



ALAN WILSON
ATTORNEY GENERAL

October 1, 2018

Chief Jay Hayes
Town of Lyman
81 Groce Road
Lyman, South Carolina 29368

Dear Chief Hayes:

The Office of the Attorney General, Department of Crime Victim Compensation (DCVC) is sending this notice to inform you that we have completed the DCVC 90 Day Follow-up Programmatic Review and Financial Audit of the Victim Assistance Funds for the Town of Lyman. 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 Teresa Green, Lead Auditor, at 803.734.1900.

Sincerely,


Ethel Douglas Ford, CPM
Assistant Deputy Director

cc: Mayor Larry Chappell
Gregg Miller



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

September 29, 2017

**Programmatic Review and
Financial Audit of the
Town of Lyman
Victim Assistance Fines, Fees
and Assessment Fund**

October 1, 2018

**90 Day Follow-up
Audit Review for the
Town of Lyman
Victim Assistance Fines, Fees
and Assessment Fund**

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Disclaimer: The recommendations included in sections A and B of this report were developed by the Office of the Attorney General, Department of Crime Victim Compensation (DCVC). The DCVC 90 Day Follow-up Audit was conducted to determine if the entity is in compliance with recommendations as outline in the Initial Audit Report. In addition, all DCVC follow-up reviews (including this one) are conducted to ensure compliance with applicable laws and regulations.

Acronyms:

VAFFA – Victim Assistance Fines, Fees, and Assessment

DCVC – Department of Crime Victim Compensation

SCLEVA – South Carolina Law Enforcement Victim Advocate

CVST - Department of Crime Victim Services Training, Provider Certification, and Statistical Analysis

SLED – State Law Enforcement Division

Introduction and Laws

PREFACE

This programmatic review and financial audit was initiated in response to the Department of Crime Victim Compensation's (DCVC) concerns regarding the Town of Lyman's Victim Assistance Fines, Fees and Assessment fund. On May 30, 2018, the Assistant Deputy Director of DCVC issued a letter to the Town Administrator's Office and the Police Department informing them of the 90 Day Follow up Audit for the Town of Lyman's Victim Assistance Fund. The audit was conducted on June 27, 2018.

Governing Legislation 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.

(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 non profit for administrative costs and victim services.

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.

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.

Proviso 98.9 (cont.)

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 entity'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. (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.
- **Section 14-1-211 Subsection A & B:** (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 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 balances.

Introduction

AUDIT OBJECTIVES

The South Carolina State Legislative Act 96 (Part IV) mandates the Office of the Attorney General 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 to ensure that the crime victim funds are expended in accordance with the law.

Audit Objectives were;

- To determine if the Town of Lyman reimbursed the Victim Assistance Fund **\$29,485.22** as recommended in the DCVC Initial Audit Site Visit Report? Also, did the Town of Lyman open and establish a separate bank account for the Victim Assistance funds.
 - To determine if SLED has completed the criminal investigation discussed in the DCVC Initial Audit Site Visit.
-

RESULTS IN BRIEF

Fund Accountability

Did the Town of Lyman reimburse the Victim Assistance Fund \$29,485.22 as recommended in the DCVC Initial Audit Site Visit Report? Also, did the Town of Lyman open and establish a separate bank account for the Victim Assistance funds?

Yes, the Town of Lyman reimbursed the Victim Assistance funds **\$29,485.22**. The town submitted the FY 17 Financial Audit with the Supplemental Schedule showing the reimbursed funds to the Victim Assistance account.

However, the town did not open and establish a separate bank account for the Victim Assistance fund prior to the 90 Day Follow up Audit Site Visit. However, following the site visit on June 27, 2018, the Town Clerk contacted the auditor and stated the account had been established and a deposit was made in the amount of \$22,500.00. The Town provided a bank account statement via email on August 13, 2018 confirming this information.

SLED Investigation

Has SLED completed the criminal investigation discussed in the DCVC Initial Audit Site Visit?

Yes, the SLED investigation has concluded. The Town officials provided copies of warrants for the auditor's review, and according to the SLED Agent, the retained Victim Assistance funds were not affected.

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

A. Fund Accountability

Objective Did the Town of Lyman reimburse the Victim Assistance Fund **\$29,485.22** as recommended in the DCVC Initial Audit Site Visit Report? Also, did the Town of Lyman open and establish a separate bank account for the Victim Assistance funds?

