

CITY OF CONWAY MUNICIPAL COURT

CONWAY, SOUTH CAROLINA

STATE AUDITOR'S REPORT

JUNE 30, 2012

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State of South Carolina



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INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

April 10, 2013

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

The Honorable Andy E. Hendrick, Municipal Judge
City of Conway
Conway, South Carolina

Mr. Michael Hardee, Finance Director
City of Conway
Conway, South Carolina

We have performed the procedures described below, which were agreed to by the City of Conway and the City of Conway Municipal Court, solely to assist you in evaluating the performance of the City of Conway Municipal Court for the fiscal year ended June 30, 2012, in the areas addressed. The City of Conway and the City of Conway 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 City of Conway and the City of Conway 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 Municipal Court dockets from the Clerk of Court. We randomly selected twenty-five cases from the 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.
- We tested recorded court receipt transactions to determine that the receipts were remitted in a timely manner to the City's finance department in accordance with State law.

The Honorable Nikki R. Haley, Governor
and
The Honorable Andy E. Hendrick, Municipal Judge
Mr. Michael Hardee, Finance Director
City of Conway
April 10, 2013

Our findings as a result of these procedures are presented in Adherence to Fine Guidelines, Timely Submission of Municipal Court Monthly Remittance Form and Conviction Surcharge in the Accountant's Comments section of this report.

2. **City Finance Director**

- We gained an understanding of the policies and procedures established by the City 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 City for the fiscal year ended June 30, 2012. 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 City on its supplemental schedule of fines and assessments for the fiscal year ended June 30, 2012 agreed to the State Treasurer's Revenue Remittance Forms and to the City's general ledger. We also determined if the supplemental schedule of fines and assessments contained all required elements in accordance with State law.

Our finding as a result of these procedures is presented in Timely Submission of State Treasurer's Revenue Remittance Form in the Accountant's Comments section of this report.

3. **Victim Assistance**

- We gained an understanding of the policies and procedures established by the City to ensure proper accounting for victim assistance funds.
- We made inquiries and performed substantive procedures to determine if any funds retained by the City for victim assistance were accounted for in a separate account.
- We tested judgmentally selected victim assistance expenditures to ensure that the City expended victim assistance funds in accordance with State law and South Carolina Court Administration Fee Memoranda, Attachment L.
- We determined if the City reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with State law.
- We inspected the City's general ledger to determine if the Victim Assistance Fund balance was retained as of July 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 Andy E. Hendrick, Municipal Judge
Mr. Michael Hardee, Finance Director
City of Conway
April 10, 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 twelve month period ended April 30, 2006 and dated January 4, 2007, to determine if the City had taken adequate corrective action.

Our findings as a result of these procedures are presented in Adherence to Fine Guidelines, Timely Submission of Municipal Court Monthly Remittance Form and Timely Submission of State Treasurer's Revenue Remittance Form 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 twelve months ended June 30, 2012, 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 City of Conway City Council, City of Conway Municipal Judge, City of Conway Finance Director, City of Conway 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

During our test of Municipal Court collections and remittances, we noted two instances where the individuals were fined \$150 and \$100, respectively, 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...A person must not be fined more than fifty dollars for any one incident of one or more violations of the provisions of this article."

The Clerk of Court/Associate Judge stated the original violations were reduced to a seatbelt violation in order for no points to be assessed against the individuals' licenses.

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

TIMELY SUBMISSION OF MUNICIPAL COURT MONTHLY REMITTANCE FORM

During our testing of the City's State Treasurer's Revenue Remittance Forms (STRRF), we noted two instances where the Municipal Court did not submit the monthly remittance forms and supporting financial data to the City's finance department in accordance with State law.

We used the submission date documented on the STRRF by the court's accounting software to determine if the forms were submitted timely. The forms were submitted twelve and thirteen days late. The Clerk of Court/Associate Judge stated the forms were submitted late because she was out of the office when the forms were due.

Section 14-25-85 of the 1976 South Carolina Code of Laws, as amended, states, “All fines and penalties collected by the municipal court shall be forthwith turned over by the clerk to the treasurer of the municipality for which such court is held.” We determined forthwith to mean no more than five business days from the first working day of the month after collection.

We recommend the Municipal Court implement procedures to ensure the monthly remittance forms are submitted to the City’s finance department in compliance with State law.

TIMELY SUBMISSION OF STATE TREASURER’S REVENUE REMITTANCE FORM

During our testing of the City’s State Treasurer Revenue Remittance Forms (STRRF), we noted two out of twelve STRRF were not submitted to the State Treasurer by the fifteenth day of the month as required by State law. The forms were submitted four and six days late.

The Clerk of Court/Associate Judge did not submit the monthly remittance forms to the City’s finance department timely and as a result, the City’s Finance Manager was unable to submit the STRRF in accordance with State law. The Finance Manager did submit the two late STRRF to the State Treasurer within two days of receiving them from the Clerk of Court/Associate Judge.

