

**STATE OF FLORIDA
AUDITOR GENERAL**



**COMPLIANCE SUPPLEMENT
LOCAL GOVERNMENTAL ENTITY AUDITS**

For the Fiscal Year Ended September 30, 2020

OCTOBER 2020

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BACKGROUND AND PURPOSE

Various Florida laws require auditors conducting audits of local governmental entities pursuant to Section 218.39, Florida Statutes,¹ to determine the audited entity's compliance with certain statutory provisions. For these statutory requirements, Chapter 10.550, Rules of the Auditor General, requires auditors of local governmental entities to include an examination pursuant to *AICPA Professional Standards*, AT-C Section 315, promulgated by the American Institute of Certified Public Accountants. In evaluating whether the local governmental entity has complied in all material respects, the auditors should consider the nature and frequency of noncompliance identified and whether such noncompliance is material relative to the nature of the compliance requirements.

The purpose of this compliance supplement is to assist auditors of local governmental entities through the suggestion of specific examination procedures. The auditor may justify and use alternative procedures that provide an equivalent level of assurance as to the entity's compliance. This compliance supplement is intended to serve as a resource for auditors and is not intended to supplant the judgment, or risk assessments, of the independent certified public accountant engaged to perform the audit.

¹ Note: Unless otherwise specified, all statutory references are to the 2020 Florida Statutes.

INVESTMENTS

Compliance Elements

Section 218.415, Florida Statutes, provides requirements applicable to investment policies adopted by units of local government and specifies the types of authorized investments. Section 218.415(22), Florida Statutes, requires that certified public accountants conducting audits pursuant to Section 218.39, Florida Statutes, report, as part of the audit, whether or not the unit of local government has complied with Section 218.415, Florida Statutes.

Suggested Procedures

- If the auditee used surplus funds for investments other than those specified in Section 218.415(17), Florida Statutes, determine whether the auditee adopted an investment policy that includes all the requirements listed in Section 218.415(1) through (15), Florida Statutes.
- Test to determine whether the auditee's investments were authorized by law and, if applicable, in accordance with its investment policy.

CLERKS OF COURT PERFORMANCE STANDARDS AND BUDGETS

Section 28.35, Florida Statutes, establishes the Florida Clerks of Court Operations Corporation (Corporation) and specifies the duties of the Corporation, which include developing and certifying a uniform system of workload measures and applicable workload performance standards for court-related functions and approving proposed budgets submitted by clerks of court (clerks) pursuant to Section 28.36, Florida Statutes.

Section 28.35(5), Florida Statutes, provides that certified public accountants conducting audits of counties pursuant to Section 218.39, Florida Statutes, are required to report, as part of the audit, whether or not the clerks have complied with the requirements in Sections 28.35 and 28.36, Florida Statutes.

Compliance Elements

Section 28.36, Florida Statutes, requires the clerks to prepare a proposed budget for the county fiscal year beginning October 1. The proposed budget is for funding from fees, service charges, costs, and fines retained by the clerks for the court-related functions of the clerks. Pursuant to Section 28.36(1), Florida Statutes, clerks may use these revenue sources only to fund those functions listed in Section 28.35(3)(a), Florida Statutes. In addition, Section 28.35(3)(b), Florida Statutes, provides a list of court-related functions that clerks may not fund from these revenue sources.

Proposed budgets are to be prepared, summarized, and submitted to the Corporation by June 1 each year in the manner and form prescribed by the Corporation.

Suggested Procedures

The following procedures are recommended for auditors as a basis for determining whether or not the clerks complied with the budget requirements prescribed by Section 28.36, Florida Statutes, and used revenues from fees, service charges, costs, and fines only for allowable purposes pursuant to Section 28.35(3), Florida Statutes.

- Obtain and review the clerk's signed Budget Program Expenditure Certification (including certification for supplemental budget) provided to the Corporation. This document may be used in evaluating the allowability of disbursements tested.
- Obtain and review the Instructions for Preparation and Submission of Clerks' Article V Budgets. Determine whether the budget was prepared in the manner prescribed by Section 28.36, Florida Statutes, and submitted to the Corporation by June 1 preceding the fiscal year for which the budget was prepared.
- Determine whether the clerk's accounting system could be relied upon to reasonably ensure accurate and complete recording of court-related expenditures consistent with the certified budget and the Uniform Accounting System (UAS) Manual promulgated by the Florida Department of Financial Services (See Appendix B of the

Corporation's budget instructions for UAS code definitions for non-court expenditures and court-related expenditures).

