

CHAPTER 98-91

Senate Bill No. 400

An act relating to state financial accountability; creating the Florida Single Audit Act; providing intent and findings; creating s. 216.3491, F.S.; providing purposes of the act; providing definitions; providing duties of the Executive Office of the Governor, the Comptroller, and state agencies that award state funds to nonstate agencies to carry out state projects; providing conditions on nonstate agencies' receipt of state funds; requiring recipients and subrecipients of state funds to obtain audits; prescribing standards for such audits; prescribing duties of auditors; providing for access to records; prescribing duties of the Auditor General; repealing s. 216.349, F.S., relating to financial review of grants and aids appropriations; amending s. 265.2861, F.S., to conform; providing applicability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. The intent of this act is to establish state audit and accountability requirements for state financial assistance provided to nonstate entities. The Legislature finds that federal financial assistance passed through the state to nonstate entities is subject to mandatory federal audit requirements. The Legislature also recognizes that significant amounts of state financial assistance are provided to nonstate entities to carry out state projects and heretofore have not been subject to state audit requirements that parallel federal audit requirements. It is the intent of this act that state audit and accountability requirements, to the extent possible, parallel the federal audit requirements.

Section 2. Section 216.3491, Florida Statutes, is created to read:

216.3491 Florida Single Audit Act.—

(1) The purposes of the section are to:

(a) Establish uniform state audit requirements for state financial assistance provided by state agencies to nonstate entities to carry out state projects.

(b) Promote sound financial management, including effective internal controls, with respect to state financial assistance administered by nonstate entities.

(c) Promote audit economy and efficiency by relying to the extent possible on already required audits of federal financial assistance provided to nonstate entities.

(d) Provide for identification of state financial assistance transactions in the appropriations act, state accounting records, and recipient organization records.

(e) Promote improved coordination and cooperation within and between affected state agencies making state awards and nonstate entities receiving state awards.

(f) Ensure, to the maximum extent possible, that state agencies monitor, use, and follow up on audits of state financial assistance provided to nonstate entities.

(2) Definitions; as used in this section, the term:

(a) "Audit threshold" means the amount to use in determining when a state single audit of a nonstate entity shall be conducted in accordance with this section. Each nonstate entity that expends a total amount of state awards equal to or in excess of \$300,000 in any fiscal year of such nonstate entity shall be required to have a state single audit for such fiscal year in accordance with the requirements of this section. Every 2 years the Auditor General, after consulting with the Executive Office of the Governor, the Comptroller, and all state agencies that provide state financial assistance to nonstate entities, shall review the amount for requiring audits under this section and may adjust such dollar amount consistent with the purpose of this section.

(b) "Auditing standards" means the auditing standards as stated in the rules of the Auditor General as applicable to for-profit organizations, non-profit organizations, or local governmental entities.

(c) "Catalog of State Financial Assistance" means a listing of all major state projects and other state projects. The Catalog of State Financial Assistance shall be issued by the Executive Office of the Governor after conferring with the Comptroller and all state agencies that provide state financial assistance to nonstate entities. The Catalog of State Financial Assistance shall include for each listed state project: the responsible state agency; standard state project number identifier; official title; legal authorization; and description of the state project, including objectives, restrictions, application and awarding procedures, and other relevant information determined necessary.

(d) "Financial reporting package" means the nonstate entities' financial statements, Schedule of State Financial Assistance, auditor's reports, management letter, auditee's written responses or corrective action plan, correspondence on follow-up of prior years' corrective actions taken, and such other information determined by the Auditor General to be necessary and consistent with the purposes of this section.

(e) "Federal financial assistance" means financial assistance from federal sources passed through the state and provided to nonstate entities to carry out a federal program. "Federal financial assistance" includes all types of federal assistance as defined in applicable U.S. Office of Management and Budget circulars.

(f) "For-profit organization" means any organization or individual that received a state award but is not a local governmental entity or a nonprofit organization.

(g) “Independent auditor” means an external state or local government auditor or a certified public accountant who meets the independence standards.

(h) “Internal control over state projects” means a process, effected by an entity’s management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

1. Effectiveness and efficiency of operations.
2. Reliability of financial operations.
3. Compliance with applicable laws and regulations.

(i) “Local governmental entity” means a county agency, municipality, or special district or any other entity (other than a district school board or community college), however styled, which independently exercises any type of governmental function.

(j) “Major state project” means any state project meeting the criteria as stated in the rules of the Executive Office of the Governor. Such criteria shall be established after consultation with the Comptroller and appropriate state agencies that make state awards and shall consider the amount of state project expenditures or expenses or inherent risks. Each major state project shall be audited in accordance with the requirements of this section.

