

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

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



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

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*State of South Carolina*



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February 12, 2009

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

The Honorable Aldean Fleming, Clerk of Court  
Town of Iva  
Iva, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Iva Municipal 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/trb

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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 Iva 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. Aldean Fleming, Clerk of Court for the Town of Iva, 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 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 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 Treasurer in accordance with the law.

Our finding is reported under "TIMELY ACCURATE RECORDING AND REPORTING BY THE CLERK OF COURT" in the Accountants' Comments section of this report.

## **2. TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN**

- We traced each month's reporting by the Clerk of Court to the Treasurer's Office and to the Town'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 TOWN " in the Accountants' Comments section of this report.

## **3. PROPER VICTIM 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 year-ended June 30, 2007 audited Victim Assistance Fund fund balance with all adjustments to the fund balance shown in the Supplemental Schedule of Fines and Assessments of the audited financial statement on page 35 and to the beginning fund balance as adjusted in that fund for fiscal year 2008.
- We verified the Victim Assistance Fund reimbursable expenditures were in compliance with Section 14-1-208(E) and Section 14-1-211(B).

Our finding is 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 June 30, 2007 Supplemental Schedule of Fines and Assessments of the year ended June, 2007 report related to fines and assessments revenues reporting on page 35 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 findings are 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 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 Town of Iva Council, Clerk of Court, 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 15, 2008

**ACCOUNTANTS' COMMENTS**

**TOWN OF IVA MUNICIPAL COURT  
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**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.

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**TIMELY REPORTING BY THE CLERK OF COURT**

TIMELY FILING

**CONDITION:** The Clerk of Court and Treasurer have no procedure in place or policy to document timeliness of reporting.

**CRITERIA:** South Carolina Code of Laws Sections 14-1-208 (A) states "...This assessment must be paid to the Municipal Clerk of Court and deposited with the city treasurer for remittance to the State Treasurer..." Section 14-1-208(B) states further "The city treasurer must remit ... on a monthly basis by the fifteenth day of each month..."

**CAUSE:** The Clerk of Court and Treasurer have not developed a policy to document timeliness.

**EFFECT:** Because there is no procedure to document timeliness, vesting responsibility for timely filing is difficult.

**AUDITORS' RECOMMENDATION:** The Town should develop and implement a policy whereby they comply with State law and document the compliance.

**TIMELY ACCURATE RECORDING AND REPORTING BY THE TOWN**

ADHERENCE TO JUDICIAL DEPARTMENT FINE GUIDELINES

**CONDITION:** The Municipal Court Judge is not adhering to the Judicial Department minimum/maximum fine guidelines included in the laws.

**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 did not use the current Judicial Department's fine guidelines.

**EFFECT:** By not assessing the minimum fines as required in the legislation, the Town is violating the law.

**AUDITORS' RECOMMENDATION:** We recommend that the Judge comply with the state law by using the correct minimum/maximum fine guidelines.

INCORRECT ASSESSMENT PERCENTAGE

**CONDITION:** The Treasurer is not using the correct percentage to calculate the assessment on traffic fines.

**CRITERIA:** The 2007-2008 General Appropriations Act (H. 3620) Section 35.11 states "The assessment paid pursuant to Sections 14-1-206, 14-1-207, or 14-1-208 ... in ...Municipal Court is increased from one hundred to one hundred seven and one-half percent of the fine imposed."

**CAUSE:** The Treasurer was unaware that Proviso 35.11 had increased the assessment percentage.

**EFFECT:** The assessment should be calculated at 107.5 percent but instead is calculated at 100 percent.

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**AUDITORS' RECOMMENDATION:** The Treasurer should design and implement procedures to ensure all collections are properly calculated in accordance with State law.

*INSTALLMENT PAYMENT COLLECTIONS FEE/ COURT COSTS*

**CONDITION:** The Town has elected not to assess the 3% collection fee on all fines paid on an installment basis as mandated by law. Instead, the Town has assessed court costs on all offenses.

**CRITERIA:** South Carolina Code of Laws Section 14-17-725 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.... " Attorney General Opinion dated May 8, 1984, states, "the recovery and allowance of cost rests entirely on statutory provisions...no right to or liability for cost exists in the absence of statutory authorization."

**CAUSE:** The Town was unaware of the required 3% collection fee on installment payments as well as the Attorney General's Opinion.

**EFFECT:** The Town is not complying with Section 14-17-725 when they do not assess the 3% collection fee and in violation of the Attorney General's opinion when they assess court costs.

**AUDITORS' RECOMMENDATION:** We recommend the Clerk of Court comply with the law related to installment payments and collect the 3% fee as required by law.

*INSTALLMENT PAYMENTS ALLOCATION*

**CONDITION:** The Town does not prorate installment payments across all fine, assessment and surcharge amounts. Instead, the Treasurer uses a priority order to account for the receipts.

**CRITERIA:** The Court Administration Memo from Robert L. McCurdy dated June 29, 2007 section VI.A.11 states, "When the fine and assessment are paid in installments, Section 35.11 ... requires that 51.80722% of each installment be treated as a payment towards the assessment. The remaining 48.192771% is treated as a payment towards the fine. ... Prior to making these computations, you must determine what other assessments may apply (conviction surcharge, DUI assessments, etc.). Those charges must be collected separately and not included in the percentage splits explained above."

**CAUSE:** The Treasurer does not prorate installment payments in their manual system.

**EFFECT:** Fines, assessments and surcharges are not allocated as specified above. Prorated distribution of payments is essential to ensure all entity's interests are sharing in the payments and one entity does not fall short should payments cease before the fine is paid in full.