- Evaluate, on a test basis, the accuracy of the Clerk of Court Expenditure and Collections Report. Compare the report to the clerk's accounting records and obtain explanations for material differences. Evaluate, on a test basis, whether the amounts reported as "Local Court Revenues" and "Payments FROM the Clerks' Trust Fund" agree with the amounts shown on the clerk's accounting records and the Corporation's records, respectively.
- Determine, on a test basis, whether the total monthly amount due to be remitted to the Florida Department of Revenue (FDOR) by the clerk was remitted by the clerk pursuant to Section 28.37(2), Florida Statutes.² Evaluate, on a test basis, whether the amounts reported as "Payments TO the Clerks' Trust Fund" on the Clerk of Court Expenditure and Collections Report were remitted to the FDOR (for deposit into the Clerks of the Court Trust Fund) and agree with the amounts shown on the FDOR records showing remittances by the clerk.
- Determine whether 10 percent of all court-related fines collected by the clerk, except for penalties or fines distributed to counties or municipalities under Sections 316.0083(1)(b)3. or 318.18(15)(a), Florida Statutes, were deposited into the clerk's Public Records Fine and Forfeiture Fund pursuant to Section 28.37(5), Florida Statutes.
- Perform a test of disbursements charged to the certified budget and determine whether each disbursement was:
 - a. Adequately supported by invoices, payrolls, or other appropriate documentation.
 - b. Charged to the correct account.
 - c. For an authorized function as set forth in Section 28.35(3)(a), Florida Statutes.
 - d. Not for a prohibited function as set forth in Section 28.35(3)(b), Florida Statutes.
- Review and test the clerk's systems for allocating shared costs to court-related functions and for charging indirect costs to such functions to determine whether the systems were in accord with the Corporation's budget instructions and provided for a reasonable and documented allocation of shared and indirect costs to court-related functions.

² Section 28.37(2), Florida Statutes, requires that the portion of all fines, fees, service charges, and costs collected by the clerks of the court for the previous month that is in excess of one-twelfth of the clerks' total budget for the performance of court-related functions be remitted to the FDOR for deposit into the Clerks of the Court Trust Fund. Such collections do not include funding received for the operation of the Title IV-D child support collections and disbursement program. The clerk of the court shall remit the revenues collected during the previous month due to the state on or before the 10th day of each month.

Compliance Elements

Section 28.35(2)(d), Florida Statutes, requires the Corporation to develop and certify a uniform system of workload measures and applicable workload performance standards for court-related functions and report on clerks' performance in meeting the workload performance standards. For clerks not meeting the workload performance standards, the Corporation is required to identify the nature of each deficiency and any corrective action recommended and taken by the affected clerk. Further, for quarterly periods ending on the last day of March, June, September, and December of each year, the Corporation must notify the Legislature of any clerk not meeting workload performance standards and provide a copy of any corrective action plans. Such notifications must be submitted no later than 45 days after the end of the preceding quarterly period.

To enable the Corporation to carry out the above responsibilities, the Corporation requires clerks to submit to the Corporation quarterly performance reports relating to collections, timeliness of filing and docketing cases, and timeliness of paying jurors. These reports must be submitted by the Corporation-imposed deadline of the 20th day of the month following the end of the quarter.

Suggested Procedures

The following procedures are recommended for auditors in determining whether or not the clerk complied with the performance measurement and workload requirements.

- Determine whether the clerk's system for collecting and reporting performance data could be relied upon to reasonably ensure accurate and complete reporting of performance data to the Corporation. Evaluate, on a test basis, the accuracy of workload performance data reported to the Corporation.
- Determine whether the clerk timely provided all performance data to the Corporation during the fiscal year.
- For any performance standards not met by the clerk, determine whether the clerk prepared a corrective action plan and submitted the plan to the Corporation.