(k) “Nonprofit organization” means any corporation, trust, association, cooperative, or other organization that:

1. Is operated primarily for scientific, educational service, charitable, or similar purpose in the public interest;
2. Is not organized primarily for profit;
3. Uses net proceeds to maintain, improve, or expand the operations of the organization; and
4. Has no part of its income or profit distributable to its members, directors, or officers.

(l) “Nonstate entity” means a local governmental entity, nonprofit organization, or for-profit organization that receives a state award.

(m) “Recipient” means a nonstate entity that receives a state award directly from a state awarding agency.

(n) “Schedule of State Financial Assistance” means a document prepared in accordance with the rules of the Comptroller and included in each financial reporting package required by this section.

(o) “State award” means state financial assistance provided to a nonstate entity to carry out a state project.

(p) “State awarding agency” means the state agency that provided state financial assistance to the nonstate entity for purposes of carrying out a state project.

(q) “State financial assistance” means financial assistance from state resources, not including federal financial assistance, provided to nonstate entities to carry out a state project. “State financial assistance” includes all types of state assistance as stated in the rules of the Executive Office of the Governor established in consultation with the Comptroller and appropriate state agencies that make state awards. It includes state awards made directly by state awarding agencies or indirectly by recipients of state awards or subrecipients. It does not include procurement contracts, under state awards, used to buy goods or services from vendors. Audits of such procurement contracts with vendors are outside of the scope of this section. Also, audits of contracts to operate state government owned and contractor operated facilities are excluded from the audit requirements of this section.

(r) “State matching” means state awards provided to nonstate entities to be used to meet federal financial participation matching requirements of federal programs.

(s) “State project” means all state awards to a nonstate entity assigned a single state project number identifier in the Catalog of State Financial Assistance.

(t) “State Projects Compliance Supplement” means a document issued by the Executive Office of the Governor, in consultation with the Comptroller and all state agencies that make state awards. The State Projects Compliance Supplement shall identify each major state project and other state projects, the significant compliance requirements, eligibility requirements, matching requirements, suggested audit procedures, and other relevant information determined necessary.

(u) “State project-specific audit” means an audit of one state project in accordance with the requirements of this section.

(v) “State single audit” means an audit of a nonstate entity’s financial statements and state awards. Such audits shall be conducted in accordance with the auditing standards as stated in the rules of the Auditor General.

(w) “Subrecipient” means a nonstate entity that receives a state award through another nonstate entity, but does not include an individual who receives state financial assistance through such state awards.

(x) “Vendor” means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a state project. These goods or services may be for an organization’s own use or for the use of beneficiaries of the state project.

(3) The Executive Office of the Governor shall:

(a) Upon conferring with the Comptroller and all state agencies that make state awards, adopt rules necessary to provide appropriate guidance

to state awarding agencies, recipients and subrecipients, and independent auditors of state financial assistance relating to the requirements of this section, including:

1. The types or classes of financial assistance considered to be state financial assistance which would be subject to the requirements of this section. This would include guidance to assist in identifying when the state agency or recipient has contracted with a vendor rather than with a recipient or subrecipient.

2. The criteria for identifying a major state project.

3. The criteria for selecting state projects for audits based on inherent risk.

(b) Be responsible for coordinating the initial preparation and subsequent revisions of the Catalog of State Financial Assistance after consultation with the Comptroller and all state agencies that award state financial assistance to nonstate entities.

(c) Be responsible for coordinating the initial preparation and subsequent revisions of the State Projects Compliance Supplement, after consultation with the comptroller and all state agencies that award state financial assistance to nonstate entities.

(4) The Comptroller shall:

(a) Make enhancements to the state's accounting system to provide for the:

1. Recording of state financial assistance and federal financial assistance appropriations and expenditures as separate categories within the state awarding agencies' operating funds.

2. Recording of state project number identifiers, as provided in the Catalog of State Financial Assistance, for state awards.

3. Establishment and recording of an identification code for each financial transaction, including state agencies' awards of state financial assistance and federal financial assistance, as to the corresponding type or organization that is party to the transaction (e.g., other governmental agencies, nonprofit organizations, and for-profit organizations).

(b) Upon conferring with the Executive Office of the Governor and all state agencies that make state awards, adopt rules necessary to provide appropriate guidance to state awarding agencies, recipients and subrecipients, and independent auditors of state financial assistance relating to the format for the Schedule of State Financial Assistance.

(c) Perform any inspections, reviews, investigations, or audits of state financial assistance considered necessary in carrying out the Comptroller's legal responsibilities for state financial assistance or to comply with the requirements of this section.

