

36-81-7. Requirement of audits; conduct of audits; audit reports; forwarding of audits to state auditor; failure to file or correct deficiencies; public inspection.

(a) (1) Beginning with the local government fiscal year which ends between July 1, 1994, and June 30, 1995, the governing authority of each unit of local government having a population in excess of 1,500 persons according to the latest estimate of population by the United States Bureau of the Census or its successor agency or expenditures of \$550,000.00 or more shall provide for and cause to be made an annual audit of the financial affairs and transactions of all funds and activities of the local government for each fiscal year of the local government.

(2) The governing authority of each local unit of government not included in paragraph (1) of this subsection shall provide for and cause to be made the audit required pursuant to paragraph (1) of this subsection not less often than once every two fiscal years. Audits performed pursuant to this paragraph shall be for both fiscal years.

(3) The governing authority of each local unit of government having expenditures of less than \$550,000.00 in that government's most recently ended fiscal year may elect to provide for and cause to be made, in lieu of the biennial audit otherwise required under paragraph (2) of this subsection, an annual report of agreed upon procedures for that fiscal year. The agreed upon procedures shall include as a minimum: proof and reconciliation of cash, confirmation of cash balances, a listing of bank balances by bank, a statement of cash receipts and cash disbursements, a review of compliance with state law, and a report of agreed upon procedures. This agreed upon procedures report shall be in a format prescribed by the state auditor and shall constitute an annual audit report for purposes of and within the meaning of the requirements of subsections (d) through (g) of this Code section. The Department of Community Affairs is authorized to assist requesting local governments in preparing agreed upon procedures reports required under this paragraph and in establishing record-keeping procedures needed in preparing those reports and is further authorized to charge those local governments reasonable fees for that assistance. To the extent that the state auditor is able to perform the agreed upon procedures, the governing body may contract with the state auditor.

(4) At the option of the governing authority, an audit may be made at a lesser interval than one year.

(b) The audits of each local government shall be conducted in accordance with generally accepted government auditing standards. Each audit shall also contain a statement of any agreement or arrangement under which the local unit of government has assumed any actual or potential liability for the obligations of any governmental or private agency, authority, or instrumentality. Such statement shall include the purpose of the agreement or arrangement, shall identify the agency, authority, or instrumentality upon whose obligations the unit of local government is or may become liable, and shall state the amount of actual liability and the maximum amount of potential liability of the local government under the agreement or arrangement. To the extent that the state auditor is able to provide comparable auditing services, the governing body may contract with the state auditor.

(c) All annual audit reports of local units of government shall contain at least the following:

(1) Financial statements prepared in conformity with generally accepted governmental accounting principles, setting forth the financial condition and results of operation of each fund and activity of the local government and such financial statements shall be the representation of the local government; and

(2) The opinion of the performing auditor with respect to the financial statement; in addition to an explanation of any qualification or disclaimers contained in the opinion, such opinion shall also disclose, in accordance with generally accepted government auditing standards, any apparent material violation of state or local law discovered during the audit.

(d) (1) Each annual audit report of a local unit of government shall be completed and a copy of the report forwarded to the state auditor within 180 days after the close of the unit's fiscal year. In addition to the audit report, the local unit of government shall forward to the state auditor, within 30 days after the audit report due date, written comments on the findings and recommendations in the report, including a plan for corrective action taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, the written comments should include a statement describing the reason it is not. In the case of units provided for in paragraph (2) of subsection (a) of this Code section, the audit reports for both fiscal periods shall be submitted within 180 days after the close of each second fiscal year and the written comments shall be submitted within 30 days after the audit report due date.

(2) The state auditor shall review the audit report and written comments submitted to the auditor's office to ensure that it meets the requirements for audits of local governments. If the state auditor finds the requirements for audits of local governments have not been complied with, the state auditor shall within 60 days of receipt of the audit or the written comments notify the governing authority and the auditor who performed the audit and shall submit to them a list of deficiencies to be corrected. A copy of this notification shall also be sent by the state auditor to each member of the General Assembly whose senatorial or representative district includes any part of the unit of local government.

(3) If the state auditor has not received any required audit or written comments by the date specified in paragraph (1) of this subsection, the state auditor shall within 30 days of such date notify the unit of local government that the audit has not been received as required by law. A copy of this notification shall also be sent by the state auditor to each member of the General Assembly whose senatorial or representative district includes any part of the unit of local government.

(4) The state auditor, for good cause shown by those local units in which an audit is in the process of being conducted or will promptly be conducted, may waive the requirement for completion of the audit within 180 days. Such waiver shall be for an additional period of not more than 180 days and no such waiver shall be granted for more than two successive years to the same unit of local government.

(5) No state agency shall make or transmit any state grant funds to any local government which has failed to provide all the audits required by law within the preceding five years.

(e) A copy of the report and of any comments made by the state auditor pursuant to paragraph (2) of subsection (d) of this Code section shall be maintained as a public record for public inspection during the regular working hours at the principal office of the local government. Those units of local government not having a principal office shall provide a notification to the public as to the location of and times during which the public may inspect the report.

(f) Upon a failure, refusal, or neglect to have an annual audit made, or a failure to file a copy of the annual audit report with the state auditor, or a failure to correct auditing deficiencies noted by the state auditor, the state auditor shall cause a prominent notice to be published in the legal organ of, and any other newspapers of general circulation within, the unit of local government. Such notice shall be a prominently displayed advertisement or news article and shall not be placed in that section of the newspaper where legal notices appear. Such notice shall be published twice and shall state that the governing authority of the unit of local government has failed or refused, as the case may be, to file an audit report or to correct auditing deficiencies, as the case may be, for the fiscal year or years in question. Such notice shall further state that such failure or refusal is in violation of state law.

(g) The state auditor may waive the requirement of correction of auditing deficiencies for a period of one year from the required audit filing date, provided evidence is presented that substantial progress is being made towards removing the cause of the need for the waiver. No such waiver for the same set of deficiencies shall be granted for more than two successive years to the same local government.