Section 14-1-208(B) of the 1976 South Carolina Code of Laws, as amended, requires the City 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 City implement procedures to ensure the STRRF are submitted by the fifteenth day of each month in compliance with 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. We also noted one case where the Court improperly assessed and collected the \$25 conviction surcharge.

The Associate Judge/Clerk of Court stated for one case the defendant was ordered to time served and no fine ordered. For the other case, the City's court accounting system (CMS) automatically applied the assessment codes for the misdemeanor traffic charge.

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 magistrates and municipal courts in this State. No portion of the surcharge may be waived, reduced, or suspended." This section does not apply to misdemeanor traffic offenses or parking violations.

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

ACCOUNTING FOR VICTIM ASSISTANCE FUNDS

During our testing of victim assistance expenditures, we noted the City charged the following expenditures to the victim assistance fund: (1) \$44.68 for fuel purchases made by a police officer and (2) \$24.00 for shirts for the City's Victim Advocate and Assistant Victim Advocate.

The City's Assistant Finance Director stated the unallowable charges were a result of oversight.

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; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts.” In addition, the South Carolina Court Administration Memorandum, Attachment L, dated June 30, 2011, and the South Carolina Victim Service Coordinating Council, Approved Guide for Expenditures of Monies Collected for Crime Victim Service in Municipalities and Counties, effective January 2010, set forth guidelines for expenditures of monies collected for crime victim services.

We recommend the City reimburse the victim assistance fund for the unallowable expenditures. We also recommend the City establish and implement policies and procedures to ensure victim assistance revenue is used only for allowable expenditures.

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 City of Conway Municipal Court for the twelve month period ended April 30, 2006 and dated January 4, 2007. We determined that the City of Conway has taken adequate corrective action on the deficiencies titled Installment Payments, Proper Victim's Assistance Funds Accounting – Software Programming, Child Restraint and Seat Belt Violations, and Required Supplementary Schedule of Fines and Assessments. We also determined that the deficiencies outlined in the findings titled Timely Filing and Adherence to Judicial Department Fine Guidelines still exist; consequently we have reported similar findings in Adherence to Fine Guidelines, Timely Submission of Municipal Court Monthly Remittance Form, and Timely Submission of State Treasurer's Revenue Remittance Form, respectively, in Section A of the report. For the deficiency outlined in the finding titled Timely Accurate Reporting to the State Treasurer – Software Programming, we determined the Court has taken adequate corrective action. However, we noted an additional deficiency during our testwork, which will be reported in Conviction Surcharge in Section A of the report.

CITY'S RESPONSE

MAYOR
Alys C. Lawson

MAYOR PRO TEM
Larry A. White



MUNICIPAL COURT

COUNCIL MEMBERS
Thomas J. "Tom" Anderson II
Barbara Blain-Olds
William M. Goldfinch IV
Irby L. Koon
Jean M. Timbes

June 21, 2013

Rich Gilbert, Deputy State Auditor
Office of the State Auditor
1401 Main Street Ste. 1200
Columbia, SC 29201

Dear Mr. Gilbert:

I have completed my review of the draft copy of the State Auditor's Report with reference to City of Conway Municipal Court. I hereby authorize the release of this report.

The Court has implemented procedures to assure adherence to all fine guidelines and to appropriately collect the conviction surcharge.

We will make every effort to timely submit the monthly remittance forms to the City's finance department.

If you need anything further, please let me know.

Thank you,

Andy E. Hendrick
Municipal Judge
City of Conway

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MAYOR
Alys C. Lawson

MAYOR PRO TEM
Irby L. Koon



COUNCIL MEMBERS
Thomas J. "Tom" Anderson II
Barbara Blain-Olds
William M. Goldfinch IV
Jean M. Timbes
Larry A. White

June 19, 2013

Rich Gilbert, Deputy State Auditor
Office of the State Auditor
1401 Main Street Ste. 1200
Columbia, SC 29201

Dear Mr. Gilbert,

I have completed my review of the draft copy of the City of Conway Municipal Court findings resulting from your performance of agreed upon procedures to accounting records for the fiscal year ended June 30, 2012. Please let this correspondence serve as authorization to release this report.

The City of Conway Finance department will work with the Clerk of Court/Associate Judge to ensure that all State Treasurer Revenue Remittance Forms are submitted on or before the fifteenth day of the month as required by State law. The City of Conway Finance Department will also reimburse the victim assistance fund for the gasoline purchase in the amount of \$44.68 and \$24.00 for two shirts purchased at an SOVA training class.

If I can be of any further assistance or you require additional information contact me at your convenience.

Thank you,

A handwritten signature in black ink, appearing to read "Michael Hardee", is written over the typed name.

Michael Hardee
Finance Director
City of Conway
P.O. Box 1075
Conway, SC 29528

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