DEEPWATER HORIZON OIL SPILL

Compliance Elements

Section 288.8018, Florida Statutes, prescribes the requirements for audits of entities that received or expended funds related to the Deepwater Horizon oil spill. For local governmental entities that received or expended funds related to the Deepwater Horizon oil spill, the auditor is required to determine the entity's compliance with Federal and State laws, rules, regulations, contracts, or grant agreements related to the receipt and expenditure of the funds. The suggested audit procedures below apply to those funds that are not audited as major Federal programs pursuant to Title 2 U.S. Code of Federal Regulations, Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) or not audited as major State projects pursuant to the Florida Single Audit Act (Section 215.97, Florida Statutes) and Department of Financial Services Rules, Chapter 69I-5, Florida Administrative Code, *State Financial Assistance*.

Suggested Procedures

- Review the local governmental entity's schedule of Deepwater Horizon oil spill amounts received and expended prepared in accordance with Section 10.557(3)(n), Rules of the Auditor General and test for accuracy.³
- Determine whether the local governmental entity established in its accounting records separate accountability for funds received or expended related to the Deepwater Horizon oil spill.
- On a test basis, determine whether expenditures of Deepwater Horizon oil spill moneys:
 - a. Were in compliance with Federal and State laws, rules, and regulations and the local governmental entity's ordinances, resolutions, policies, and procedures, including those related to competitive procurement of goods or services and restricted uses of the moneys.
 - b. Were in compliance with applicable contracts and grant agreements.
 - c. Were adequately documented as to public purpose served and compliance with restricted uses of these moneys.

³ Pursuant to Section 10.557(3)(f), Rules of the Auditor General, the auditor must prepare a report that includes an opinion as to whether the schedule is presented fairly in all material respects in relation to the financial statements taken as a whole.

EMERGENCY COMMUNICATIONS NUMBER E911 SYSTEM FUND

Compliance Elements

Sections 365.172 and 365.173, Florida Statutes, establish the E911 Board, and generally provide for the establishment of E911 fees that are collected by voice communications providers and remitted to the State; distribution of E911 revenues to the counties; and the authorized uses of E911 revenues. Section 365.173(2)(d), Florida Statutes, requires counties receiving E911 funds to establish a fund to be used exclusively for the receipt and expenditure of E911 funds and requires that the financial audit performed in accordance with Section 218.39, Florida Statutes, assure that all E911 fee revenues, interest, and E911 grant funding were used for payment of authorized expenditures, as specified in Section 365.172(10), Florida Statutes, and as specified in E911 Board grant and special disbursement programs. The suggested audit procedures below apply to those funds that are not audited as major State projects pursuant to the Florida Single Audit Act (Section 215.97, Florida Statutes) and Department of Financial Services Rules, Chapter 69I-5, Florida Administrative Code, *State Financial Assistance*.

Suggested Procedures

- Determine whether the county established in its accounting records a fund used exclusively for receipt and expenditure of E911 moneys.
- Determine whether E911 funds received, and any investment earnings thereon, were recorded in the county's E911 fund.
- On a test basis, determine whether E911 fund expenditures:
 - a. Were used for the payment of authorized expenditures as specified in Sections 365.172(10) and 365.173(2)(a), Florida Statutes.
 - b. Complied with applicable contracts, grant agreements, and E911 Board rules.⁴

⁴ Chapter 60FF1-5, Florida Administrative Code.

ALIMONY AND CHILD SUPPORT PAYMENTS

Section 61.181(1)(a), Florida Statutes, requires the clerk of the court (clerk) in each county to operate a depository unless the depository is otherwise created by special act of the Legislature or unless, prior to June 1, 1985, a different entity was established to perform such functions. Each depository is required to participate in the State Disbursement Unit (SDU), operated by the Florida Department of Revenue (FDOR), and is to implement all statutory and contractual duties imposed on the SDU. Each depository is also required to receive from and transmit to the SDU required data through the Clerk of Court Child Support Enforcement Collection System (CCCSECS). Additionally, each depository is to fully participate in the CCCSECS and transmit data in a readable format as required by the contract between the Florida Association of Court Clerks and the FDOR.

Section 61.181(10), Florida Statutes, provides that the annual county audit required pursuant to Section 218.39, Florida Statutes, must include a determination of compliance with Section 61.181, Florida Statutes.⁵

Compliance Elements

Section 61.181, Florida Statutes, requires the clerks to operate a depository and to impose and collect a fee on each payment for receiving, recording, reporting, disbursing, monitoring, or handling alimony or child support payments.