**AUDITORS' RECOMMENDATION:** The Town should develop and implement procedures to ensure they are calculating amounts in compliance with the law.

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MANUAL SYSTEM OMISSIONS

**CONDITION 1:** The Treasurer has not properly reported Driving Under Suspension [DUS] or Driving Under the Influence [DUI] pullouts and assessments.

**CRITERIA:** South Carolina Code of Laws Section 56-1-460(C) states, "One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol." South Carolina Code of Laws Section 56-5-2940 states "A person who violates a provision of Section 56-5-2930 or 56-5-2933, upon conviction, entry of a plea of guilty or of nolo contendere, or forfeiture of bail must be punished: (1) by a fine of four hundred dollars . . ." It further states "One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol." South Carolina Code of Laws Section 56-5-2995 states, "In addition...for a...violation of Section 56-5-2930...in...municipal court, an additional assessment of twelve dollars must be added to any punishment imposed...."

**CAUSE:** The Treasurer allocates the fines manually and lacks training in how to properly account for and allocate total fines.

**EFFECT:** The Town did not report assessments correctly to the State because it did not allocate the assessments properly to pullouts and surcharges.

**AUDITORS' RECOMMENDATION:** The Town should design and implement procedures to ensure all collections are reported on the State Treasurer's Revenue Remittance form in accordance with State law.

**CONDITION 2:** The Treasurer is not reporting any Law Enforcement surcharges from collections.

**CRITERIA:** The 2007-2008 General Appropriations Act (H. 3620) Part IB Section 73.2 states "...In addition to all other assessments and surcharges, during the current fiscal year, a twenty-five dollar surcharge is also levied on all fines, forfeitures, escheatment's, or other monetary penalties imposed in...municipal court."

**CAUSE:** The Treasurer uses a manual system for reporting and did not separate law enforcement surcharges in his calculations of amounts due to the State.

**EFFECT:** By not reporting the law enforcement surcharge as required in the legislation, the Town was violating the law.

**AUDITORS' RECOMMENDATION:** We recommend the Treasurer comply with the law and report Law Enforcement surcharges.

**CONDITION 3:** The Treasurer is not reporting conviction surcharges.

**CRITERIA:** South Carolina Code of Laws Section 14-1-211(A)(1) states, "A twenty-five dollar surcharge is imposed on all convictions obtained in municipal court" and "the surcharge must not be imposed on convictions for misdemeanor traffic offenses."

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**CAUSE:** The Treasurer uses a manual system for reporting and did not include conviction surcharges in his calculations of amounts due to the Victim Assistance Fund.

**EFFECT:** The conviction surcharge collections were allocated between fines and assessments rather than to conviction surcharge.

**AUDITORS' RECOMMENDATION:** We recommend the Town reimburse the liability to the Victim Assistance Fund.

**PROPER VICTIM ASSISTANCE FUNDS ACCOUNTING**

LACK OF PROPER ACCOUNTING

**CONDITION:** Because of manual system omissions, the Town does not accurately and consistently record the Victim Assistance fund revenue in their general ledger.

**CRITERIA:** South Carolina Code of Laws Section 14-1-208 (B) states "The city treasurer must remit the assessment ... to the municipality to be used for the purposes set forth in subsection (D) ...." 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 Town uses a manual system to assess fines and determine the amount that goes to the State, the Town and the Victim Assistance fund.

**EFFECT:** The Town's Victim Assistance records are not accurate.

**AUDITORS' RECOMMENDATION:** The Town should design and implement a system that will prospectively keep accurate records. The Town should calculate the amount needed to reimburse the fund in accordance with the law.

**TIMELY ACCURATE REPORTING TO THE STATE TREASURER**

TIMELY FILING

**CONDITION:** Nine of the twelve State Treasurer's Remittance Reports for the procedures period July 1, 2007 through June 30, 2008 were not timely filed. The delays ranged from 9 to 100 days late.

**CRITERIA:** South Carolina Code of Laws Sections 14-1-208 (B) states "The city treasurer must remit ... on a monthly basis by the fifteenth day of each month...."

**CAUSE:** The Town has no procedure to document timeliness. Vesting responsibility for timely filing is difficult.

**EFFECT:** The Town did not comply with the timely filing requirement.

**AUDITORS' RECOMMENDATION:** The Town should develop and implement a policy to document compliance with State law.

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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 information that is required by law to be in the schedule. It did not include a beginning balance. It also did not list Victim Assistance expenditures.

**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 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 Town relied on the independent auditor to include all required information on the schedule.

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

**AUDITORS' RECOMMENDATION:** Because the Town is responsible for the schedule, they should ensure their schedule complies with State law.

ACCURACY IN FILED REMITTANCE REPORTS

**CONDITION:** Because of manual system omissions, incorrect calculations, and errors in transferring data the Revenue Remittance forms that were submitted during the procedures period were not accurate.

**CRITERIA:** South Carolina Code of Laws Section 14-1-208(B) states "the city treasurer must 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 proscribed by the State Treasurer."

**CAUSE:** The Treasurer allocates the fines manually and lacks training in how to properly calculate the assessments and surcharges to complete the monthly remittance forms.

**EFFECT:** The Town has not reported the correct amounts to the State for law enforcement surcharges, DUI assessments, DUI surcharges, DUI pullouts, and DUS pullouts or for Victim Assistance.

**AUDITORS' RECOMMENDATION:** The Town should determine the amounts due to the State Treasurer and make adjustments to the State Treasurer's Revenue Remittance forms previously filed.

**TOWN OF IVA MUNICIPAL COURT  
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June 30, 2008

**CORRECTIVE ACTION PLAN**

Management has elected not to respond.