



ALAN WILSON
ATTORNEY GENERAL

February 23, 2021

Chief Robert Vick
Town of Gifford
236 Walker Street
Gifford SC, 29923


Dear Chief Vick,

The Office of the Attorney General, Department of Crime Victim Compensation (DCVC), is sending this notice to inform you that we have completed the Follow-up Audit to the Town of Gifford's State Auditor's Report dated June 30, 2015. A copy of the official report is attached for your review. This is in conformance with Act 96 [PART IV] which requires DCVC to conduct a programmatic review and financial audit on any governmental entity or non-profit organization receiving victim assistance funding to ensure that these crime victim funds are expended in accordance with the law.

Please be advised that all DCVC audits and follow-up reports are public information. I am requesting that you respond to the findings, in writing, within the next ten business days. Please note that, at the end of ten business days, this report will be posted on the DCVC website at www.sova.sc.gov under the DCVC auditing tab.

Should you have any further questions or concerns, please feel free to contact me or Dexter L. Boyd, Senior Auditor, at 803.734.1900.

Sincerely,


Ethel Douglas Ford, CPM
Assistant Deputy Director

Department of Crime Victim Compensation

Cc: Mayor Horney Mitchell
Venus Brooks
Javoundra Brooks Creech



**The Office of the Attorney General
Department of Crime Victim
Compensation**

June 30, 2015

**Town of Gifford
Municipal Court State
Auditor's Report**

February 23, 2021

**Follow-up Audit Review
for the Town of Gifford's
Municipal Court State
Auditor's Report**

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Disclaimer: The recommendations included in sections A thru H in this report were made by the State Auditor's Office. The DCVC follow-up review was based on compliance with the State Auditor's Office recommendations. In addition, all DCVC follow-up reviews (including this one) are conducted to ensure compliance with applicable laws and regulations. (See Appendix A of this report to review the Initial State Issued Audit Report.)

Acronyms:

FFA – Fines, Fees, and Assessment

DCVC – Department of Crime Victim Compensation

SCLEVA – South Carolina Law Enforcement Victim Advocate

Introduction and Laws

PREFACE

The enclosed programmatic review and financial audit was initiated in response to the Town of Gifford's Municipal Court State Auditor's Report dated June 30, 2015. On January 29, 2020, the Assistant Deputy Director of Department of Crime Victim Compensation (DCVC) issued a letter to the Police Department and Town Mayor to inform them of the Town of Gifford's Victim Assistance Fund follow up audit. The follow up audit was conducted on February 27, 2020.

Governing Laws and Regulations

Act 96 [PART IV]

SECTION 13. B. Chapter 1, Title 14 of the 1976 Code is amended by adding:

“Section 14-1-211.6. (A) If the State Auditor finds that any county treasurer, municipal treasurer, county clerk of court, magistrate, or municipal court has not properly allocated revenue generated from court fines, fines, and assessments to the crime victim funds or has not properly expended crime victim funds, pursuant to Sections 14-1-206(B) and (D), 14-1-207(B) and (D), 14-1-208(B) and (D), and 14-1-211(B), the State Auditor shall notify the Office of the Attorney General, South Carolina Crime Victim Services Division. The division is authorized to conduct an audit, which must include both a programmatic review and financial audit of any entity or nonprofit organization receiving victim assistance funding, based on the referrals from the State Auditor or complaints of a specific nature received by the division to ensure that crime victim funds are expended in accordance with the law. Guidelines for the expenditure of these funds shall be developed in collaboration with the Victim Services Coordinating Council. The Victim Services Coordinating Council, in collaboration with the director of the division, shall develop these guidelines to ensure any expenditure that meets the parameters of Article 15, Chapter 3, Title 16 is an allowable expenditure.

Act 96 (cont.)

(B) Any local entity or nonprofit organization that receives funding from revenue generated from crime victim funds is required to submit their budget for the expenditure of these funds to the Office of the Attorney General, South Carolina Crime Victim Services Division within thirty days of the budget's approval by the governing body of the entity or nonprofit organization. Failure to comply with this provision shall cause the division to initiate a programmatic review and a financial audit of the entity's or nonprofit organization's expenditures of victim assistance funds. Additionally, the division will place the name of the noncompliant entity or nonprofit organization on its website, where it shall remain until such time as the noncompliant entity or nonprofit organization is in compliance with the terms of this section.

(C) Any entity or nonprofit organization receiving victim assistance funding must cooperate and provide expenditure and program data requested by the division. If the division finds an error, the entity or nonprofit organization has ninety days to rectify the error. An error constitutes an entity or nonprofit organization spending victim assistance funding on unauthorized items as determined by the division. If the entity or nonprofit organization fails to cooperate with the programmatic review and financial audit or to rectify the error within ninety days, the division shall assess and collect a penalty in the amount of the unauthorized expenditure plus fifteen hundred dollars against the entity or nonprofit organization for improper expenditures. This penalty which includes the fifteen hundred dollars must be paid within thirty days of the notification by the division to the entity or nonprofit organization that the entity or nonprofit organization is in noncompliance with the provisions of this section. All penalties received by the division shall be credited to the general fund of the State. If the penalty is not received by the division within thirty days of the notification, the political subdivision must deduct the amount of the penalty from the entity's or nonprofit organization's subsequent fiscal year appropriation."

Proviso 59.15

59.15. (AG: State Crime Victim Compensation)

A county or municipality may retain carry forward funds that were collected pursuant to Sections 14 1 206 (B) and (D), 14 1 207 (B) and (D), 14 1 208 (B) and (D), and 14 1 211 (B) of the 1976 Code, but no more than \$25,000 or ten percent of funds collected in the prior fiscal year, whichever is higher.

Proviso 59.15 (cont.)