(5) Each state agency that makes state awards shall:

(a) Provide for each state award to a recipient information needed by the recipient to comply with the requirements of this section, including:

1. The audit and accountability requirements for state projects as stated in this section and applicable rules of the Executive Office of the Governor, rules of the Comptroller, and rules of the Auditor General.

2. Information from the Catalog of State Financial Assistance, including the standard state project number identifier; official title; legal authorization; and description of the state project including objectives, restrictions, and other relevant information determined necessary.

3. Information from the State Projects Compliance Supplement, including the significant compliance requirements, eligibility requirements, matching requirements, suggested audit procedures, and other relevant information determined necessary.

(b) Require the recipient, as a condition of receiving state financial assistance, to allow the state awarding agency, the Comptroller, and the Auditor General access to the recipient's records and the recipient's independent auditor's working papers as necessary for complying with the requirements of this section.

(c) Notify the recipient that this section does not limit the authority of the state awarding agency to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any state agency inspector general, the Auditor General, or any other state official.

(d) Be provided one copy of each financial reporting package prepared in accordance with the requirement of this section.

(e) Review the recipient financial reporting package, including the management letters and corrective action plans, to the extent necessary to determine whether timely and appropriate corrective action has been taken with respect to audit findings and recommendations pertaining to state awards made by the state agency.

(6) As a condition of receiving state financial assistance, each recipient that provides state financial assistance to a subrecipient shall:

(a) Provide for each state award to a subrecipient information needed by the subrecipient to comply with the requirements of this section, including:

1. Identification of the state awarding agency.

2. The audit and accountability requirements for state projects as stated in this section and applicable rules of the Executive Office of the Governor, rules of the Comptroller, and rules of the Auditor General.

3. Information from the Catalog of State Financial Assistance, including the standard state project number identifier; official title; legal authoriza-

tion; and description of the state project, including objectives, restrictions, and other relevant information.

4. Information from the State Projects Compliance Supplement including the significant compliance requirements, eligibility requirements, matching requirements, and suggested audit procedures, and other relevant information determined necessary.

(b) Review the subrecipient audit reports, including the management letters, to the extent necessary to determine whether timely and appropriate corrective action has been taken with respect to audit findings and recommendations pertaining to state awards made by the state agency.

(c) Perform such other procedures as specified in terms and conditions of the written agreement with the state awarding agency including any required monitoring of the subrecipient's use of state financial assistance through on-site visits, limited scope audits, or other specified procedures.

(d) Require subrecipients, as a condition of receiving state financial assistance, to permit the independent auditor of the recipient, the state awarding agency, the Comptroller, and the Auditor General access to the subrecipient's records and the subrecipient's independent auditor's working papers as necessary to comply with the requirements of this section.

(7) Each recipient or subrecipient of state financial assistance shall obtain an audit that complies with the following:

(a) Each nonstate entity that receives state awards and meets audit threshold requirements, in any fiscal year of the nonstate entity, as stated in the rules of the Auditor General, shall have a state single audit conducted for such fiscal year in accordance with the requirements of this act and with additional requirements established in rules of the Executive Office of the Governor, rules of the Comptroller, and rules of the Auditor General. If only one state project is involved in a nonstate entity's fiscal year, the nonstate entity may elect to require only a state project-specific compliance audit of the state project for that fiscal year.

(b) Each nonstate entity that receives state awards and does not meet the threshold requirements, in any fiscal year of the nonstate entity, as stated in this law or the rules of the Auditor General is exempt for such fiscal year from the state single audit requirements of this section. However, such nonstate entity must meet terms and conditions specified in the written agreement with the state awarding agency.

(c) Regardless of the amount of the state award, the provisions of this section do not exempt a nonstate entity from compliance with provisions of law relating to maintaining records concerning state awards to such nonstate entity or allowing access and examination of those records by the state awarding agency, the Comptroller, or the Auditor General.

(d) Audits conducted pursuant to this section shall be performed annually.

(e) Audits conducted pursuant to this section shall be conducted by independent auditors in accordance with auditing standards as stated in rules of the Auditor General.

(f) Upon completion of the audit as required by this section, a copy of the recipient's financial reporting package shall be filed with the state awarding agency and the Auditor General. Upon completion of the audit as required by this section, a copy of the subrecipient's financial reporting package shall be filed with the recipient that provided the state financial assistance. The financial reporting package shall be filed in accordance with the rules of the Auditor General.

(g) All financial reporting packages prepared pursuant to the requirements of this section shall be available for public inspection.

