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The 2015 Florida Statutes

Title XIV
TAXATION AND
FINANCE

Chapter 218
FINANCIAL MATTERS PERTAINING TO POLITICAL
SUBDIVISIONS

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Chapter

218.39 Annual financial audit reports.—

(1) If, by the first day in any fiscal year, a local governmental entity, district school board, charter school, or charter technical career center has not been notified that a financial audit for that fiscal year will be performed by the Auditor General, each of the following entities shall have an annual financial audit of its accounts and records completed within 9 months after the end of its fiscal year by an independent certified public accountant retained by it and paid from its public funds:

- (a) Each county.
- (b) Any municipality with revenues or the total of expenditures and expenses in excess of \$250,000, as reported on the fund financial statements.
- (c) Any special district with revenues or the total of expenditures and expenses in excess of \$100,000, as reported on the fund financial statements.
- (d) Each district school board.
- (e) Each charter school established under s. [1002.33](#).
- (f) Each charter technical center established under s. [1002.34](#).
- (g) Each municipality with revenues or the total of expenditures and expenses between \$100,000 and \$250,000, as reported on the fund financial statements, which has not been subject to a financial audit pursuant to this subsection for the 2 preceding fiscal years.
- (h) Each special district with revenues or the total of expenditures and expenses between \$50,000 and \$100,000, as reported on the fund financial statement, which has not been subject to a financial audit pursuant to this subsection for the 2 preceding fiscal years.

(2) The county audit report must be a single document that includes a financial audit of the county as a whole and, for each county agency other than a board of county commissioners, an audit of its financial accounts and records, including reports on compliance and internal control, management letters, and financial statements as required by rules adopted by the Auditor General. In addition, if a board of county commissioners elects to have a separate audit of its financial accounts and records in the manner required by rules adopted by the Auditor General for other county agencies, the separate audit must be included in the county audit report.

(3)(a) A dependent special district may provide for an annual financial audit by being included in the audit of the local governmental entity upon which it is dependent. An independent special district may not make provision for an annual financial audit by being included in the audit of another local governmental entity.

(b) A special district that is a component unit, as defined by generally accepted accounting principles, of a local governmental entity shall provide the local governmental entity, within a reasonable time period as established by the local governmental entity, with financial information

necessary to comply with this section. The failure of a component unit to provide this financial information must be noted in the annual financial audit report of the local governmental entity.

(4) A management letter shall be prepared and included as a part of each financial audit report.

(5) At the conclusion of the audit, the auditor shall discuss with the chair of the governing body of the local governmental entity or the chair's designee, the elected official of each county agency or the elected official's designee, the chair of the district school board or the chair's designee, the chair of the board of the charter school or the chair's designee, or the chair of the board of the charter technical career center or the chair's designee, as appropriate, all of the auditor's comments that will be included in the audit report. If the officer is not available to discuss the auditor's comments, their discussion is presumed when the comments are delivered in writing to his or her office. The auditor shall notify each member of the governing body of a local governmental entity, district school board, charter school, or charter technical career center for which:

(a) Deteriorating financial conditions exist that may cause a condition described in s. 218.503(1) to occur if actions are not taken to address such conditions.

(b) A fund balance deficit in total or for that portion of a fund balance not classified as restricted, committed, or nonspendable, or a total or unrestricted net assets deficit, as reported on the fund financial statements of entities required to report under governmental financial reporting standards or on the basic financial statements of entities required to report under not-for-profit financial reporting standards, for which sufficient resources of the local governmental entity, charter school, charter technical career center, or district school board, as reported on the fund financial statements, are not available to cover the deficit. Resources available to cover reported deficits include fund balance or net assets that are not otherwise restricted by federal, state, or local laws, bond covenants, contractual agreements, or other legal constraints. Property, plant, and equipment, the disposal of which would impair the ability of a local governmental entity, charter school, charter technical career center, or district school board to carry out its functions, are not considered resources available to cover reported deficits.

(6) The officer's written statement of explanation or rebuttal concerning the auditor's findings, including corrective action to be taken, must be filed with the governing body of the local governmental entity, district school board, charter school, or charter technical career center within 30 days after the delivery of the auditor's findings.

(7) All audits conducted pursuant to this section must be conducted in accordance with the rules of the Auditor General adopted pursuant to s. 11.45. Upon completion of the audit, the auditor shall prepare an audit report in accordance with the rules of the Auditor General. The audit report shall be filed with the Auditor General within 45 days after delivery of the audit report to the governing body of the audited entity, but no later than 9 months after the end of the audited entity's fiscal year. The audit report must include a written statement describing corrective actions to be taken in response to each of the auditor's recommendations included in the audit report.

(8) The Auditor General shall notify the Legislative Auditing Committee of any audit report prepared pursuant to this section which indicates that an audited entity has failed to take full corrective action in response to a recommendation that was included in the two preceding financial audit reports.

(a) The committee may direct the governing body of the audited entity to provide a written statement to the committee explaining why full corrective action has not been taken or, if the governing body intends to take full corrective action, describing the corrective action to be taken and when it will occur.

(b) If the committee determines that the written statement is not sufficient, it may require the chair of the governing body of the local governmental entity or the chair's designee, the elected official of each county agency or the elected official's designee, the chair of the district school board or the chair's designee, the chair of the board of the charter school or the chair's designee, or the chair of the board of the charter technical career center or the chair's designee, as appropriate, to appear before the committee.