If a county or municipality does not spend at least ninety percent of the funds collected pursuant to Sections 14 1 206 (B) and (D), 14 1 207 (B) and (D), 14 1 208 (B) and (D), and 14 1 211 (B) on Article 16, Chapter 3, Title 16 first priority and/or second priority programs during the fiscal year that the funds are received then the county or municipality shall remit any unspent funds that are greater than the allowed carried forward funds, regardless of the year collected, to the State Victim Assistance Program (SVAP) with the Office of the Attorney General within 120 days after the end of the fiscal year. All funds must be accounted for in the annual audit for each county or municipality.

The State Crime Victim Compensation Department shall offer training and technical assistance to each municipality and county annually on acceptable use of both priority one and priority two funds and funds available for competitive bid.

The State Crime Victim Compensation Department is authorized to transfer to the State Victim Assistance Program any state funds deemed available under Crime Victims Compensation authority to the State Victim Assistance Programs be placed in the competitive bid process.

The State Victim Assistance Program shall offer any funds remitted to it to non profit organizations that provide direct victim services on a competitive bid process. These funds may be used by the nonprofit for administrative costs and victim services.

A county or municipality may be exempt from the remittance requirements of this proviso upon submission of a plan to the State Crime Victim Compensation Department that meets the statutory requirements for the use of funds. A county or municipality must submit the report within 60 days after the end of the fiscal year. The State Crime Victim Compensation Department will review the submitted plan and advise the county or municipality of plan compliance with statutory requirements.

Proviso 98.9

98.9 (TREAs: Penalties for Non-reporting)

If a municipality fails to submit the audited financial statements required under Section 14-1-208 of the 1976 Code to the State Treasurer within thirteen months of the end of their fiscal year, the State Treasurer must withhold all state payments to that municipality until the required audited financial statement is received.

Proviso 98.9 (cont.)

If the State Treasurer receives an audit report from either a county or municipality that contains a significant finding related to court fine reports or remittances to the Office of State Treasurer, the requirements of Proviso 117.51 shall be followed if an amount due is specified, otherwise the State Treasurer shall withhold twenty-five percent of all state payments to the county or municipality until the estimated deficiency has been satisfied.

If a county or municipality is more than ninety days delinquent in remitting a monthly court fines report, the State Treasurer shall withhold twenty-five percent of state funding for that county or municipality until all monthly reports are current.

After ninety days, any funds held by the Office of State Treasurer will be made available to the State Auditor to conduct an audit of the entity for the purpose of determining an amount due to the Office of State Treasurer, if any.

**SC Code of Law
Title 14 [excerpts]**

Courts – General Provisions

Collection/Disbursement of Crime Victim Monies at the Municipal & County Levels: below is a brief synopsis of applicable sections.

- **Section 14-1-206, subsection(s) A, B & D:** (A) A person who is convicted of, pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in general sessions court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. (B) The county treasurer must remit 35.35 percent of the revenue generated by the assessment imposed in the county to be used for the purposes set forth in subsection (D) and 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. (D) 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 in the governmental ent'ty's adopted budget as funds unused and carried forward from previous years.

**Section 14-1-207
Subsection(s) A, B & D:**

(A) A person who is convicted of, pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in magistrate's court must pay an amount equal to 107.5 percent of the fine imposed as an assessment.

Title 14 SC Code of Laws
(excerpts cont.)

(B) The county to be used for the purposes set forth in subsection (D) and 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. (D) 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 in the governmental entity's adopted budget as funds unused and carried forward from previous years.

- **Section 14-1-208 Subsection(s) A, B & D:** (A) A person who is convicted of, pleads guilty or nolo contendere to, or forfeits bond for an offense occurring after June 30, 2008, tried in municipal's court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. (B) The county treasurer must remit 11.16 % of the revenue generated by the assessment imposed in municipal court to the county to be used exclusively for the purpose of providing direct victim services and 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. (D) 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 in the governmental entity's adopted budget as funds unused and carried forward from previous years.
- **Section 14-1-206,207,208 Subsection(s) E:** To ensure that fines and assessments imposed are properly collected and remitted to the State Treasurer, the annual independent external audit required to be performed for each county and municipality 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 Uniform Supplemental Schedule Form detailing all fines and assessments collected by the clerk of court for the court of general sessions, magistrate court of the county and at the court level, the amount remitted to the county and municipal treasurers, and the amount remitted to the State Treasurer.

SC Code of Laws
(excerpts cont.)

- **Section 14-1-211 Subsection A, B, &D:** (A) A one hundred dollar surcharge is imposed on all convictions obtained in general sessions court and a twenty-five dollar surcharge is imposed on all convictions obtained in magistrates and municipal courts in this State. (B) The revenue collected must be retained by the jurisdiction which heard or processed the case and paid to the city or county treasurer,

- **Section 14-1-211 Subsection A, B, &D:** (B) 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 must be deposited into a separate account for the exclusive use for all activities related to the requirements contained in this provision. For the purpose of funds allocation and expenditure, these funds are a part of the general funds of the city or county. These funds must be appropriated for the exclusive purpose of providing victim services as required by Chapter 3, Article 15 of Title 16; specifically, those service requirements that are imposed on local law enforcement, local detention facilities, prosecutors, and the summary courts. First priority must be given to those victims' assistance programs which are required by Chapter 3, Article 15 of Title 16 and second priority must be given to programs which expand victims' services beyond those required by Chapter 3, Article 15 of Title 16. These funds must be used for, but are not limited to, salaries, equipment that includes computer equipment and internet access, or other expenditures necessary for providing services to crime victims. All unused funds must be carried forward from year to year and used exclusively for the provision of services to the victims of crime. All unused funds must be separately identified in the governmental entity's adopted budget as funds unused and carried forward from previous years.
 - (D) (1) The supplementary schedule must include the following elements:
 - (a) all surcharges collected by the clerk of court for the general sessions, magistrate's, or municipal court;
 - (b) the amount of surcharges retained by the city or county treasurer pursuant to this section;
 - (c) the amount of funds allocated to victim services by fund source; and

(d) how those funds were expended, and any carry forward balance

Introduction and Legislative

PRIOR AUDIT RESULTS

The South Carolina State Legislative Act 96 (Part IV) mandates the Department of Crime Victim Compensation to conduct an audit which shall include both a programmatic review and financial audit of any entity or nonprofit organization receiving victim assistance funding with previously found errors to ensure necessary corrective action has taken place; thereby ensuring compliance with all applicable State laws and regulations. As noted, the State Auditor's Office conducted an audit of the Town of Gifford Municipal Court.