Suggested Procedures

The following procedures are recommended for auditors as a basis for determining whether or not the clerks complied with the requirements prescribed by Section 61.181, Florida Statutes.

- If the clerk was requested by the FDOR to establish the required account, determine whether the account was established within the depository for the receipt and disbursement of support payments for Title IV-D interstate cases. If applicable, test whether the depository advised the FDOR of the account number in writing within 4 business days after receipt of the FDOR's request.
- On a test basis, determine whether the clerk:
 - a. Imposed and collected a fee on each alimony and child support payment received (that was not required to be processed through the SDU), and that the amount of the fee complied with Sections 61.181(2)(a) and (b), Florida Statutes.

⁵ *Depository for alimony transactions, support, maintenance, and support payments; fees.*

- b. Remitted at least monthly,⁶ by electronic funds transfer, the fees specified in Section 61.181(2)(b), Florida Statutes, to the CCCSECS Trust Fund administered by the FDOR.
- c. Maintained records containing the information required by Section 61.181(3)(a), Florida Statutes, for support payments, whether or not processed through the SDU. Even if the clerk contracts with a third-party vendor to process non-SDU payments, the clerk plays a role in the support distribution and is responsible for compliance with payment processing requirements. Consequently, the auditor should ensure that the contract language is sufficient to ensure the vendor processes transactions in accordance with Section 61.181, Florida Statutes.
- d. For support payments not required to be processed through the SDU, the clerk, or a third-party vendor contracted by the clerk, collected and distributed the payments paid into the depository to the appropriate party within the required number of days.⁷
- e. Provided the FDOR, at least monthly, a listing of Title IV-D accounts that identified all delinquent accounts, the period of delinquency, and total amount of delinquency.

⁶ Section 61.181(2)(b)2., Florida Statutes, states that the fees should be remitted daily; however, according to FDOR personnel, daily remittance would create an administrative burden. Therefore, clerks are being required to remit the fees monthly.

⁷ The time frame in which payments should be made is prescribed in Section 61.181(5), Florida Statutes.

COMMUNITY REDEVELOPMENT AGENCIES

Pursuant to Section 8 of Chapter 2019-163, Laws of Florida, effective for audits for fiscal years beginning October 1, 2019, and thereafter, a community redevelopment agency (CRA) with revenues or a total of expenditures and expenses in excess of \$100,000 must provide for a separate financial audit. Such audits must include a finding by the auditor as to whether the community redevelopment agency complied with Sections 163.387(6) and (7), Florida Statutes. Accordingly, pursuant to Section 10.556(10)(7), Rules of the Auditor General, the scope of such audits must include an examination pursuant to AICPA Professional Standards, AT-C Section 315, promulgated by the American Institute of Certified Public Accountants, to determine compliance with Sections 163.387(6) and (7), Florida Statutes.

Compliance Elements

Pursuant to Section 163.387(6)(a), Florida Statutes, redevelopment trust fund⁸ moneys may be expended only for CRA undertakings as described in the CRA plan⁹ and pursuant to the CRA's adopted budget for the purposes specified in Section 163.387(6)(c), Florida Statutes.

Suggested Procedures

The following procedures are recommended for auditors to determine whether the CRA complied with provisions in Section 163.387(6), Florida Statutes. Determine whether:

- A fund to account for all CRA revenues and expenditures was established in the accounting records.
- The CRA board adopted a CRA plan that was sufficiently detailed to include planned projects and uses of redevelopment trust fund moneys for those projects. For example, a plan that only includes vague general objectives and lacks specificity as to planned projects or programs would not be considered sufficiently detailed.¹⁰
- The CRA board, for the audited fiscal year, adopted a budget. If so, determine whether:
 - a. The budget was provided to the county in which the CRA is located within 10 days of adoption of the CRA budget, as required by Section 163.387(6)(b), Florida Statutes.¹¹
 - b. The CRA's expenditures were kept within budgeted amounts at the established legal level of budgetary control. Unless specified in the adopted

⁸ Pursuant to Section 163.387(1)(a), Florida Statutes, CRAs must establish and use a redevelopment trust fund to receive and expend tax increment financing moneys received pursuant to that Section.