(c) If the committee determines that an audited entity has failed to take full corrective action for which there is no justifiable reason for not taking such action, or has failed to comply with committee requests made pursuant to this section, the committee may proceed in accordance with s. [11.40\(2\)](#).

(9) The predecessor auditor of a district school board shall provide the Auditor General access to the prior year's working papers in accordance with the Statements on Auditing Standards, including documentation of planning, internal control, audit results, and other matters of continuing accounting and auditing significance, such as the working paper analysis of balance sheet accounts and those relating to contingencies.

(10) Each charter school and charter technical career center must file a copy of its audit report with the sponsoring entity; the local district school board, if not the sponsoring entity; the Auditor General; and with the Department of Education.

(11) This section does not apply to housing authorities created under chapter 421.

(12) Notwithstanding the provisions of any local law, the provisions of this section shall govern.

History.—s. 65, ch. 2001-266; s. 924, ch. 2002-387; s. 28, ch. 2004-305; s. 2, ch. 2006-190; s. 2, ch. 2009-214; s. 20, ch. 2011-144; s. 25, ch. 2012-5; s. 1, ch. 2012-38.

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218.391 Auditor selection procedures.—

(1) Each local governmental entity, district school board, charter school, or charter technical career center, prior to entering into a written contract pursuant to subsection (7), except as provided in subsection (8), shall use auditor selection procedures when selecting an auditor to conduct the annual financial audit required in s. [218.39](#).

(2) The governing body of a charter county, municipality, special district, district school board, charter school, or charter technical career center shall establish an audit committee. Each noncharter county shall establish an audit committee that, at a minimum, shall consist of each of the county officers elected pursuant to s. 1(d), Art. VIII of the State Constitution, or a designee, and one member of the board of county commissioners or its designee. The primary purpose of the audit committee is to assist the governing body in selecting an auditor to conduct the annual financial audit required in s. [218.39](#); however, the audit committee may serve other audit oversight purposes as determined by the entity's governing body. The public shall not be excluded from the proceedings under this section.

(3) The audit committee shall:

(a) Establish factors to use for the evaluation of audit services to be provided by a certified public accounting firm duly licensed under chapter 473 and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy. Such factors shall include, but are not limited to, ability of personnel, experience, ability to furnish the required services, and such other factors as may be determined by the committee to be applicable to its particular requirements.

(b) Publicly announce requests for proposals. Public announcements must include, at a minimum, a brief description of the audit and indicate how interested firms can apply for consideration.

(c) Provide interested firms with a request for proposal. The request for proposal shall include information on how proposals are to be evaluated and such other information the committee determines is necessary for the firm to prepare a proposal.

(d) Evaluate proposals provided by qualified firms. If compensation is one of the factors established pursuant to paragraph (a), it shall not be the sole or predominant factor used to evaluate proposals.

(e) Rank and recommend in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services after considering the factors established pursuant to paragraph (a). If fewer than three firms respond to the request for proposal, the committee shall recommend such firms as it deems to be the most highly qualified.

(4) The governing body shall inquire of qualified firms as to the basis of compensation, select one of the firms recommended by the audit committee, and negotiate a contract, using one of the following methods:

(a) If compensation is not one of the factors established pursuant to paragraph (3)(a) and not used to evaluate firms pursuant to paragraph (3)(e), the governing body shall negotiate a contract with the firm ranked first. If the governing body is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be formally terminated, and the governing body shall then undertake negotiations with the second-ranked firm. Failing accord with the second-ranked firm, negotiations shall then be terminated with that firm and undertaken with the third-ranked firm. Negotiations with the other ranked firms shall be undertaken in the same manner. The governing body, in negotiating with firms, may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time.

(b) If compensation is one of the factors established pursuant to paragraph (3)(a) and used in the evaluation of proposals pursuant to paragraph (3)(d), the governing body shall select the highest-ranked qualified firm or must document in its public records the reason for not selecting the highest-ranked qualified firm.

(c) The governing body may select a firm recommended by the audit committee and negotiate a contract with one of the recommended firms using an appropriate alternative negotiation method for which compensation is not the sole or predominant factor used to select the firm.

(d) In negotiations with firms under this section, the governing body may allow a designee to conduct negotiations on its behalf.

(5) The method used by the governing body to select a firm recommended by the audit committee and negotiate a contract with such firm must ensure that the agreed-upon compensation is reasonable to satisfy the requirements of s. 218.39 and the needs of the governing body.

(6) If the governing body is unable to negotiate a satisfactory contract with any of the recommended firms, the committee shall recommend additional firms, and negotiations shall continue in accordance with this section until an agreement is reached.

(7) Every procurement of audit services shall be evidenced by a written contract embodying all provisions and conditions of the procurement of such services. For purposes of this section, an engagement letter signed and executed by both parties shall constitute a written contract. The written contract shall, at a minimum, include the following:

(a) A provision specifying the services to be provided and fees or other compensation for such services.

(b) A provision requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract.

(c) A provision specifying the contract period, including renewals, and conditions under which the contract may be terminated or renewed.

(8) Written contracts entered into pursuant to subsection (7) may be renewed. Such renewals may be done without the use of the auditor selection procedures provided in this section. Renewal of a contract shall be in writing.

History.—s. 65, ch. 2001-266; s. 1, ch. 2005-32.