This State Auditor's Office follow up audit for the Town of Gifford was based on the SC State Auditor's Office initial audit findings and recommendations in their audit dated June 30, 2015. (Appendix A)

DCVC Audit Objective was:

- To determine if all errors and recommendations issued by the South Carolina State Auditor's Office were adhered to as required by State laws and regulations.

RESULTS IN BRIEF

Per the State Auditor's Office Audit, the Town of Gifford did consider the implications of proper record keeping and combined with recommendation in Section B, Other Weaknesses findings below, substantially improve their court procedures.

The Town also did not implement policies and procedures to ensure State Treasurer's Revenue Remittance Form's (STRRFs) are submitted by the fifteenth of each month in compliance with State law. Policies and procedures were requested by the DCVC Auditor; however, they were not received.

The Town did not accurately record court activity in such a way as to make those records available for review in accordance with State law.

However, the Town of Gifford did contract with an independent Certified Public Accountant to conduct an audit of its financial statements annually and prepared a schedule in accordance with State law.

The Town did not establish and implement policies and procedures to ensure Victim Assistance revenue is accounted for and deposited timely in accordance with State law. Also, the Town did not establish a separate general ledger account to ensure the transparency of its Victim Assistance funds, and they did not determine cumulative balances due to Victim Assistance.

The Town of Gifford did not implement a process to ensure timely filing and payment of amounts due to the State Treasurer.

The Clerk of Court/Treasurer summarized receipts and included detail on deposits as recommended in Justice Toal's order and deposited them weekly. Also, the Clerk of Court verified that the validated deposit slip reconciled with the Daily Cash Receipt Report.

However, the Town did not establish and implement policies and procedures to ensure all records are properly maintained and retained in accordance with Court Administration's retention schedule and sound internal controls.

Objective(s), Conclusion(s), Recommendation(s), and Comments

A. Court Software System Receipt Trace

Objective Did the Town consider the implications of proper record keeping and combined with recommendation in Section B, Other Weaknesses findings below, substantially improve their court procedures?

Conclusion Yes, the Town considered the implications of proper record keeping and combined with the recommendation in Section B, Other Weaknesses, substantially improved their court procedures.

Background Section 14-25-85 of the 1976 South Carolina Code of Laws

Discussion In preparation for this audit, the DCVC Auditor reviewed the Town of Gifford's Municipal Court State Auditor's Report dated June 30, 2015. It was noted in the audit that the State Auditor attempted to trace a ticket to the receipt book; however the original and carbon copy were missing.

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." Therefore, according to the State Auditor's report, it was recommended that the Town consider the implications of proper record keeping and combined with the recommendation in the Section B, Other Weaknesses, substantially improved their court procedures.

While conducting this audit, a list of pre-requested audit documents were forwarded to the Town Clerk. Policies and procedures were a part of the requested documents to ensure proper record keeping and to aid in substantially improving court procedures. On March 19, 2020, the policies and procedures were submitted by the Town Clerk to the DCVC Auditor. As a result, the town is now in compliance.

Recommendation(s)
and Comments

A-1

No further recommendation.

Objective(s), Conclusion(s), Recommendation(s), and Comments

B. Timely Submission of State Treasurer's Revenue Remittance Forms**Objective**

Did the Town of Gifford implement policies and procedures to ensure the State Treasurer's Revenue Remittance Forms (STRRFs) are submitted by the fifteenth day of each month in compliance with State law?

Conclusion

No, the Town of Gifford did not implement policies and procedures to ensure STRRFs are submitted by the fifteenth of each month in compliance with State law.

Background

Section 14-1-208(B) of the 1976 South Carolina Code of Laws

Discussion

In preparation for this audit, the Town of Gifford's Municipal Court State Auditor's Report dated June 30, 2015 was reviewed. It was noted in the State Auditor's Report that none of the twelve STRRFs tested were submitted to the State Treasurer as required by law. 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.

As a part of the pre-requested audit documents sent on February 18, 2020 to the Town Clerk, copies of the STRRFs from the Town of Gifford from July 2013 through January 2020 were requested. Also, during the audit site visit conducted on February 27, 2020, a second request was made for the pre-requested audit documents. On February 28, 2020, the Town Clerk submitted copies of the STRRFs for 2017, 2018 and 2019 via email. The additional requested STRRFs were received in the mail on April 2, 2020. Upon review of the STRRFs submitted, it was noted a number of them were still not submitted by the fifteenth of each month as required by law.

In addition, the Town has not developed and implemented policies and procedures to ensure timely submission of STRRFs as recommended in the State Auditor's Report dated June 30, 2015. As a result, the town is non-compliant and this recommendation will be rolled into a DCVC initial audit.

Recommendation(s)
and Comments

B-1

It is recommended the Town implement policies and procedures to ensure the STRRFs are submitted by the fifteenth day of each month in compliance with State law.

