



February 8, 2007

To Whom It May Concern:

The Town of Bluffton acknowledges receipt of the April 30, 2006, State Auditor's Report covering the period May 1, 2003, to April 30, 2006. We do not dispute any of the audit findings.

The Town has made significant changes in the Municipal Court operations since that time. The Town replaced its former Clerk of Court with a highly competent and qualified person, replaced its Town Manager, and hired an Assistant Town Manager for Finance and Administration; implemented the state's Court Management System (CMS); and implemented new internal controls and procedures that ensure legal compliance as well as accurate and timely reporting.

Our new Clerk of Court has worked with the state's court administration to set up new procedures that capture all pullouts, surcharges and state assessments due to the state and Victim's Assistance Fund.

All of the findings of areas identified as material weaknesses in the audit have been addressed:

- Daily deposits are made and reconciled with court records and the appropriate internal controls are in place.
- All payments are received only in CMS. **No handwritten receipts** are allowed.
- Installment payments are assessed at 3% and received using CMS and reported properly. Municipal Court maintains appropriate documentation.
- CMS provides accurate month-end reporting and is completed no later than the fifth of the month allowing for timely checks sent to the state each month.
- The Municipal Report sent to the state reflects all monies collected and the appropriate remittance (i.e., law enforcement, DUS & DUI pullouts, drug surcharges, and state assessments).
- The victim's assistance revenue is distributed in accordance with the municipal report.
- The Town no longer issues Town Careless Operation of Vehicle.

The formal evaluation of our procedures comes with the June 30, 2007 audit. However, we reviewed the new procedures with the auditors under contract with the state, and they found nothing out of compliance with our new procedures.

The audit also instructs us to have our outside auditor (Robinson Grant & Co., P.A.) perform additional work to determine the amount of the Town's liability for past errors. They reported to us that this effort has been made, and that this determination of liability cannot be made. The records available for the period in question were in such disarray and so incomplete as to eliminate the opportunity for a determination of the Town's past liability.

Thanks for the opportunity to reply.

Sincerely,

A handwritten signature in black ink, appearing to read "W. D. Workman, III".

W. D. Workman, III
Town Manager