⁹ CRA plan must be established and approved pursuant to Sections 163.360 and 163.362, Florida Statutes.

¹⁰ For CRAs created pursuant to Sections 163.362(4) and (9), Florida Statutes, the CRA plan must specifically identify any publicly funded capital projects to be undertaken within the community redevelopment area, and the amount to be expended on those projects, unless the CRA is specifically exempted by Section 163.362(11), Florida Statutes. Notwithstanding, if a CRA plan is not in sufficient detail, there is an increased risk that actual CRA expenditures may not be in accordance with Section 163.387(6), Florida Statutes, which may constitute a finding.

¹¹ Section 163.387(6), Florida Statutes, does not indicate that the county can veto or alter the budget; however, the CRA must present the budget to the county for transparency purposes.

budget, local laws, or policies and procedures applicable to the CRA, the legal level of budgetary control is the level at which budgeted expenditures were presented on the CRA board adopted budget.¹² An example finding related to CRA budget overexpenditures may be found in Auditor General report No. 2019-221, Finding 93.¹³

- On a test basis, determine whether the CRA's expenditures were for:
 - a. One of the purposes specified in Section 163.387(6)(c), Florida Statutes. An example finding related to CRA records not sufficiently demonstrating that expenditures were authorized by Section 163.387(6), Florida Statutes may be found in Auditor General report No. 2014-013, Finding 1.
 - b. A specific project, program, or purpose identified in the most recent CRA board approved plan. An example finding related to expenditures not being specifically authorized by a CRA plan may be found in Auditor General report No. 2013-093, Finding 11.
 - c. An expenditure type that was budgeted for in the CRA board-approved budget.
- Determine whether the CRA provided moneys to nonprofit organizations and, if so, whether the CRA maintained adequate control to ensure those organizations used the moneys for purposes specified in Section 163.387(6)(c), Florida Statutes, the most recent CRA board approved plan, and the CRA board-approved budget.¹⁴ For examples of findings related to lack of adequate control over CRA moneys provided to other organizations, see Findings 6 and 5 in Auditor General report Nos. 2014-013 and 2017-107, respectively.

Compliance Elements

Section 163.387(7), Florida Statutes, requires that on the last day of a CRA's fiscal year, any moneys remaining in the CRA's trust fund after the payment of expenses pursuant to State law shall be:

- Returned to each taxing authority which paid the increment in the proportion that the amount of the payment of such taxing authority bears to the total amount paid into the trust fund by all taxing authorities for that year.
- Used to reduce the amount of any indebtedness to which increment revenues are pledged.
- Deposited into an escrow account for the purpose of later reducing any indebtedness to which increment revenues are pledged.

¹² As CRAs are special districts, expenditures in excess of budgeted amounts would represent a violation of Sections 163.387(6) and 189.016(3), Florida Statutes.

¹³ Auditor General reports may be viewed on the Auditor General's Web site at <https://flauditor.gov/pages/Reports.aspx>. Using the searchable listing of reports, select the applicable "Fiscal Year" (first four digits of the report number) and "Entity Type" (local government) and then select the applicable "Entity Audited."

¹⁴ According to Attorney General Opinion Nos. 79-56 and 86-44, a governmental entity must retain sufficient control over the use of the public funds provided to a nonprofit organization to assure accomplishment of the public purpose.

- Appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan.

Suggested Procedures

The following procedures are recommended for auditors as a basis for determining whether or not the CRA complied with the requirements prescribed by Section 163.387(7), Florida Statutes. Determine whether or not the CRA has:

- Accumulated increasingly larger amounts of unused moneys over a number of fiscal years without demonstrating compliance with Section 163.387(7), Florida Statutes. An example finding related to a CRA accumulating excess unused moneys and not demonstrating the use of those moneys for specific projects in a subsequent fiscal year may be found in Auditor General report No. 2014-013, Finding 4.
- Maintained adequate records to demonstrate that unused moneys carried forward for use in reducing indebtedness were only used to reduce debt or were deposited into an escrow for future reduction of debt for which increment revenues were pledged.
- Maintained adequate records to demonstrate that unused moneys re-appropriated to specific projects in a subsequent fiscal year were actually used for the specified projects in a subsequent fiscal year.