Objective(s), Conclusion(s), Recommendation(s), and Comments

C. General Ledger Account Records**Objective**

Did the Town accurately record court activity in such a way as to make those records available for review in accordance with State law?

Conclusion

No, the Town did not accurately record court activity in a way as to make those records available for review in accordance with State law.

Background

Section 14-1-208 (E)(4) of the 1976 South Carolina Code of Laws

Discussion

In preparation for this audit, the Town of Gifford's Municipal Court State Auditor's Report dated June 30, 2015 was reviewed. It was noted in the report that the Town Treasurer kept no records of court activity which allowed for reconciliation of court collection activity, court docket adjudication and deposit activity. This resulted in the State Auditor being unable to trace any court activity through the Town's general ledger including payments to the State Treasurer.

Section 14-1-208 (E)(4) of the 1976 South Carolina Code of Laws, as amended, states, "The clerk of court and municipal treasurer shall keep records of fines and assessments required to be reviewed pursuant to this subsection in the format determined by the municipal governing body and make those records available for review."

The former Clerk/Treasurer and current Clerk stated lack of training contributed to the issue. It was recommended by the DCVC Auditor that the Town accurately record court activity in a way as to make those records available for review in accordance with State law. Also, while conducting this audit, a list of pre-requested audit documents was given to the town.

Policies and procedures were a part of the requested documents to ensure accurate recording of court activity in a way as to make those records available for review in accordance with State law. However, now that this audit has concluded, the auditor has noted that the policies and procedures were not received. As a result, the town is non-compliant and this recommendation will be rolled into a DCVC Initial audit.

Recommendation(s)
and Comments

C-1

It is recommended the Town accurately record court activity in a way as to make those records available for review in accordance with State law. Also, the Town is required to develop and provide policies and procedures and distribute to all relevant parties.

Objective(s), Conclusion(s), Recommendation(s), and Comments

D. Supplementary Schedule**Objective**

Did the Town of Gifford contract with an independent Certified Public Accountant to conduct an audit of its financial statements annually and prepare a schedule in accordance with State law?

Conclusion

Yes, the Town of Gifford contracted with an independent Certified Public Accountant (CPA) to conduct an audit of its financial statements annually and prepared a schedule in accordance with State law.

Background

Section 5-7-240 of the South Carolina Code of Laws

Discussion

In preparation for this audit, the Town of Gifford's Municipal Court State Auditor's Report dated June 30, 2015 was reviewed. It was noted in the State Auditor's Report that the latest financial statements available were for fiscal year ending June 30, 2013. Also, it was noted that the schedule of fines, fees, and assessments included in the audit report was not prepared in accordance with State law.

Section 5-7-240 of the South Carolina Code of Laws, as amended, states, "The council shall provide for an independent annual audit of all financial records and transactions of the municipality and any agency funded in whole by municipal funds..."

While conducting this audit, the DCVC Auditor requested copies of the Town's annual audits for FY 2013 through FY 2019 as well as documentation to verify a contract with a Certified Public Accountant (CPA) to conduct any annual audits not completed for the years requested. During the audit site visit, it was noted that the Town had not conducted any annual audits since FY 2013. However, the Mayor stated they were working with a CPA to conduct annual audits and provide their contact information.

On April 22, 2020, the DCVC Auditor contacted the CPA and confirmed they would be working on the Town's annual audits as soon as they were able to get back into the office due to the COVID 19 pandemic. The CPA did not provide a timeframe as to when this will take place. Since the Town has contacted a CPA and has a contract with them to complete their annual audits, the Town is in compliance with this recommendation.

Recommendation(s)
and Comments

D-1

No further recommendation.

Objective(s), Conclusion(s), Recommendation(s), and Comments

E. Victim Assistance Funds**Objective**

Did the Town establish and implement policies and procedures to ensure Victim Assistance revenue is accounted for and deposited timely in accordance with State law? Also, did the Town establish a separate general ledger account to ensure the transparency of its Victim Assistance funds and determine cumulative balances due to Victim Assistance?

Conclusion

No, the Town did not establish and implement policies and procedures to ensure Victim Assistance revenue is accounted for and deposited timely in accordance with State law. Also, the Town did not establish a separate general ledger account to ensure the transparency of its Victim Assistance funds and determine cumulative balances due to Victim Assistance.

Background

Section 14-1-211(B) of the 1976 South Carolina Code of Laws

Discussion

In preparation for this audit, the Town of Gifford Municipal Court State Auditor's Report dated June 30, 2015 was reviewed.

The following information noted below was found in the State Auditor's Report:

- The Town has established a separate bank account for Victim Assistance funds as required by State law but deposits are not made to the account on a monthly basis. I also was not given two months bank statements within the procedures period as they were unobtainable.
- The Town does not track Victim Assistance deposits, disbursements or cash balances manually or electronically other than with the bank statement activity. No revenues, expenses or fund balance exist in the general ledger.
- The June 30, 2013 schedule of fines and assessments reported no Victim Assistance carry forward balance.

- There were withdrawals of \$2,996.62 made from the bank account to pay Town operating costs.

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.”

Therefore, it was recommended the Town establish and implement policies and procedures to ensure Victim Assistance revenue is accounted for and deposited timely in accordance with State law. Also, the Town was to establish a separate general ledger account to ensure the transparency of its Victim Assistance funds and determine cumulative balances due to Victim Assistance.

While conducting this audit, as a part of the pre-requested audit documents, the DCVC Auditor requested copies of policies and procedures established to ensure Victim Assistance revenue is accounted for and deposited timely in accordance with State law as well as a copy of the general ledger. However, these documents were not received. In addition, a second request was made during the audit site visit on February 27, 2020. The Town was given time to submit copies of policies and procedures and the general ledger while this audit was being prepared. However, as of the conclusion of this audit, these documents have not been received by the DCVC Auditor. As a result, this recommendation will be rolled into a DCVC initial audit because the Town has failed to comply with the auditor’s request.