Conclusion

Yes, the Town of Lyman reimbursed the Victim Assistance funds **\$29,485.22**. The town submitted the FY 17 Financial Audit with the Supplemental Schedule showing the reimbursed funds to the Victim Assistance account.

However, the town did not open and establish a separate bank account for the Victim Assistance fund prior to the 90 Day Follow Up Audit Site Visit. However, following the site visit on June 27, 2018, the Town Clerk contacted the auditor and stated the account had been established and a deposit was made in the amount of \$22,500.00. The Town provided a bank account statement via email on August 13, 2018 confirming this information.

Background SC Code of Law Section 14-14-208 (B), 14-1-211 (B)

SC Code of Law Title 16; Article 15

South Carolina Victim Service Coordinating Council Approved Guidelines for Expenditures of Monies Collected for Crime Victim Service in Municipalities and Counties

Discussion Per the DCVC Initial Audit Site Visit issued September 29, 2017, the auditor recommended the Town of Lyman reimburse a total of **\$29,485.22** into the Victim Assistance fund due to unallowable expenditures as noted in the DCVC Initial Audit Report.

Expenditures Prior to the 90 Day Follow up Audit Site Visit, the auditor requested the town provide documentation showing **\$29,485.22** was reimbursed to the Victim Assistance fund. In addition, bank statements reflecting the current balance in the fund were also requested.

On June 21, 2018, the town provided a draft copy of FY 17 supplementary schedule, year-end journal entries, bank statement for the Town's general fund bank account as of June 30, 2017, and a self prepared schedule representing the current balance in the Victim Assistance fund. After reviewing the received documents, the auditor found \$29,485.22 was reimbursed as of June 30, 2017. However, it was impossible to determine the total balance in the Victim Assistance account because the funds were co-mingled with the town's general fund account. So receipts and expenditures were requested to determine the total amount due in the Victim Assistance fund.

Account Balance

The Town was asked to submit a copy of the FY 17 State Treasurer's Revenue Remittance Forms and expenses for the Victim Assistance account to determine the current account balance. The Clerk provided the forms for the auditor's review, and also submitted a prepared schedule showing a balance in the Victim Assistance Account of \$22,500.00 as outlined below in the chart:

Description	Amount
Beginning Balance in fund	\$82,992.00
Receipts	\$20,883.00
Expenses	\$81,375.00
Total Balance as of 6/30/2018	\$22,500.00

However, after the auditor reviewed the submitted documents, the carryforward balance as of June 30, 2018 should have been \$20,356.07 due to the following errors identified:

- **Retained amounts reported in the Town Clerk's calculation did not match actual retained amounts reported on the State Treasurer's Revenue Remittance Forms.**
- **There was one unallowable expense of \$887.09 included in the Town Clerk's calculation.**
- **There were also bank fees in the amount of \$183.15.**

As a result of the above information, the account breakdown and carryforward for FY 18 should be as outlined below:

Description	Amount
Beginning Balance	\$82,992.00
Receipts	\$18,035.13
Expenses	\$80,487.91
Bank charges	\$183.15
Total Balance as of 6/30/18	\$20,356.07

The auditor advised the Clerk of the discrepancy noted above, and the fund was adjusted by 183.15 to reflect the accurate amount of **\$20,356.07** as of June 30, 2018.

Co-Mingling of Funds

During the DVC Initial Audit Site Visit dated September 29, 2017, the auditor found the Town did not have their Victim Assistance funds in a separate bank account. Therefore, it was recommended the town develop a separate Victim Assistance bank account and per law discontinue co-mingling the funds with the Town's general fund.

The Town Clerk provided a copy of the Town Council meeting agenda dated June 28, 2018 which included a motion to open a new Victim Assistance bank account. On June 29, 2018, the clerk advised the auditor that the new bank account was approved.

Afterwards the Town opened the new account for the Victim Assistance funds and deposited a total of \$22,500.00 which was the balance determined to be correct per the prepared schedule submitted by the town (outlined on page 12). After reviewing requested documentation, the auditor found the balance in the Victim Assistance account should have been **\$20,356.07** (as outlined above). On July 13, 2018, the Clerk was advised to withdraw the excess funds deposited which was identified as general fund money from the account (the difference between the \$22,500.00 the town deposited in the new account and the correct balance of \$20,356.07) to ensure the accuracy of the victim assistance account balance. At this time, the Clerk inquired whether he could take into account bank charges in the amount of 183.15 and was advised yes he could do so. On August 13, 2018, the Town provided a bank account statement showing a balance of **\$22,316.85** as of July 31, 2018. This balance reflects the deposit of \$22,500.00 minus bank charges in the amount of \$183.15, thereby indicating the excess funds were not removed.