(h) If an audit conducted pursuant to this section discloses any significant audit findings relating to state financial assistance, including material noncompliance with individual major state project compliance requirements or reportable conditions in internal controls of the nonstate entity, the nonstate entity shall submit as part of the audit package to the state awarding agency a plan for corrective action to eliminate such audit findings or a statement describing the reasons that corrective action is not necessary.

(i) An audit conducted in accordance with this section is in addition to any audit of federal awards required by the Federal Single Audit Act and other federal laws and regulations. To the extent that such federally required audits provide the state awarding agency with information it requires to carry out its responsibilities under state law or other guidance, a state agency shall rely upon and use that information.

(j) This section does not prohibit the state awarding agency from including terms and conditions in the written agreement which require additional assurances that state awards meet the applicable requirements of laws, regulations, and other compliance rules.

(k) A state awarding agency that provides state awards to nonstate entities and conducts or arranges for audits of state awards that are in addition to the audits conducted under this act shall, consistent with other applicable law, arrange for funding the full cost of such additional audits.

(8) The independent auditor when conducting a state single audit of recipients or subrecipients shall:

(a) Determine whether the nonstate entity's financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles.

(b) Determine whether state awards shown on the Schedule of State Financial Assistance are presented fairly in all material respects in relation to the nonstate entity's financial statements taken as a whole.

(c) With respect to internal controls pertaining to each major state project:

1. Obtain an understanding of internal controls;
2. Assess control risk;
3. Perform tests of controls unless the controls are deemed to be ineffective; and
4. Determine whether the nonstate entity has internal controls in place to provide reasonable assurance of compliance with the provisions of laws, regulations, and other rules pertaining to state awards that have a material effect on each major state project.

(d) Determine whether each major state project complied with the provisions of laws, rules, and guidelines as identified in the State Projects Compliance Supplement, or otherwise identified by the state awarding agency, which have a material effect on each major state project. When major state projects are less than 50 percent of the nonstate entity's total expenditures for all state awards, the auditor shall select and test additional state projects as major state projects as necessary to achieve audit coverage of at least 50 percent of the expenditures for all state awards to the nonstate entity. Additional state projects needed to meet the 50-percent requirement may be selected on an inherent risk basis as stated in the rules of the Executive Office of the Governor.

(e) Report on the results of any audit conducted pursuant to this section in accordance with the rules of the Executive Office of the Governor, rules of the Comptroller, and rules of the Auditor General. Audit reports shall include summaries of the auditor's results regarding the nonstate entity's financial statements, Schedule of State Financial Assistance, internal controls, and compliance with laws, rules, and other compliance guidance.

(f) Issue a management letter as prescribed in the rules of the Auditor General.

(g) Upon notification by the nonstate entity, make available the working papers relating to the audit conducted pursuant to the requirements of this section to the state awarding agency, Comptroller, or the Auditor General for review or copying.

(9) The Auditor General shall:

(a) Have the authority to audit state financial assistance provided to any nonstate entity when determined necessary by the Auditor General or when directed by the Legislative Auditing Committee.

(b) Adopt rules that state the auditing standards that independent auditors are to follow for audits of nonstate entities required by this section.

(c) Adopt rules that describe the contents and the filing deadlines for the financial reporting package.

(d) Provide technical advice upon request of the Comptroller, Executive Office of the Governor, and state agencies relating to financial reporting and audit responsibilities contained in this section.

(e) Be provided one copy of each financial reporting package prepared in accordance with the requirements of this section.

(f) Perform ongoing reviews of a sample of financial reporting packages filed pursuant to the requirements of this section to determine compliance with the reporting requirements of this section and applicable rules of the Executive Office of the Governor, rules of the Comptroller, and rules of the Auditor General.

Section 3. Section 216.349, Florida Statutes, is repealed.

Section 4. Paragraph (f) of subsection (2) of section 265.2861, Florida Statutes, is amended to read:

265.2861 Cultural Institutions Program; trust fund.—

(2) CULTURAL INSTITUTIONS PROGRAM.—

(f) Each organization shall cause an annual postaudit or independent attestation of its financial accounts, ~~as specified in s. 216.349,~~ to be conducted by an independent certified public accountant. The annual audit report must be submitted to the Department of State for review. The department may require and receive from the recipient institution, or from its independent auditor, any detail or supplemental data relative to the operation of such institution.

Section 5. This act applies to any nonstate entity fiscal year beginning on or after July 1, 2000.

Section 6. This act shall take effect July 1, 2000.

Became a law without the Governor's approval May 22, 1998.

Filed in Office Secretary of State May 21, 1998.