Recommendation(s)
and Comments

E-1

It is recommended the Town establish and implement policies and procedures to ensure Victim Assistance revenue is accounted for and deposited timely in accordance with State law. Also, the Town is required to establish a separate general ledger account to ensure the transparency of its Victim Assistance funds and determine cumulative balances due to Victim Assistance.

Objective(s), Conclusion(s), Recommendation(s), and Comments

F. Under Reported Amounts

Objective Did the Town of Gifford implement a process to ensure timely filing and payment of amounts due to the State Treasurer?

Conclusion No, the Town of Gifford did not implement a process to ensure timely filing and payment of amounts due to the State Treasurer.

Background Section 14-1-208(B) of the 1976 South Carolina Code of Laws

Discussion

While preparing this audit, the Town of Gifford Municipal Court State Auditor's Report dated June 30, 2015 was reviewed. It was noted in the State Auditor's Report that none of the twelve STRRFs tested were submitted to the State Treasurer's Office (STO) as required by law. The State Auditor was unable to test the completeness and accuracy of the STRRFs because the court records were inadequate. However, a copy of the summary schedule of court collections was obtained by the State Auditor and tests were performed to determine the Town's under reported court collections. As a result, a total of **\$215,180.00** was determined to be owed to the State Treasurer's Office.

During the DCVC follow up audit site visit, the auditor inquired about the funds owed to the State Treasurer's Office and whether the Town had contacted the State Treasurer's Office regarding a payment. The Town Mayor stated that a plan was in place to repay the funds. However, he stated he would have to do research regarding details of the plan. He was unable to explain the plan to the auditor. The auditor requested written documentation from the Town to show either contact with the State Treasurer's Office regarding the funds owed or some type of plan of action to repay the funds. As of the date noted on this audit report, DCVC had not received any supporting documentation showing how or if there has been an attempt by the Town to repay the funds owed to the STO. As a result, this recommendation will be rolled into a DCVC initial audit. Therefore, the Town is non-compliant.

Recommendation(s)
and Comments

F-1

It is recommended that the Town of Gifford submit written documentation to DCVC showing either contact with the State Treasurer's Office regarding the funds owed or a plan of action to repay the funds owed to the State Treasurer's Office.

Objective(s), Conclusion(s), Recommendation(s), and Comments

G. Court Cash Receipt Procedures**Objective**

Did the Clerk of Court/Treasurer summarize receipts and include detail on deposits as recommended in Justice Toal's order and deposit daily or weekly, when practicable? Also, did the Clerk of Court and Town Treasurer verify that the validated deposit slip reconciles with the Daily Cash Receipt Report?

Conclusion

Yes, the Clerk of Court/Treasurer summarized receipts and included detail on deposits as recommended in Justice Toal's order and deposited them weekly. Also, the Clerk of Court verified that the validated deposit slip reconciled with the Daily Cash Receipt Report.

Background

Supreme Court Justice Toal's court order to county magistrates dated March 13, 2007

Discussion

In preparation for this audit, the Town of Gifford Municipal Court State Auditor's Report dated June 30, 2015 was reviewed. It was noted in the State Auditor's Report that the State Auditor was unable to trace defendant ticket payments from manual court receipts to the Town's bank deposit. The former Clerk of Court/Treasurer stated she did not include detail on or keep copies of the bank deposit slips. Therefore, there is no assurance that the amount of the received funds were deposited into the Town's bank account. Supreme Court Justice Toal issued a court order to county magistrates dated March 13, 2007 for Section II, item C. and it states, "At the end of each day, all receipts issued shall be totaled, and the total indicated on the Daily Cash Summary Report." In the court order issued by Justice Toal, Section III, item C states further "...deposit slips shall be prepared for each separate account These deposit slips shall include: List of checks deposited (name of Defendant and amount of check must be included), total cash deposited, the starting and ending receipt numbers ..." The State Auditor's Report noted that this order was directed towards county magistrates, however; it could be applied to municipal courts to improve internal controls as well.

During the audit site visit on February 27, 2020, the current Clerk of Court stated they were now complying with Justice Toal's order and copies of the Daily Cash receipt reports were submitted to the DCVC Auditor. Upon review of the reports they were determined to be accurate. Therefore, the Town is compliant with this objective.

Recommendation(s)
and Comments

G-1

No further Recommendation.

Objective(s), Conclusion(s), Recommendation(s), and Comments

H. Lack of Adequate filing Procedures**Objective**

Did the Town establish and implement policies and procedures to ensure all records are properly maintained and retained in accordance with Court Administration's retention schedule and sound internal controls?

Conclusion

Yes, the Town did establish and implement policies and procedures to ensure all records are properly maintained and retained in accordance with Court Administration's retention schedule and sound internal controls.

Background

South Carolina Court Administration's Retention Schedule

Discussion

In preparation for this audit, the Town of Gifford Municipal Court State Auditor's Report dated June 30, 2015 was reviewed. It was noted in the State Auditor's Report that the Clerk of Court did not file court records, i.e. tickets, warrants, dockets and receipt books in an orderly fashion so that records could be retrieved upon request. The State Auditor's report also noted that the court software system was not reliable for complete processing of records.

Therefore, it was recommended that the Town establish and implement policies and procedures to ensure all records are properly maintained and retained in accordance with Court Administration's retention schedule and sound internal controls. As a part of the pre-requested audit documents and during the audit site visit on February 27, 2020, the DCVC Auditor requested copies of policies and procedures recommended by the State Auditor. On March 19, 2020, the policies and procedures were submitted by the Town Clerk to the DCVC Auditor. As a result, the Town is now compliant.