Therefore, while preparing this report on September 19, 2018, the auditor advised the Clerk again to remove the excess funds of \$1,960.78 from the Victim Assistance fund and provide a bank statement reflecting the accurate balance by close of business on September 20, 2018. However, this information was not received until the issue date of this report. The auditor received a bank statement reflecting the correct amount once the general funds were removed from the account.

Recommendation(s)
and Comments

No further recommendations

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

B. State Law Enforcement Division Investigation

Objective Has SLED completed the criminal investigation discussed in the DCVC Initial Audit Site Visit?

Conclusion Yes, the SLED investigation has concluded. Town officials provided copies of the warrants for the auditor’s review. According to the SLED Agent, the retained Victim Assistance funds were not affected.

Background DCVC Initial Audit Report of the Town of Lyman’s Victim Assistance Fines, Fees and Assessment Fund

Discussion According to the DCVC Initial Audit Site Visit September 29, 2017, the auditor noted an ongoing SLED investigation per a letter received from the Chief of Police dated July 27, 2017. The letter stated there was a SLED investigation looking into a former employee regarding missing funds and financial transaction card fraud. It further stated the employee was separated from the Town of Lyman and there was limited information concerning the case since it was still under investigation.

While preparing for the 90 Day Follow up Site Visit on June 27, 2018, the auditor found online in a news article information regarding the former Lyman Town Clerk being accused of Breach of Trust and credit card fraud. The article stated SLED arrested the former Town of Lyman Clerk who had stolen more than \$10,000.00 between December 3, 2002 and June 1, 2016 by changing the disposition of tickets and issuing refunds in the system. In addition, investigators found missing funds in the amount of \$20,387.65.

During the site visit on June 27, 2018, the auditor inquired about the status of the investigation and was advised that none of the attendees and current town officials were a part of the investigation. It was also confirmed that the investigation was complete. The auditor asked if victim assistance funds were involved, and town officials stated it was believed they were not involved in this criminal investigation. The auditor was provided a copy of the arrest warrants and reports for further review if needed.

Discussion cont.

Upon returning to the office, the auditor contacted the SLED Agent and inquired if victim assistance funds were involved in the investigation. The Agent stated the stolen funds appeared not to involve the victim assistance funds. Even though retained Victim Assistance Fines, Fees and Assessment funds were not affected, it is impossible to determine the indirect long term affect this may have on the Victim Assistance account if any.

**Recommendation(s)
and Comments**

No further recommendations

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

C. Technical Assistance**Documentation Provided**

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

1. Legislation - Act 96 (Part IV)
2. Proviso 98.9
3. Proviso 59.15
4. Sample Budget
5. Sample Staff Hired Report
6. Sample Time and Activity Report
7. Sample Expenditure Report
8. Victim Advocate Procedural Manual
9. 2018 Approved Guidelines

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.”

The Town of Lyman was informed at the conclusion of the 90 Day Follow up Audit Site Visit that the noted errors in the DCVC Initial Audit have been corrected. The findings were reviewed with the Mayor, Chief, Town Administrator, Court Clerk, and Victim Advocate. However, they were advised that this Programmatic Review will warrant the need for further review by management.

This 90 Day Follow up Audit Site Visit was conducted on June 27, 2018, and the report was issued on October 1, 2018.

Since all errors and recommendations have been corrected and complied with, the Town of Lyman is considered compliant.

Official Post-Audit Response

The County/Municipality 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**

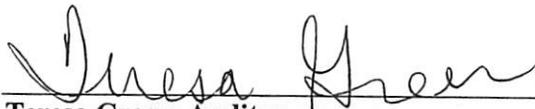
At the end of the ten day response period, this report and all post-audit responses (located in the Appendix) will become public information on the Department of Crime Victim Compensation (DCVC) website:

www.sova.sc.gov



ALAN WILSON
ATTORNEY GENERAL

This Programmatic Review and Financial Audit was completed by:


Teresa Green, Auditor

10/1/18
Date

Reviewed by:


Richelle A. Melvin, CGAP, Sr. Auditor

10/1/18
Date


Ethel Douglas Ford, CPM, Assistant Deputy Director

10/1/18
Date


Scott Beard, DCVC Deputy Director

10/1/18
Date