Recommendation(s)
and Comments

H-1

No further recommendation.

Objective(s), Conclusion(s), Recommendation(s), and Comments

I. Technical Assistance**Documentation Provided**

During the site visit, technical assistance was provided and the following documents were explained in detail and provided to appropriate officials and agency representatives:

1. Copy of Act 96 Part IV
2. Copy of the Legislative Proviso 97.9
3. Copy of the Legislative Proviso 59.15
4. Copy of a Sample Budget
5. Sample Staff Hired Report
6. Sample Time and Activity Report
7. Sample Expenditure Report
8. Victim Advocate Procedural Manual
9. Approved Guidelines
10. Technical Assistance Provided

Other Matters

There are no other matters.

Corrective Action

Act 96 [Part IV] (C) states:

“Any entity or nonprofit organization receiving victim assistance funding must cooperate and provide expenditure and program data requested by the division. If the division finds an error, the entity or nonprofit organization has ninety days to rectify the error. An error constitutes an entity or nonprofit organization spending victim assistance funding on unauthorized items as determined by the division. If the entity or nonprofit organization fails to cooperate with the programmatic review and financial audit or to rectify the error within ninety days, the division shall assess and collect a penalty in the amount of the unauthorized expenditure plus fifteen hundred dollars against the entity or nonprofit organization for improper expenditures. This penalty which includes the fifteen hundred dollars must be paid within thirty days of the notification by the division to the entity or nonprofit organization that the entity or nonprofit organization is in noncompliance with the provisions of this section. All penalties received by the division shall be credited to the general fund of the State. If the penalty is not received by the division within thirty days of the notification, the political subdivision must deduct the amount of the penalty from the entity's or nonprofit organization's subsequent fiscal year appropriation.”

DCVC completed the State Auditor’s Office follow up audit review on August 31, 2020. As a result of the audit, all errors were not rectified within the required timeframe. Therefore, the recommendations outlined in this audit will be rolled into a DCVC initial audit.

For an overview of the follow-up audit results please refer to the “Results in Brief” section of this report.

The DCVC Follow-up audit will be conducted in January 2021. This audit report was issued February 23, 2021.

Appendix(s)

Appendix A – Town of Gifford’s State Auditor’s Report Dated June 30, 2015

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

STATE AUDITOR'S REPORT

JUNE 30, 2015

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**South Carolina
Office of the State Auditor**

**George L. Kennedy, III, CPA
State Auditor**

January 24, 2017

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

The Honorable Brenda C. Jamison, Chief Judge
Town of Gifford Municipal Court
Gifford, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Town of Gifford Municipal Court System as of and for the year ended June 30, 2015, was issued by Steven L. Blake, CPA, 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 that reads "George L. Kennedy, III".

George L. Kennedy, III, CPA
State Auditor

GLKIII/cwc

STEVEN L. BLAKE, CPA

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

January 24, 2017

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

The Honorable Brenda C. Jamison, Chief Judge
Ms. Patricia McTeer, Clerk of Court
Town of Gifford Municipal Court
Gifford, South Carolina

I have performed the procedures described below, which were agreed to by the Town of Gifford Municipal Court, solely to assist you in evaluating the performance of the Town of Gifford Municipal Court for the period July 1, 2014 through June 30, 2015, in the areas addressed. The Town of Gifford Municipal Court is 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 Office of the State Auditor and the Town of Gifford Municipal Court. Consequently, I 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

- I gained an understanding of the policies and procedures established by the Clerk of Court to ensure timely reporting by the Clerk of Court's Office.
- I obtained the court dockets from the Clerk of Court. I judgmentally 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 adjudicated in accordance with applicable State law and the South Carolina Court Administration Fee Memoranda.
- I tested twenty-five judgmentally selected recorded court receipt transactions to determine that the fine, fee, assessment and/or surcharge amount adheres to State law and the South Carolina Court Administration Fee Memoranda.
- I tested twenty-five judgmentally selected recorded court receipt transactions to determine that the receipts were allocated and apportioned in accordance with applicable State law.

My findings as a result of these procedures are presented in Adherence to Fine Guidelines, Court Software System Setup Error and Court Cash Receipt Procedures in the Accountant's Comments section of this report.

The Honorable Nikki R. Haley, Governor
and
The Honorable Robert A. Stanton, Jr., Chief Judge
Town of Gifford Municipal Court
January 24, 2017

My findings as a result of these procedures are presented in Timely, Accurate Reporting by the Clerk of Court in the Accountant's Comments section of this report.

2. Municipal Treasurer

- I gained an understanding of the policies and procedures established by the municipal treasurer to ensure timely reporting by the municipality.
- I obtained copies of all court remittance forms or equivalents and tested each monthly remittance form to ensure that the forms were completed in accordance with instructions and submitted timely in accordance with State law.
- I determined that amounts reported on the monthly court remittance forms or equivalents agreed to the municipality's support.
- I scanned the municipality's support to determine if the municipality had misclassified fine, fee, assessment, and surcharge receipts.
- I obtained copies of all State Treasurer's Revenue Remittance forms for the period July 1, 2014 through June 30, 2015. I vouched the amounts reported on the State Treasurer's Revenue Remittance forms to the court remittance forms or equivalents.
- I determined that the amounts reported by the municipality on its supplemental schedule of fines and assessments agreed to the municipality's support.
- I determined that the municipality reported court financial activity on the supplemental schedule of fines and assessments in accordance with applicable State law.

My findings as a result of these procedures are presented in Timely, Accurate Recording and Reporting by the Town Treasurer in the Accountant's Comments section of this report.

3. Victim Assistance

- I gained an understanding of the policies and procedures established by the municipality to ensure proper accounting for victim assistance funds.
- I made inquiries and performed substantive procedures to determine that any funds retained by the municipality for victim assistance were deposited into a separate account.
- I tested selected expenditures to ensure that the municipality expended victim assistance funds in accordance with State law and South Carolina Court Administration Fee Memoranda, Attachment L.
- I determined that the municipality reported victim assistance financial activity on the supplemental schedule of fines and assessments in accordance with applicable State law.

The Honorable Nikki R. Haley, Governor
and
The Honorable Robert A. Stanton, Jr., Chief Judge
Town of Gifford Municipal Court
January 24, 2017

- I verified that the amounts reported by the municipality on its supplemental schedule of fines and assessments applicable to the Victim Assistance fund agreed to the municipality's general ledger or subsidiary ledgers.
- I inspected the municipality's victim assistance fund to determine if the Victim Assistance fund balance was retained as of July 1 from the previous fiscal year in accordance with State law.

My findings as a result of these procedures are presented in Victim Assistance Funds in the Accountant's Comments section of this report.

4. Calculation of Over/(Under) Reported Amounts

- I obtained copies of monthly State Treasurer Revenue Remittance Forms for the twelve-month period ended June 30, 2015, which the Town prepared but did not submit to the Office of the State Treasurer and determined they could not be relied upon. I requested and obtained an analysis of court deposits since court began in 2013. I calculated the amount under reported by the municipality by category for the period based on this analysis. I had the municipal clerk review and concur with the calculation.

The results of my procedures disclosed that the municipality under reported amounts due to the State and Victim Assistance Fund. My finding as a result of these procedures is presented in Under Reported Amounts in the Accountant's Comments section of this report.

I was 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, 2015 and, furthermore, I was 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, I do not express such an opinion. Had I performed additional procedures, other matters might have come to my 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 Gifford Council, Town of Gifford Clerk of Court, Town of Gifford Treasurer, State Treasurer, State Office of Victim Assistance, the 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.

Steven L. Blake, CPA

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 I 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.

TIMELY, ACCURATE REPORTING BY THE CLERK OF COURT

COURT SOFTWARE SYSTEM RECEIPT TRACE

I attempted to trace ticket number 49227GR to the receipt book but the original was missing as well as the carbon copy. I noted someone had written on the receipt stub the payor name, amount and "cash". The ticket copy available from the software system had a guilty verdict checked as well as a bench warrant issued for lack of payment.

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."

The current clerk of court stated that, based on the information available, the bench warrant would be rescinded.

I recommend the Town consider the implications of proper record keeping and, combined with the recommendation in the Section B, Other Weaknesses findings below, substantially improve their court procedures.

TIMELY SUBMISSION OF STATE TREASURER'S REVENUE REMITTANCE FORM

I obtained a few copies of the State Treasurer Revenue Remittance Forms (STRRF) prepared during the procedures period and determined these copies were incomplete. During my testing of the Town's State Treasurer Revenue Remittance Forms (STRRF), I noted none of the twelve STRRF was submitted to the State Treasurer as required by State law.

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.

The town clerk stated the Town's previous clerk/treasurer stated work demands did not allow for updating and printing timely.

I recommend the Town implement procedures to ensure the STRRF are submitted by the fifteenth day of each month in compliance with State law.

TIMELY, ACCURATE RECORDING AND REPORTING BY THE TOWN TREASURER

GENERAL LEDGER COURT RECORDS

The town treasurer kept no records of court activity which allowed for reconciliation of court collection activity, court docket adjudication and deposit activity. I was therefore unable to

trace any court activity through the Town's general ledger including payments made to the State Treasurer, if any.

Section 14-1-208 (E)(4) of the 1976 South Carolina Code of Laws, as amended, states, "The clerk of court and municipal treasurer shall keep records of fines and assessments required to be reviewed pursuant to this subsection in the format determined by the municipal governing body and make those records available for review."

The former clerk/treasurer and current clerk stated that a lack of training regarding proper court recordkeeping contributed to the issue.

I recommend the Town accurately record court activity in such a way as to make those records available for review in accordance with state law.

SUPPLEMENTARY SCHEDULE

The Town provided its audited financial statements for the fiscal year ended June 30, 2013, the latest available audit. The audit report included a schedule of fines and assessments which I tested to ensure compliance with State law. I determined that the schedule was not prepared in accordance with applicable State law and did not include the required in-relation-to opinion. The Town's fiscal year 2013 general ledger was not available and the Town could not provide other documentation demonstrating that the schedule reconciled to the Town's accounting records. Therefore I was unable to verify that the schedule was complete and accurate.

Section 5-7-240 of the South Carolina Code of Laws, as amended, states, "The council shall provide for an independent annual audit of all financial records and transactions of the municipality and any agency funded in whole by municipal funds..."

The Town clerk stated the Town has contracted with an independent auditor to perform an audit as of June 30, 2014 and the auditor will be informed of the need for the schedule to be in compliance with state law.

I recommend the Town contract with an Independent Certified Public Accountant to conduct an audit of its financial statements annually and prepare a schedule in accordance with State law.

VICTIM ASSISTANCE FUNDS

During my tests of Municipal Court collections and remittances I noted the following:

- The Town has established a separate bank account for Victim Assistance funds as required by State law but deposits are not made to the account on a monthly basis. I also was not given two months bank statements within the procedures period as

they were unobtainable. This created a scope limitation as to my procedures applying to the entire period.

- The Town does not track Victim Assistance deposits, disbursements or cash balances manually or electronically other than with the bank statement activity. No revenues, expenses or fund balance exist in the general ledger.
- The June 30, 2013 schedule of fines and assessments reported no Victim Assistance carry forward balance; I was unable to verify this as no bank statement was provided to verify the cash account for Victims Assistance.
- There were withdrawals of \$2996.62 made from this bank account to pay Town operating costs during the procedures period.

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."

The former clerk/treasurer and current clerk stated that a lack of training regarding proper court recordkeeping contributed to the issue.

I recommend the Town establish and implement policies and procedures to ensure Victim Assistance revenue is accounted for and deposited timely in accordance with State law. I also recommend the Town establish a separate general ledger account to ensure the transparency of its Victims' Assistance funds and determine cumulative balances due to Victim Assistance.

UNDER REPORTED AMOUNTS

As reported in the finding Timely Submission of State Treasurer Revenue Remittance Form, the Town did not submit any of the monthly STRRF to the State Treasurer. I was unable to test the completeness and accuracy of the STRRF because the court records were inadequate. However, I requested and obtained a summary schedule of court collections since court was reinstated in 2013. Based on the tests performed, which included determining the type of violations subject to the collection, the ratio of the fine amount to the assessments and surcharges and the application of those ratios by calculation to the summary schedule total for collections, I determined the Town underreported the following cumulative amounts:

STRRF LINE	DESCRIPTION	
K.	Municipal Law Enforcement Surcharge - \$25 per case	99,842.24
KA.	Municipal Criminal Justice Surcharge - \$5	19,968.45
L.	Municipal Court -107.5%	<u>95,369.31</u>
M.	TOTAL REVENUE DUE TO STATE TREASURER	<u>215,180.00</u>
	MUNICIPAL VICTIM FUND	
N.	Assessments - Municipal -107.5%	11,981.07
O.	Surcharges -Municipal	<u>-0-</u>
P.	TOTAL RETAINED FOR VICTIM SERVICES	\$ <u>11,981.07</u>

I recommend the Town implement a process to ensure timely filing and payment of amounts due the State Treasurer.

SECTION B – OTHER WEAKNESSES

The conditions described in this section have been identified while performing agreed-upon procedures but are not considered violations of State Laws, Rules or Regulations.

COURT CASH RECEIPT PROCEDURES

I was unable to trace defendant ticket payments from manual court receipts to the Town's bank deposit. The Clerk of Court/treasurer did not include a detailed list (i.e., name of payee, ticket/docket reference, amount paid, etc.) that comprises the remittance package when she deposited amounts collected from court fines. There is no reconciliation between monies receipted manually for fine payments and monies receipted in the court software system. There is no detailed list (i.e., name of payee, receipt number, check number, check amount, etc.) used in a separate bank deposit. Instead, it is added to other receipts and deposited cumulatively with those receipts. Deposit slip copies were not available for testing. The manual receipt number was however written on the green court copy of the Uniform Traffic Ticket and was traceable to the receipt book from the ticket.

Supreme Court Justice Toal issued a court order to county magistrates, dated March 13, 2007. Section II, item C. states, "At the end of each day, all receipts issued shall be totaled, and the total indicated on the Daily Cash Summary Report." Section III, item C states further "...deposit slips shall be prepared for each separate account These deposit slips shall include: List of checks deposited (name of Defendant and amount of check must be included), total cash deposited, the starting and ending receipt numbers ..." While this order is directed to county magistrate courts, it could also be applied to municipal courts to improve overall internal control over financial activity.

The former Clerk of Court/treasurer stated she did not include detail on or keep copies of the bank deposit slips. Because the Clerk of Court/treasurer did not maintain a detail list of individual receipts that comprise its bank deposit there is no assurance that the amount receipted has been deposited in the Town's bank account. The current Clerk of Court stated she prepares and verifies the deposit slip reconciles with the "Daily Cash Receipt Report" printed from the court software system.

I recommend the Clerk of Court/treasurer summarize receipts and include detail on deposits as recommended in Justice Toal's order and deposit daily or weekly, when practicable. The Clerk of Court and the town treasurer should verify that the validated deposit slip reconciles with the "Daily Cash Receipt Report".

LACK OF ADEQUATE FILING PROCEDURES

The clerk of court did not file court records, i.e. tickets, warrants, dockets and receipt books, in an orderly fashion whereby records could be retrieved upon request. The court software system was not reliable for complete processing of records although it appeared

records were partially processed using the system. In short, court record keeping was inadequate and disorganized for the procedures period.

South Carolina Court Administration's retention schedule requires disposed criminal and traffic dockets be permanently retained. Also, sound internal controls provide for the maintenance and retention of records that are readily available for review.

I recommend the Town establish and implement policies and procedures to ensure all records are properly maintained and retained in accordance with Court Administration's retention schedule and sound internal controls.

MUNICIPALITY'S RESPONSE

The management of the Town of Gifford has been provided a copy of the findings identified in the Accountant's Comments Section of this report and has elected not to provide a written response to the findings.

Official Post-Audit Response

The County/City has 10 business days from the date listed on the front of this report to provide a written response to the DCVC Assistant Deputy Director:

**Ethel Douglas Ford, CPM
1205 Pendleton St., Room 401
Columbia, SC 29201**

Due to complications related to Covid-19 and our office teleworking typed names will serve as signatures for the purpose of this report and correspondence letter(s).

At the end of the ten day response period, this report and all post-audit responses (located in the Appendix) will become public information on the Department of Crime Victim Compensation (DCVC) website:

www.sova.sc.gov



ALAN WILSON
ATTORNEY GENERAL

Programmatic Review Completed by:

<u>Dexter L. Boyd</u>	<u>2/23/2021</u>
Dexter L. Boyd, Sr. Auditor	Date

Reviewed by:

<u>Ethel Douglas Ford</u>	<u>2/23/2021</u>
Ethel Douglas Ford, CPM, Assistant Deputy Director	Date

<u>D. Scott Beard</u>	<u>2/23/2021</u>
D. Scott Beard, Deputy Director	Date